

*[Note: Transcription of March 22, 2022 letter [\[link to pdf image file\]](#) from FCC Commissioner Brendan Carr to the Federal Trade Commission. Transcribed by Tim Reiersen April 5, 2022.]*

[LETTERHEAD:]

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554  
Brendan Carr  
Commissioner

[BODY OF LETTER:]

March 22, 2022

The Honorable Lina Khan  
Chairwoman

Mr. Samuel Levine  
Director, Bureau of Consumer Protection

Federal Trade Commission  
600 Pennsylvania Ave., NW  
Washington, DC 20530

Dear Chairwoman Khan and Director Levine,

I am writing to urge the Federal Trade Commission to investigate Crisis Text Line (CTL) for its collection, use, and sharing of data—including an assessment of whether CTL has been engaging in any unfair or deceptive business practices. As detailed below, CTL obtains data from confidential text and online messaging conversations that Americans in crisis have with CTL’s counselors. After public reporting raised questions about CTL’s monetization of data, the organization ended that particular practice. But when my office raised concerns about CTL’s ongoing data practices—including whether it is obtaining appropriate levels of consent—CTL officials declined any further conversations with my office. Given the sensitive nature of this data, and the need to ensure that Americans can trust the integrity and confidentiality of crisis lines, I encourage the Federal Trade Commission to examine CTL’s past and ongoing practices.

As background, CTL connects millions of people with mental health and crisis intervention counselors through text and online messaging platforms. This has the benefit of meeting people that prefer communicating over text where they are, including teenagers. Operating as a tech-driven nonprofit, CTL’s laudable goal is to help people that are coping with traumas, such as self-harm, emotional abuse, and thoughts of suicide. One way that CTL does this is by utilizing artificial intelligence to analyze the terms used in text conversations to identify the most life-threatening situations or the specific issues individuals are facing. At its best, this use of technology has enabled CTL to respond in the most appropriate manner more quickly.

However, earlier this year, a *Politico* report detailed concerning information about the way CTL was sharing and monetizing the data it obtained from the confidential text messages of Americans that were reaching out to CTL and its counselors for help.<sup>1</sup> Specifically, CTL was engaged in a practice where it shared troves of data from these text messages—information that people have shared during the darkest and sometimes most pivotal moments of their lives—with a for-profit spin-off, Loris.ai. In turn, Loris was mining and analyzing hundreds of millions of CTL messages for the purpose of developing “enterprise software that helps companies boost empathy AND bottom line,” as Loris stated on its website. At the time, CTL held an ownership stake in Loris, and Loris pledged to share some of its revenue with CTL. While CTL and Loris claimed to share only anonymized data, the *Politico* report correctly identifies circumstances where the re-personalization of data can occur—and indeed has in other scenarios. If such anonymization were to be reverse engineered here, the data could be traced back to the individuals that participated in the conversation.

The *Politico* report also called attention to the issue of meaningful consent. At the time of the report, CTL’s website included a 50-paragraph disclosure explaining the sharing of their data. However, I question whether meaningful consent can be given by someone in crisis pursuant to such a disclosure buried on an entity’s website.

After learning of these practices, I wrote a letter to CTL and Loris requesting that they end these practices immediately, particularly in light of the concerns raised about meaningful consent. Soon after I sent that letter, I was notified that CTL had ended its data-sharing relationship with Loris and updated its Terms of Service and Privacy Policy. My office subsequently had one telephone call with CTL during which CTL or its lawyers discussed those updates. When my office expressed an interest in ensuring that CTL’s ongoing data practices—including its data collection, storage, and sharing—as well as CTL’s obtaining of consent, complied with the law, CTL’s representative stated that they were respectfully declining any further conversations. Nonetheless, I continue to have concerns regarding CTL’s ongoing practices.

For one, I continue to have concerns with the method that CTL appears to use for obtaining consent. Under CTL’s existing practices, a user automatically gives his or her consent by engaging with a counselor directly through CTL’s platform, or through a third-party messaging platform.<sup>2</sup> While CTL’s disclosure indicates that its Terms of Service and Privacy Policy should be read prior to use of CTL’s service, I remain skeptical that users of the service—who are often in the middle of a life-threatening or otherwise traumatic situation—read the disclosure first before engaging with a crisis counselor.

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<sup>1</sup> Alexandra S. Levine, *Suicide Hotline Shares Data with For-Profit Spinoff, Raising Ethical Questions*, POLITICO (Jan. 27, 2022), <https://www.politico.com/news/2022/01/28/suicide-hotline-silicon-valley-privacy-debates-00002617>.

<sup>2</sup> Crisis Text Line, Terms of Service & Privacy Policy, <https://www.crisistextline.org/privacy/> (last updated Feb. 1, 2022, 6:38 PM).

Further, I continue to have concerns regarding the collection of data from CTL’s conversations with users pursuant to the consent, or lack thereof, that is obtained by CTL. According to the existing policy, CTL reserves the ability to “use and share anonymous and anonymized data with third parties *for any reason*.”<sup>3</sup> It also reserves the right to collect Personally Identifiable Information and to use and share that information amongst its employees, volunteers, agents, contractors, and service providers in order to help CTL “operate, analyze, research, develop, deliver, audit, maintain, and improve our products, content, advertising, communications, and the Services.”<sup>4</sup> This information is retained for seven years, while non-personally identifiable data is retained indefinitely.<sup>5</sup>

Finally, I am concerned by the steps consumers must take to ensure that their conversations and other data are deleted. In particular, it appears that a user of CTL’s services may only request that conversations and other data be deleted by texting or messaging the word “LOOFAH” to CTL during their conversation,<sup>6</sup> but the ability to do so is not advertised to users except for in the Terms of Service and Privacy Policy. It is possible, and perhaps likely, that users begin and end their conversations with CTL’s counselor without knowledge that the conversation is maintained as a record, never mind that they have the ability to have those conversations deleted.

While I recognize—and, indeed, support—the desire of CTL to continue to improve the services they offer, it cannot be done in a manner that is deceptive or otherwise not in compliance with consumer protection laws. I reiterate that the users of CTL are often in pivotal—and dark—moments of their lives. They may be in the middle of a mental health crisis where they are considering suicide or self-harm. And even where they are not in such imminent danger, they are often sharing moments of their lives that they expect to remain confidential. It is thus paramount that CTL comply with core data privacy and consent laws.

For these reasons, I urge the Federal Trade Commission to investigate CTL’s prior and current data practices, including the ways that CTL collects, retains, and shares the data it obtains from confidential text and online messaging conversations, as well as the manner in which CTL obtains consent for these practices.

Sincerely,  
/s/  
Brendan Carr

CC: Commissioner Noah Joshua Phillips  
Commissioner Rebecca Kelly Slaughter  
Commissioner Christine S. Wilson

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<sup>3</sup> *Id.* at Non-Personally Identifiable Information.

<sup>4</sup> *Id.* at Collection and Use of Personally Identifiable Information; How We Use Your Personally Identifiable Information.

<sup>5</sup> *Id.* at Retention of Information.

<sup>6</sup> *Id.* at Purposes for Processing Data.