



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

Office of the Chair

**Statement of Chair Lina M. Khan  
Joined by Commissioner Alvaro M. Bedoya & Commissioner Rebecca Kelly Slaughter  
In the Matter of Mobilewalla, Inc.  
Commission File No. 2023196**

**December 3, 2024**

Last year a new report revealed the relative ease with which foreign adversaries can gather sensitive data on Americans.<sup>1</sup> Foreign states could identify, for example, whether someone has a substance abuse problem, a gambling addiction, or major financial problems—a “torrent of blackmail data” ripe for abuse.<sup>2</sup> The report noted that people susceptible to this type of surveillance include active military personnel, defense officials, lawmakers, and judges. Beyond government leaders, hundreds of millions of Americans are at risk. Precise location data, for example, can be harnessed by law enforcers monitoring political rallies or religious gatherings, managers tracking employees engaged in union organizing, or stalkers keeping tabs on their victims.

The mechanism for this surveillance is shockingly commonplace: “real-time bidding” (RTB) exchanges, an advertising technology used by a huge swath of websites and apps. RTB exchanges host the online auctions that determine which advertisement gets served to a specific individual on a specific website or app. Because these ads are targeted, RTB technology captures reams of personal data, such as a person’s browsing history and their location and movements over time—and then broadcasts this sensitive data to anyone seeking to bid on the ad slot. One report estimates that RTB technologies track and broadcast what every U.S. internet user does every 30 seconds they are online—or 747 times a day on average.<sup>3</sup> Strikingly, a firm can capture and retain individuals’ web browsing data, location data, and other sensitive details even when it does not serve any ads to them. Bipartisan groups of lawmakers have noted that the exposure of

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<sup>1</sup> IRISH COUNCIL FOR CIVIL LIBERTIES, AMERICA’S HIDDEN SECURITY CRISIS: HOW DATA ABOUT UNITED STATES DEFENCE PERSONNEL & POLITICAL LEADERS FLOWS TO FOREIGN STATES & NON-STATE ACTORS (2023), <https://www.iccl.ie/wp-content/uploads/2023/11/Americas-hidden-security-crisis.pdf> [“AMERICA’S HIDDEN SECURITY CRISIS”]. See also Justin Sherman, et al., *Data Brokers and the Sale of Data on U.S. Military Personnel Risks to Privacy, Safety, and National Security* (Duke Univ. Sanford Sch. of Pub. Pol’y 2023), <https://techpolicy.sanford.duke.edu/data-brokers-and-the-sale-of-data-on-us-military-personnel/>; Joseph Cox, *The Hundreds of Little-Known Firms Getting Data on Americans*, VICE (June 28, 2021), <https://www.vice.com/en/article/hundreds-companies-bidstream-data-location-browsing/>; Dhruv Mehrotra & Dell Cameron, *Anyone Can Buy Data Tracking US Soldiers and Spies to Nuclear Vaults and Brothels in Germany*, WIRED (Nov. 19, 2024), <https://www.wired.com/story/phone-data-us-soldiers-spies-nuclear-germany/>; Sean Lyngaas, *Researchers find sensitive personal data of US military personnel is for sale online*, CNN (Nov. 6, 2023), <https://www.cnn.com/2023/11/06/politics/data-of-military-personnel-for-sale-online/index.html>.

<sup>2</sup> AMERICA’S HIDDEN SECURITY CRISIS at 15.

<sup>3</sup> *Id.* at p. 7.

this bidstream data creates an “outrageous privacy violation”<sup>4</sup> as well as a major threat to national security.<sup>5</sup>

Today the FTC is bringing an enforcement action against surveillance practices that illegally harness RTB data—the first time the Commission has taken action against the use of this bidstream data. Specifically, our action against Mobilewalla charges that the data broker, among other things, unfairly collected people’s sensitive data (including precise location) from real-time bidding exchanges—even when it did not place an ad through the bid. Mobilewalla then sold this data, including as raw location data that tracked consumers’ precise movements, to an array of third-party partners and customers.

This conduct was part of a broader set of practices that Mobilewalla undertook to unlawfully collect, sell, and retain sensitive information on millions of Americans. Our investigation uncovered that Mobilewalla gathered large swaths of people’s personal information, including location data, and sold “audience segments” that third parties could use to target people based on sensitive characteristics. Mobilewalla’s audience segments included, for example, Hispanic churchgoers, pregnant women, members of the LGBTQ+ community, workers participating in union organizing, and people who participate in political rallies. Mobilewalla built these profiles through a variety of mechanisms beyond its use of bidstream data, such as by creating “geo-fences” around places like pregnancy centers, political protests, and state capitols.<sup>6</sup> Mobilewalla even began collecting people’s phone numbers, which, paired with Mobile Advertising IDs (MAIDs), could be used to identify the name of the person frequenting a specific location.

