

## **Developers Warned Not to Enable Listening Technology Without Disclosure**

Some developers have included in their mobile apps the ability to turn on a phone's microphone to listen for codes from television programs and advertisements to generate logs of the user's viewing habits, all without the knowledge of the phone's user.

While the developer of the "Silverpush" technology stated that the app has not been enabled in the United States, the Federal Trade Commission (FTC) nonetheless sent a warning letter to app developers who have included Silverpush in their apps that turning on Silverpush could violate the FTC Act. The FTC did not disclose the names of the apps that contain the Silverpush code.

In the warning letter, the FTC said "Silverpush makes available for application developers a 'Unique Audio Beacon' technology that enables mobile applications to listen for unique codes embedded into television audio signals in order to determine what television shows or advertisements are playing on a nearby television. This functionality is designed to run silently in the background, even while the user is not actively using the application. Using this technology, Silverpush could generate a detailed log of the television content viewed while a user's mobile phone was turned on."

When the FTC downloaded apps that have embedded Silverpush, "We received no disclosures about the included audio beacon functionality—either contextually as part of the setup flow, in a dedicated standalone privacy policy, or anywhere else."

Silverpush contends that audio beacons are not currently embedded into any television programming in the United States. The FTC encouraged the app developers to disclose to customers the potential monitoring through Silverpush to consumers so the customers can decide if they want to disclose their viewing habits by installing the app.

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