

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman  
Julie Brill  
Maureen K. Ohlhausen  
Joshua D. Wright  
Terrell McSweeney

\_\_\_\_\_  
*In the Matter of* )  
)  
Just Bagels Manufacturing, Inc., )  
a corporation. )  
\_\_\_\_\_) )

DOCKET NO.

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Just Bagels Manufacturing, Inc., a corporation, has violated the Federal Trade Commission Act (“FTC Act”), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Just Bagels Manufacturing, Inc. is a New York corporation with its principal office or place of business at 340 West 57<sup>th</sup> Street, Apt. 11J, New York, New York 10019.
2. Respondent is a wholesale bagel manufacturer that distributes bagels to restaurants, hotels, supermarkets, retail stores, airlines, and schools around the United States.
3. The acts and practices of respondent as alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act.
4. Respondent has set forth on its website, <http://www.justbagels.com/privacypolicy/>, privacy policies and statements about its practices, including statements related to its participation in the Safe Harbor privacy framework agreed upon by the U.S. and the European Union (“U.S.-EU Safe Harbor Framework”) and by the U.S. and Switzerland (“U.S.-Swiss Safe Harbor Framework”).

**The Frameworks**

5. The U.S.-EU Safe Harbor Framework provides a method for U.S. companies to transfer personal data outside of Europe that is consistent with the requirements of the European Union Directive on Data Protection (“Directive”). Enacted in 1995, the Directive sets forth European Union (“EU”) requirements for privacy and the protection of personal data. Among other things, it requires EU Member States to implement legislation that prohibits the

transfer of personal data outside the EU, with exceptions, unless the European Commission (“EC”) has made a determination that the recipient jurisdiction’s laws ensure the protection of such personal data. This determination is referred to commonly as meeting the EU’s “adequacy” standard.

6. To satisfy the EU adequacy standard for certain commercial transfers, the U.S. Department of Commerce (“Commerce”) and the EC negotiated the U.S.-EU Safe Harbor Framework, which went into effect in 2000. The U.S.-EU Safe Harbor Framework allows U.S. companies to transfer personal data lawfully from the EU. To join the U.S.-EU Safe Harbor Framework, a company must self-certify to Commerce that it complies with seven principles and related requirements that have been deemed to meet the EU’s adequacy standard.
7. Companies under the jurisdiction of the U.S. Federal Trade Commission (“FTC”), as well as the U.S. Department of Transportation, are eligible to join the U.S.-EU Safe Harbor Framework. A company under the FTC’s jurisdiction that claims it has self-certified to the Safe Harbor principles, but failed to self-certify to Commerce, may be subject to an enforcement action based on the FTC’s deception authority under Section 5 of the FTC Act.
8. The U.S.-Swiss Safe Harbor Framework is identical to the U.S.-EU Safe Harbor Framework and is consistent with the requirements of the Swiss Federal Act on Data Protection.
9. Commerce maintains a public website, [www.export.gov/safeharbor](http://www.export.gov/safeharbor), where it posts the names of companies that have self-certified to the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework. The listing of companies indicates whether their self-certification is “current” or “not current” and a date when recertification is due. Companies are required to re-certify every year in order to retain their status as “current” members of the Safe Harbor Frameworks.

### **Violations of Section 5 of the FTC Act**

10. Since at least January 2015, respondent has disseminated or caused to be disseminated privacy policies and statements on the <http://www.justbagels.com/privacypolicy> website, including, but not limited to, the following statements:

#### **Safe Harbor Compliance**

#### **Just Bagels Mfg. Inc. is in compliance with the U.S.**

**Department of Commerce Safe Harbor requirements** regarding the transfer of personal information from the European Economic Area (“EEA”) or Switzerland to the United States. The principles of Safe Harbor compliance are:

**Notice** - Individuals must be informed that their data is being collected and about how it will be used;

**Choice** - Individuals must have the ability to opt out of the collection and forward transfer of the data to third parties;

**Security** - Reasonable efforts must be made to prevent loss of collected information;

**Data Integrity** - Data must be relevant and reliable for the purpose for which it was collected;

**Access** - Individuals must be able to access information held about them, and correct or delete it if it is inaccurate;

**Enforcement** - There must be effective means of enforcing these rules.

Further information regarding the Safe Harbor principles **and certification process** can be found at [www.export.gov/safeharbor](http://www.export.gov/safeharbor). In addition, the U.S. Department of Commerce maintains a list of all compliant organizations, which can be accessed at <http://web.ita.doc.gov/safeharbor/shlist.nsf/webPages/safe+harbor+list>. (some emphasis added)

11. Through the means described in Paragraph 10, respondent has represented, expressly or by implication, that it is a “current” participant in the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework.
12. In truth and in fact, respondent is not and never has been a participant in the U.S.-EU Safe Harbor Framework or the U.S.-Swiss Safe Harbor Framework. Therefore, the representations set forth in Paragraph 11 were, and are, false and misleading.
13. 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 \_\_\_\_ 2015, has issued this complaint against respondents.

By the Commission.

Donald S. Clark  
Secretary

SEAL: