



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Chair

this bidstream data creates an “outrageous privacy violation”

data from RTB exchanges harms consumers.⁷ But as the District of Idaho last year recognized,

steady clip of cases reflects our recognition that location data is among the most sensitive of people’s data, revealing everything from where someone spends the night and where they worship to what medical treatments they seek. Indeed, noting that “location records hold for many Americans the ‘privacies of life,’” the Supreme Court has held that constitutional safeguards against unchecked government surveillance extend to digital location tracking—even when the data is originally collected by private companies.¹³

Today’s action highlights two areas meriting continued focus for the Commission and policymakers concerned about threats to Americans’ privacy. First, the ease with which real-time bidding technology can be exploited to surveil Americans should raise serious alarm. Researchers report that no real safeguards limit who can access, harness, or retain this data,¹⁴ suggesting that the multi-billion-dollar industry built around targeted advertising may presently leave Americans’ sensitive data extraordinarily exposed.

Second, this matter further highlights the continued shortcomings of the “notice and consent” paradigm.¹⁵ Most people never interact with Mobilewalla and have no idea that Mobilewalla amasses data detailing their precise location and movements. In theory, Mobilewalla would rely on its data suppliers to obtain consumer consent for the collection and use of their data. But in practice, Mobilewalla has minimal procedures to verify whether its suppliers actually obtained consumer consent—and many disclosures are broad enough to render consent effectively meaningless. In recent years, the Commission’s orders have moved away from remedies and relief premised exclusively on consumer consent—and included greater reliance on presumptive bans and prohibitions.¹⁶ Continuing to ensure our orders reflect the

<https://www.ftc.gov/news-events/news/press-releases/2024/12/ftc-takes-action-against-gravy-analytics-venntel-unlawfully-selling-location-data-tracking-consumers>.

¹³ *Carpenter v. United States*, 585 U.S. 296, 138 S. Ct. 2206, 2217 (2018) (quoting *Riley v. California*, 573 U.S. 373, 403 (2014)). See also Statement of Chair Lina M. Khan Joined by Comm’r Rebecca Kelly Slaughter and Comm’r Alvaro Bedoya In the Matter of X-Mode Social, Inc. and Outlogic, LLC (Jan. 9, 2024), <https://www.ftc.gov/legal-library/browse/cases-proceedings/public-statements/statement-chair-lina-m-khan-joined-commissioner-rebecca-kelly-slaughter>

realities of how people engage in today's economy will be critical for Americans to enjoy real privacy.

I am deeply grateful to the Division of Privacy and Identity Protection team for their excellent work on this matter—and for significantly advancing the FTC's efforts to protect Americans from unlawful data practices amid a backdrop of ever-changing market realities.
