

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Andrew N. Ferguson, Chairman**
 Mark R. Meador

In the Matter of

CMG MEDIA CORPORATION.

DOCKET NO.

COMPLAINT

The Federal Trade Commission, having reason to believe that CMG Media Corporation d/b/a Cox Media Group (“CMG” or “Respondent”), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent, CMG Media Corporation, is a Delaware corporation with its principal office or place of business at 1601 W. Peachtree Street NE, Atlanta, GA 30309.
2. Respondent has advertised, offered for sale, and sold advertising and marketing services to small businesses.
3. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. Beginning in 2023, Respondent offered “Active Listening,” a marketing service, to its small business customers. Respondent represented to its customers that Active Listening would allow them to know exactly when a potential consumer was in the market for the small business’s services, in real time and in their local area, based on the consumer’s conversations overheard by smart devices. Respondent claimed that the small business would be able to gain new customers by advertising to them at the right place and right time, based on their overheard conversations. Respondent offered Active Listening through a deal with MindSift LLC, which sold the service on a white-label basis.
5. In 2023, Respondent disseminated or caused to be disseminated claims for its Active Listening marketing services on its website, cmglocalsolutions.com, that included the following:
 - a. “At a basic level, your smartphone is technically always listening. Any voice-activated device must eavesdrop around the clock to pick up on ‘wake words’ or

the voice commands used to activate various virtual assistant services. Phrases like Hey Siri and OK, Google can only work if a smart device is always listening. So, it makes sense that our devices can't 'shut off' and ignore everything that's not 'wake words.'"

- b. "What does your iPhone do with all that info? Smart devices use data of all kinds to create a consumer 'profile' of you to show you the most relevant ads."
- c. "Don't Just Know What They're Searching For-Know What They're Talking About"
- d. "Voice data goes beyond search engine data, so every casual conversation between two consumers becomes a tool for you to target, retarget, and retain customers. Our technology is on the cutting edge of voice data processing. **We can identify buyers based on casual conversations in real time.** It may seem like black magic, but it's not-it's **AI.**" (Emphasis added.)
- e. "The growing ability to access microphone data on devices like smartphones and tablets enables our technology partner to aggregate and analyze voice data during pre-purchase conversations. The result? Unprecedented understanding of consumer behavior, so we can deliver personalized ads that make your target audience think: wow, they must be a mind reader."
- f. "Claim Your Exclusive Territory Before Your Competitors[.] Machine learning algorithms are improving and introducing a new era for advertising. Voice Data AI gives you a weekly roster of qualified customers who have spoken about their need for your service or product."
- g. "This technology provides a process that makes it possible to know exactly when someone is in the market for your services in real time, giving you a significant advantage over your competitors. **We have territories available in 10 or 20-mile radiuses**, but customizations can be made for regional, state, and national coverage." (Emphasis added.)
- h. "Voice Data Can Help You Do More Business with Less Investment[.] CMG's voice data marketing service allows you to advertise to the exact people who need your service by creating custom campaigns that flag when consumers discuss keywords relevant to your business."
- i. "By incorporating and analyzing customer data gleaned from conversations happening around smart devices, we can pinpoint where and when customers are most likely to engage with ads."
- j. "**Creepy? Sure. Great for marketing? Definitely.**" (Emphasis added.)

6. From 2023 through mid-2024, in presentations to customers considering purchasing Active Listening, Respondent made the following representations:

- a. "Active listening begins and is analyzed via AI to detect pertinent conversations via smartphones, smart tvs, smart speakers and other devices."
- b. Active Listening relies on "the power of voice."
- c. Active Listening is "on the cutting edge of processing voice data from real-time conversations providing pre-buyer and ready-buyer insight."

7. As part of its marketing pitch, CMG asked its small business customers: “Where do you want us to listen?” When some were skeptical of the service’s capabilities, Respondent doubled down on its claims, maintaining that it used voice data from popular smart device producers and app developers, like Amazon, Samsung, and Google. Respondent coached its employees to respond with the following claims:

- a. “When the device/app’s microphone picks up spoken keywords/phrases, that user is qualified by the AI algorithm... and added to a list.”
- b. “Voice related behaviors make up 40%-50% of behavior volumes we consume.”
- c. CMG’s employees listed “the top apps to prospects so [the customers] know they are big players,” and gave examples of “Alexa, Google, [O]pentable, [and] Samsung,” as among the “570 different data sources” that supplied voice data. As proof, they reminded small businesses that “almost every app, device including TVs people buy ask for microphone access.”

8. Respondent represented to its small business customers that consumers “opted-in” to the voice data collection and use. When potential customers questioned Respondent about the lawfulness of the service, Respondent maintained that users “opted in” to the voice data collection and use: “Google will ... validate they are opted in....” As evidence of this “opt-in,” Respondent relied on purported consent buried in the terms of service for apps and devices that consumers are required to accept before using the product: “You may not realize it, but when you download apps, set up new devices you ‘accept’ the terms, and those terms include allowing them to access your microphone.”

9. Respondent’s representations about its Active Listening service were false or misleading. Contrary to Respondent’s statements, smart devices with voice collection capabilities did not transmit voice data to Respondent’s Active Listening service, and Respondent did not use “AI to detect pertinent conversations.” In fact, Respondent’s Active Listening service did not collect or use voice data in any manner. Rather, Respondent’s advertising and marketing services were nothing more than consumer email list buying, an industry practice where data brokers sell lists of email addresses of individuals presumed to have particular interests or demographic characteristics. Respondent resold these lists at a significant markup over the cost of the data.

10. Contrary to Respondent’s representations that consumers had consented to the collection and use of their voice data, Respondent did not obtain consent from consumers to collect or use voice data for marketing purposes.

11. Although Respondent claimed to allow small businesses to reach consumers in particular localities (for example, within a ten-mile radius of Orlando, Florida), Respondent’s Active Listening service generated lists of consumers from across the country, with only a fraction of consumers located near the small business advertising customer.

Count I

Misrepresentations – Collection and Use of Voice Data; Consent; Geotargeting

12. As described in Paragraphs 4-8, in connection with the advertising, promotion, offering for sale, or sale of Respondent’s Active Listening marketing service, including through the use of the service name, Respondent has represented, directly or indirectly, expressly or by implication, that its service:

- a. Collected and used voice data from smart devices;
- b. Used voice data from users that gave consent for this purpose; and
- c. Created lists of consumers solely located in particular geographic areas of interest to small businesses.

13. In fact, as set forth in Paragraphs 9-11, Respondent did not collect or use voice data as part of the Active Listening service, did not obtain consent for the collection or use of voice data, and did not create lists targeting consumers in particular geographic areas. Therefore, the representations set forth in Paragraph 12 are false or misleading.

Violations of Section 5

14. The acts and practices of Respondent as alleged in this complaint constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this _____ day of _____, 20___, has issued this complaint against Respondent.

By the Commission.

April J. Tabor
Secretary

SEAL: