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18 UNITED STATES OF AMERICA

19 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

21 UNITED STATES OF AMERICA,

22 Plaintiff,

23 v.

24 TWITTER, INC., a corporation,

25 Defendant.
26
27
28

Case No. 3:22-cv-3070

**COMPLAINT FOR CIVIL
PENALTIES, PERMANENT
INJUNCTION, MONETARY
RELIEF, AND OTHER
EQUITABLE RELIEF**

1 Plaintiff, the United States of America, acting upon notification and authorization to the Attorney
2 General by the Federal Trade Commission (“FTC” or “Commission”), for its Complaint alleges:

3 1. Plaintiff brings this action against Defendant Twitter, Inc. (“Twitter”) under Section
4 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 56(a)(1), which authorizes
5 Plaintiff to seek, and the Court to order, permanent injunctive relief, monetary relief, civil penalties, and
6 other equitable relief for Twitter’s acts or practices in violation of Section 5(a) of the FTC Act,
7 15 U.S.C. § 45(a), and a 2011 order previously issued by the FTC for alleged violations of Section 5(a)
8 of the FTC Act. *See* Exhibit A, *In re Twitter, Inc.*, C-4316, 151 F.T.C. 162 (Mar. 11, 2011) (Decision
9 and Order) (“Commission Order” or “2011 Order”).

10 2. From at least May 2013 until at least September 2019, Twitter misrepresented to users of
11 its online communication service the extent to which it maintained and protected the security and
12 privacy of their nonpublic contact information. Specifically, while Twitter represented to users that it
13 collected their telephone numbers and email addresses to secure their accounts, Twitter failed to disclose
14 that it also used user contact information to aid advertisers in reaching their preferred audiences.
15 Twitter’s misrepresentations violate the FTC Act and the 2011 Order, which specifically prohibits the
16 company from making misrepresentations regarding the security of nonpublic consumer information.
17 Plaintiff therefore seeks civil penalties for Twitter’s violations, as well as a permanent injunction and
18 other equitable relief, to ensure Twitter’s future compliance with the law.

19 **JURISDICTION, VENUE, AND DIVISIONAL ASSIGNMENT**

20 3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331,
21 1337(a), 1345, and 1355, and 15 U.S.C. § 56(*l*), because it involves claims arising under federal laws
22 regulating commerce and is commenced by the United States of America.

23 4. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1), (b)(2), (c)(2), (d), and
24 1395(a), as well as 15 U.S.C. § 53(b), because Twitter has its principal place of business in this District,
25 because Twitter transacts business in this District, and because a substantial part of the events or
26 omissions giving rise to the claims occurred in this District.

1 5. Divisional assignment to the San Francisco or Oakland Division is proper under Local
2 Rule 3-2(c) and (d) because Twitter has its principal place of business in San Francisco and because a
3 substantial part of the events or omissions giving rise to the claims occurred there.

4 **PLAINTIFF**

5 6. Plaintiff, the United States of America, brings this action under Sections 5(a) and (l),
6 13(b), and 16(a)(1) of the FTC Act, 15 U.S.C. §§ 45(a) and (l), 53(b), and 56(a)(1), which prohibit
7 unfair or deceptive acts or practices in or affecting commerce, and the 2011 Order.

8 **DEFENDANT**

9 7. Twitter is a Delaware corporation with its principal place of business at 1355 Market
10 Street, Suite 900, San Francisco, California, 94103. Twitter transacts or has transacted business in this
11 District and throughout the United States. At all times material to this Complaint, Twitter has operated
12 its online communication service through its website, www.twitter.com, and through its mobile
13 applications.

14 **COMMERCE**

15 8. At all times relevant to this Complaint, Twitter has maintained a substantial course of
16 trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

17 **THE FTC ACT**

18 9. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or
19 practices in or affecting commerce.”

20 10. Acts or practices are unfair under Section 5(a) of the FTC Act if they cause or are likely
21 to cause substantial injury to consumers that those consumers cannot reasonably avoid themselves and
22 that is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

23 11. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or
24 practices prohibited by Section 5(a) of the FTC Act.

25 12. Section 5(l) of the FTC Act, 15 U.S.C. § 45(l), declares that “[a]ny person, partnership, or
26 corporation who violates an order of the Commission after it has become final, and while such order is
27 in effect, shall forfeit and pay to the United States a civil penalty[.]”

28

1 **THE COMMISSION ORDER**

2 13. In the Commission's 2011 Administrative Complaint in the proceeding bearing Docket
3 No. C-4316 (the "Administrative Complaint"), the Commission charged Twitter with engaging in
4 deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), for its failures
5 to provide reasonable security measures to prevent unauthorized access to nonpublic user information
6 and to honor the privacy choices exercised by Twitter users.

7 14. Specifically, the Administrative Complaint asserted that Twitter had engaged in
8 deceptive acts or practices by misrepresenting that users could control who had access to their tweets
9 through a "protected account" or could send private "direct messages" that could only be viewed by the
10 recipient when, in fact, Twitter lacked reasonable safeguards to ensure those choices were honored, such
11 as restricting employee access to nonpublic user information based on a person's job requirements.

12 15. The Administrative Complaint also alleged that Twitter had misrepresented the controls it
13 implemented to keep user accounts secure, when, in fact, Twitter lacked reasonable safeguards to limit
14 or prevent unauthorized access to nonpublic user information, such as secure password requirements and
15 other administrative, technical, or physical safeguards. *See Exhibit B, In re Twitter, Inc., C-4316, 151*
16 *F.T.C. 162 (Mar. 11, 2011) (Administrative Complaint) at ¶¶ 10-12.*

17 16. Twitter settled the Commission's Administrative Complaint with the Commission Order.
18 The Commission Order became final in March 2011 and remains in effect.

19 17. Provision I of the Commission Order, in relevant part, states:

20 **IT IS ORDERED** that respondent, directly or through any corporation, subsidiary,
21 division, website, or other device, in connection with the offering of any product or service,
22 in or affecting commerce, shall not misrepresent in any manner, expressly or by
23 implication, the extent to which respondent maintains and protects the security, privacy,
24 confidentiality, or integrity of any nonpublic consumer information, including, but not
25 limited to, misrepresentations related to its security measures to: (a) prevent unauthorized
26 access to nonpublic consumer information; or (b) honor the privacy choices exercised by
27 users.

28

1 See Exhibit A, Commission Order, Provision I.

2 18. The Commission Order defines “nonpublic consumer information” as, in relevant part,
3 “an individual consumer’s: (a) email address... [and] (c) mobile telephone number[.]” See Exhibit A,
4 Commission Order, Definition 3.

5 **TWITTER’S NOTICE OF THE COMMISSION ORDER**

6 19. Twitter’s General Counsel signed the Commission Order on behalf of Twitter. The
7 Commission served the Commission Order in March 2011.

8 **NATURE OF THE CASE**

9 20. Twitter operates an online communication service through its website, www.twitter.com,
10 and through text messaging and mobile applications. The service allows registered users to
11 communicate with one another by posting “tweets,” or short messages currently limited to 280
12 characters or less, with which other users may interact through a “like,” reply, or “retweet.”

13 21. In order to follow other accounts, or post, like, and retweet tweets, users must register for
14 a Twitter account. The main page for a registered user who navigates to www.twitter.com or who opens
15 the Twitter mobile application, is known as a Twitter “timeline.” The timeline displays a stream of
16 tweets from accounts the user has chosen to follow. The timeline also displays a search engine,
17 recommendations for additional accounts to follow, and a list of trending topics. Registered users can
18 also navigate to their own profile page to view, among other things, their own tweets.

19 22. Twitter’s service is widely used. As of September 2019, Twitter had more than 330
20 million monthly active users worldwide, which includes journalists, celebrities, commercial brands, and
21 government officials.

22 23. Commercial entities regularly use Twitter to promote offers or advertise to consumers,
23 and many tweets contain links to other websites, including websites that users may use to purchase
24 commercial products or services.

25 24. Twitter’s core business model monetizes user information by using it for advertising. In
26 fact, of the \$3.4 billion in revenue that Twitter earned in 2019, \$2.99 billion flowed from advertising.

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