

ATTACHMENT A
Respondent's Email Notice

Email Sender: [Company] <company email>

Email Subject Line: Location data updates for [INSERT name of Respondent App]

We're contacting you because you used the mobile app [INSERT name of Respondent App]. InMarket, the app publisher, has settled with the Federal Trade Commission to resolve their allegations that we collected, used, and stored your location data without disclosing our marketing and analytics uses. As part of the settlement, we have changed our practices to provide consumers more control over their privacy choices.

What happened?

If you gave the app permission to access location data, InMarket collected and used your location data (including your exact physical location and movements) to provide app features. The FTC alleges that we also used and shared this location data with other companies for advertising purposes without your permission—for example, to target you with ads for a nearby drugstore or restaurant.

What we're doing in response

As part of our settlement with the FTC, we will:

- update our app permission screens to disclose the purposes for which we can collect, use and share your location data, including for advertising and analytics;
- delete any location data we collected through the app before updating our permission screens, unless you consent to us keeping this data;
- allow you to request deletion of your data by submitting a request at inmarket.com/delete-my-personal-information or by emailing privacy@inmarket.com; and
- publish a policy on our website (inmarket.com) that explains how long we will keep location data going forward.

If you use more than one app, you can make different choices for each app.

What you can do

Please update [name of Respondent App] on your device to ensure you have the latest version so you can benefit from our updated privacy settings. To opt out of our collection of your location data, visit [LINK]. You can make different location data choices for each app you use. Additionally, as noted above, you can request deletion of your data on our website.

Learn more

Learn more about our privacy and security practices at inmarket.com/privacy/. If we have any updates, we will post them there. If you have questions or concerns, email us at privacy@inmarket.com.

Sincerely,
[FULL NAME]
[ROLE], InMarket Media, LLC]



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Secretary

April 29, 2024

Electronic Privacy Information Center ("EPIC")
1519 New Hampshire Ave NW
Washington, DC 20036

Re: InMarket Media, LLC, FTC File No. 202-3088

Thank you for your comment regarding the Federal Trade Commission's proposed consent agreement in the above-referenced proceeding against InMarket Media, LLC ("InMarket" or "the Company"). The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii). The Commission is committed to protecting consumers from deceptive, unfair, and other unlawful practices, and we appreciate your feedback on this matter.

According to our complaint against InMarket, Respondent violated the FTC Act by engaging in deceptive and unfair practices relating to collection, use and retention of consumers' location data. The proposed order, among other robust obligations, bans InMarket from selling or licensing precise location data, and bans the Company from creating products or services that categorize consumers based on sensitive location data. The order also requires InMarket to implement a program designed to ensure that consumers have consented to the Company's collection and use of their location data, including data InMarket obtains from third party apps. The order further requires InMarket to implement a sensitive location data program to prevent the use, sale, license, transfer, or disclosure of sensitive location data.

In your comment, EPIC commends the Commission for its enforcement actions against companies like InMarket, and for holding location data aggregators accountable by imposing safeguards against overcollection, out-of-context use, and excessive retention of consumers' location data. EPIC further expresses support for the proposed order's bans on the sale and licensing of precise location data and on products or services that categorize consumers based on sensitive location data. EPIC also supports the requirement that InMarket delete all historic location data collected through its apps. We appreciate EPIC's support of the proposed consent agreement. The Commission will continue to use its unfairness authority when appropriate to protect consumers' privacy and continue to require privacy-protective practices in our future enforcement work.

While EPIC supports the Commission's incorporation of safeguards against misuse of consumers' location data, EPIC also suggests that imposing a data minimization framework would be a better means of limiting personal data collection, use and disclosure in the future.

EPIC argues that a data minimization framework would limit the personal information available to companies like InMarket and thus minimize the risk of future data misuse—all the while reducing the burden on consumers to manage a data aggregator’s collection and use of their information through consumer consent.

The Commission agrees that data minimization measures are important,¹ and believes that this order contains strong provisions to reduce the risk of data misuses. For example, the ban on all location data sales in Provision II is a particularly stringent data minimization measure that will significantly reduce the risk of data misuse for not only users of InMarket’s proprietary apps but also users of the hundreds of apps that incorporate InMarket’s SDK. The movement of location data of all those users will stop at InMarket and will not enter the never-ending cycle of sales and resales in the open location data marketplace. Additionally, InMarket will be required to adhere to a publicly available retention schedule for all consumer personal information it collects, pursuant to which it cannot collect or retain consumer data unless it documents the specific purpose and business need for which it is collecting or retaining such information. The Commission will continue to prioritize implementing strong data minimization requirements into its orders.

Having considered all the facts of this case and the comments submitted in response to the consent agreement, the Commission has now determined that the public interest would best be served by issuing the Complaint and the Decision and Order in the above-referenced proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission’s website at <http://www.ftc.gov>. It helps the Commission’s analysis to hear from a variety of sources in its work, and it thanks you again for your comment.

By direction of the Commission, Commissioners Holyoak and Ferguson not participating.

April J. Tabor
Secretary

¹ The FTC has secured data minimization requirements in a host of recent orders. *See e.g., In the Matter of Chegg, Inc.* (Provision II requiring respondent to have a specific purpose, business need and deletion timeframe for each type of personal information collected), *In the matter of Drizly, LLC et al.* (Provision II.B requiring respondent to refrain from collecting personal information not necessary for the specific business purpose listed in a retention schedule), *In the Matter of CafePress* (Provision II requiring respondent to institute safeguards including specific policies to minimize data collection, storage and retention).