The Commission’s complaint charges that Mobilewalla’s practices constituted unfair conduct in violation of the FTC Act. Specifically, the complaint alleges that: (1) Mobilewalla’s sale of people’s sensitive location data is unfair; (2) Mobilewalla’s sale and transfer of audience segments based on sensitive characteristics—like their medical conditions, religious beliefs, participation in workplace organizing, or attendance at political protests—is unfair; (3) Mobilewalla’s collection of people’s personal information, including geolocation data, from RTB exchanges even when Mobilewalla had no winning bid is unfair; (4) Mobilewalla’s failure to take reasonable steps to verify that users consent to its use of their location data to surveil them, develop audience segments based on sensitive characteristics, target them with advertising, and disseminate their location data with a host of clients is unfair; and (5) Mobilewalla’s indefinite retention of people’s sensitive location information is unfair.

Commissioner Holyoak dissents from this enforcement action, arguing that the Commission does not adequately explain how Mobilewalla’s harvesting of people’s sensitive

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<sup>4</sup> Letter from Sen. Wyden, Sen. Cassidy et al. to Chair Simons (July 30, 2020), [https://www.wyden.senate.gov/imo/media/doc/073120\\_Wyden\\_Cassidy\\_Led\\_FTC\\_Investigation\\_letter.pdf](https://www.wyden.senate.gov/imo/media/doc/073120_Wyden_Cassidy_Led_FTC_Investigation_letter.pdf).

<sup>5</sup> Joseph Cox, *Congress Says Foreign Intel Services Could Abuse Ad Networks for Spying*, VICE (Apr. 6, 2021), <https://www.vice.com/en/article/congress-foreign-intelligence-agencies-bidstream-real-time-bidding/>.

<sup>6</sup> In one instance, one of Mobilewalla’s clients used its data to “geo-fence the homes of individuals relevant to a private lawsuit and track where those individuals had traveled to over the preceding two years, including whether they visited federal law enforcement offices.” Complaint, *In re Mobilewalla, Inc.*, Docket No. C-XXXX (Dec. 3, 2024) at ¶ 50.

data from RTB exchanges harms consumers.<sup>7</sup> But as the District of Idaho last year recognized, exposure of people’s sensitive location data and other invasions of privacy can substantially injure Americans, even without a showing of further harm.<sup>8</sup> Here, moreover, Mobilewalla’s practices went beyond just collection of this data; the company routinely sold and disseminated RTB-obtained data downstream to a host of third-party entities, exposing people to a range of harmful uses.<sup>9</sup> As the complaint notes, Mobilewalla has sold or transferred geolocation data to entities that used it for tracking political protestors and for attempting to identify and target labor organizers.

Commissioner Holyoak also opposes the count focused on Mobilewalla’s sale and transfer of audience segments based on sensitive characteristics, stating that “there is nothing intrinsically unfair” about categorizing consumers based on sensitive characteristics derived from location data.<sup>10</sup> This contrasts with her support for a similar count in *Gravy Analytics*, where she wrote, “The sale of ‘audience segments’ tied to consumers’ religious beliefs, political leanings, and medical conditions qualifies as an unfair practice.”<sup>11</sup> In this matter, as in *Gravy Analytics*, Mobilewalla sold “audience segments” tied to consumers’ religious beliefs (e.g., “churchgoers”), political leanings (e.g., participation in specific political rallies), and health conditions (e.g., pregnancy). Based on her analysis in *Gravy*, I would think she would support both counts.

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The Commission’s action against Mobilewalla marks the FTC’s fifth case involving the illegal dissemination of geolocation information—all pursued in the last 28 months.<sup>12</sup> This

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<sup>7</sup> Dissenting Statement of Comm’r Melissa Holyoak In the Matter of Mobilewalla (Dec. 3, 2024), <https://www.ftc.gov/legal-library/browse/cases-proceedings/public-statements/dissenting-statement-commissioner-melissa-holyoak-matter-mobilewalla-inc> [“Holyoak Dissent”].

<sup>8</sup> Memorandum Decision & Order, *FTC v. Kochava Inc.*, 2:22-cv-00377-BLW (D. Idaho May 4, 2023) (“Thus, under the plain language of the FTC Act, a defendant whose acts or practices violate consumer privacy may be said to inflict an ‘injury’ upon consumers within the meaning of Section 5(n)”).

<sup>9</sup> In this regard, Mobilewalla’s actions mirror those of Kochava. Commissioner Holyoak notes she supported Kochava even as she opposes Mobilewalla, but the very features of Kochava she seeks to distinguish from Mobilewalla turn out, instead, to be largely the same. Both entities sold “precise geolocation data and related sensitive information” where there “has been a lack of consumer consent.” Holyoak Dissent, *supra* note 7, at 2.

<sup>10</sup> Holyoak Dissent, *supra* note 7, at 3.

<sup>11</sup> Concurring Statement of Comm’r Melissa Holyoak Joined In Part I By Comm’r Alvaro M. Bedoya In the Matter of Gravy Analytics (Dec. 3, 2024), <https://www.ftc.gov/legal-library/browse/cases-proceedings/public-statements/concurring-statement-commissioner-melissa-holyoak-joined-part-commissioner-alvaro-m-bedoya-matter> at 5.

<sup>12</sup> Press Release, Fed. Trade Comm’n, FTC Sues Kochava for Selling Data that Tracks People at Reproductive Health Clinics, Places of Worship, and Other Sensitive Locations (Aug. 29, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/08/ftc-sues-kochava-selling-data-tracks-people-reproductive-health-clinics-places-worship-other>; Press Release, Fed. Trade Comm’n, FTC Order Prohibits Data Broker X-Mode Social and Outlogic from Selling Sensitive Location Data (Jan. 9, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-prohibits-data-broker-x-mode-social-outlogic-selling-sensitive-location-data>; Press Release, Fed. Trade Comm’n, FTC Order Will Ban InMarket from Selling Precise Consumer Location Data (Jan. 18, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-order-will-ban-inmarket-selling-precise-consumer-location-data>; Press Release, Fed. Trade Comm’n, FTC Takes Action Against Gravy Analytics, Venntel for Unlawfully Selling Location Data Tracking Consumers to Sensitive Sites (Dec. 3, 2024),

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.<sup>13</sup>

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,<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup> Continuing to ensure our orders reflect the

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

<sup>13</sup> *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-commissioner-alvaro-bedoya-0>; Statement of Comm’r Alvaro Bedoya Joined By Chair Lina M. Khan & Comm’r Rebecca Kelly Slaughter in full and Comm’r Melissa Holyoak in Part I In the Matter of Gravy Analytics (Dec. 3, 2024), <https://www.ftc.gov/legal-library/browse/cases-proceedings/public-statements/statement-commissioner-alvaro-m-bedoya-joined-chair-lina-m-khan-commissioner-rebecca-kelly-slaughter-3>.

<sup>14</sup> AMERICA’S HIDDEN SECURITY CRISIS, *supra* note 1 at 7 (“There is no way to limit or know what happens to RTB data after they are broadcast.”).

<sup>15</sup> Remarks of Chair Lina M. Khan at IAPP Global Privacy Summit 2022 (Apr. 11, 2022), <https://www.ftc.gov/news-events/news/speeches/remarks-chair-lina-m-khan-prepared-delivery-iapp-global-privacy-summit-2022> (“Specifically, I am concerned that present market realities may render the “notice and consent” paradigm outdated and insufficient. Many have noted the ways that this framework seems to fall short, given both the overwhelming nature of privacy policies—and the fact that they may very well be beside the point. When faced with technologies that are increasingly critical for navigating modern life, users often lack a real set of alternatives and cannot reasonably forego using these tools.”).

<sup>16</sup> See, e.g., X-Mode, *supra* note 12; InMarket, *supra* note 12; Press Release, Fed. Trade Comm’n, FTC Order Will Ban Avast from Selling Browsing Data for Advertising Purposes, Require It to Pay \$16.5 Million Over Charges the Firm Sold Browsing Data After Claiming Its Products Would Block Online Tracking (Feb. 22, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/02/ftc-order-will-ban-avast-selling-browsing-data-advertising-purposes-require-it-pay-165-million-over>; Press Release, Fed. Trade Comm’n, FTC Enforcement Action to Bar GoodRx from Sharing Consumers’ Sensitive Health Info for Advertising (Feb. 1, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/02/ftc-enforcement-action-bar-goodrx-sharing-consumers-sensitive-health-info-advertising>.

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.

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