

VIZIO Settles FTC and New Jersey AG Smart TV Tracking Charges

FEBRUARY 9, 2017

VIZIO, Inc. recently agreed to pay \$2.2 million to settle a regulatory complaint based on the company's collection of viewing data from its "smart" TVs. The Federal Trade Commission and the Office of the New Jersey Attorney General alleged that VIZIO continuously tracked what consumers watched on their internet-connected smart TVs through proprietary software the company turned on by default. According to the complaint, VIZIO provided IP addresses and viewing data from individual TVs to third parties for audience measurement purposes and to analyze advertising effectiveness (e.g., whether a consumer visited a particular website following a TV ad related to that site). This information was also combined with demographic information associated with an individual consumer or household, according to regulators, and then used by third parties to target advertising to particular users on their digital devices. At the same time, the agencies allege that VIZIO failed to inform consumers about the collection and sale of their viewing data.

As part of the settlement, VIZIO will add prominent disclosures and obtain affirmative express consent to its collection and sharing of viewing data—separate and apart from any "privacy policy," "terms of use" page, or other similar document. The company must delete any viewing data collected before March 1, 2016, and refrain from misrepresenting the privacy, security, or confidentiality of consumer information it collects. The settlement order also requires that VIZIO implement a comprehensive data privacy program, which will be subject to biennial assessments by an FTC-approved independent third party for the next 20 years. VIZIO agreed to pay \$2.2 million, including a payment of \$1.5 million to the FTC and \$1 million to the New Jersey Division of Consumer Affairs.

TIP: Advertisers presented with the option of combining TV viewing data and other digital information about users should be mindful of this recent settlement and regulatory scrutiny of this practice.

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