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U.S. SENATE CLIMATE CHANGE TASK FORCE

United States Senate

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The Honorable Joseph Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
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The Honorable Noah Phillips
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Rohit Chopra
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Rebecca Slaughter
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Christine Wilson
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Simons, Commissioner Phillips, Commissioner Chopra, Commissioner Slaughter, and Commissioner Wilson:

One of the Federal Trade Commission's (FTC) most critical responsibilities is protecting children's privacy and enforcing the Children's Online Privacy Protection Act (COPPA). Recent reports indicate that the FTC is currently investigating YouTube for illegally collecting data about children.¹ Given the extensive evidence that YouTube is invading child users' privacy, I urge you to take all necessary steps to hold YouTube accountable for any illegal activity

¹ Tony Romm, Elizabeth Dwoskin, & Craig Timberg, *YouTube under federal investigation over allegations it violates Children's privacy*, Wash. Post (June 19, 2019), https://www.washingtonpost.com/technology/2019/06/19/facing-federal-investigation-youtube-is-considering-broad-changes-childrens-content/?utm_term=.f56bd881fa8c.

affecting children that the company may have committed and, if violations are found, to require the company to institute new safeguards that will stop these harms from continuing.

Considerable evidence suggests that YouTube has collected data about children in violation of federal law. Under COPPA, websites that are directed towards children, or that have actual knowledge that they are collecting information about children, must provide parents with notice of this data collection and obtain parental consent before collecting any information from a child.² As experts have highlighted, many channels on YouTube that have millions of subscriptions and views are clearly directed towards children.³ For example, Ryan ToysReview, which has over 19 million subscriptions, explicitly characterizes itself as “Toy reviews for kids by a kid.”⁴ YouTube content like this appears to directly conflict with YouTube’s claims that the website is not intended for children.⁵ Because YouTube serves child-directed content like this, it is subject to COPPA and rules subsequently promulgated under this law. However, as experts have noted, YouTube appears to collect information such as device identifiers and location without providing the requisite notice and obtaining parental consent.⁶

In light of this evidence, I am concerned that YouTube has failed to comply with COPPA. I, therefore, urge the Commission to use all necessary resources to investigate YouTube, demand that YouTube pay all monetary penalties it owes as a result of any legal violations, and instruct YouTube to institute policy changes that put children’s wellbeing first. These should include:

- Require Google to immediately stop collecting data from any user known to be under the age 13 and delete all data under Google’s control collected from children under 13—even if that user is now 13 or older;
- Institute and employ mechanisms to identify on an ongoing basis any users under 13 and to deny access to these users unless YouTube updates its processes to comply with COPPA;
- Update the YouTube Kids platform’s policies to include:
 - Prohibition of targeted marketing and influencer marketing;
 - Specification that YouTube must clearly describe to users any data collected for “internal purposes,” providing comprehensive information regarding what information is being collected, why it is being collected, and who has access to the data;
- Require Google to submit to a yearly audit by a qualified, independent entity to ensure that Google is complying with all aspects of a consent decree stemming from this investigation. Such audits should be publically available without redaction on the Commission’s website within 30 days of receipt;

² 15 U.S.C. §6502 (2012)

³ *Request to Investigate Google’s YouTube Online Service and Advertising Practices for Violating the Children’s Online Privacy Protection Act*, Submitted to the Federal Trade Commission by the Center for Digital Democracy et al (Apr. 9, 2018), <https://www.law.georgetown.edu/wp-content/uploads/2018/08/Filed-Request-to-Investigate-Google%E2%80%99s-YouTube-Online-Service-and-Advertising-Practices-for-Violating-COPPA.pdf>.

⁴ Ryan ToysReview, https://www.youtube.com/channel/UChGJGhZ9SOOHvBB0Y4DOO_w/about, (last visited June 24, 2019).

⁵ YouTube Terms of Service, <https://www.youtube.com/t/terms> (last visited June 24, 2019).

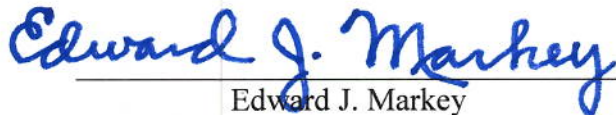
⁶ Google Safety Center Data Transparency, <https://safety.google/privacy/data/>, (last visited June 24, 2019).

- Prohibit Google from launching any new child directed product or service in the future until the product or service has been reviewed and approved by an independent panel of experts, including child development and privacy experts, to be appointed by the FTC;
- Require Google to sponsor a consumer education campaign warning parents that no one under the age of 13 should use YouTube;
- Require Google to retain, and make available to the FTC upon request, documentation of its compliance with any consent decree stemming from this investigation;
- Require Google to establish a fund to produce and amplify noncommercial, quality content for children.

Companies of all types have strong business incentives to gather and monetize information about children. Personal information about a child can be leveraged to hook consumers for years to come, so it is incumbent upon the FTC to enforce federal law and act as a check against the ever increasing appetite for children's data.

Thank you for your attention to these important matters.

Sincerely,



Edward J. Markey
United States Senator