ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT
In the Matter of Just Bagels Manufacturing, Inc., File No. 152 3199

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, a consent agreement applicable to Just Bagels Manufacturing, Inc. ("Just Bagels Manufacturing").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that Just Bagels Manufacturing made to consumers concerning its participation in the Safe Harbor privacy frameworks agreed upon by the U.S. and the European Union ("EU") and the U.S. and Switzerland (collectively, Safe Harbor Frameworks"). The Safe Harbor Frameworks allow U.S. companies to transfer data outside the EU and Switzerland consistent with EU and Swiss law. To join the Safe Harbor Frameworks, a company must self-certify to the U.S. Department of Commerce ("Commerce") that it complies with a set of principles and related requirements that have been deemed by the European Commission and Switzerland as providing "adequate" privacy protection. These principles include notice, choice, onward transfer, security, data integrity, access, and enforcement. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the Safe Harbor Frameworks. The listing of companies indicates whether their self-certification is "current" or "not current." Companies are required to re-certify every year in order to retain their status as "current" members of the Safe Harbor Frameworks.

Just Bagels Manufacturing is a wholesale bagel manufacturer that distributes bagels to restaurants, hotels, supermarkets, retail stores, airlines, and schools around the United States. According to the Commission's complaint, since at least January 2015, Just Bagels Manufacturing set forth on its website, *http://www.justbagels.com/privacypolicy/*, privacy policies and statements about its practices, including statements related to its participation in the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework.

The Commission's complaint alleges that Just Bagels Manufacturing falsely represented that it was a participant in the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework when, in fact, Just Bagels Manufacturing was never a participant in the Safe Harbor Frameworks. Commerce has never included the company on its public website.

Part I of the proposed order prohibits Just Bagels Manufacturing from making misrepresentations about its membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires Just Bagels Manufacturing to retain documents relating to its compliance with the Order for a five-year period. Part III requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures the notification to the FTC of changes in corporate status. Part V mandates that Just Bagels Manufacturing submit an initial compliance report to the FTC, and make available to the FTC subsequent reports. Part VI is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order or to modify the order's terms in any way.