

United States Senate

WASHINGTON, DC 20510

October 3, 2018

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

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:

We write to express our concern about the growing number of children's applications that have been alleged to improperly track children and collect their personal information. Recent research indicates that numerous apps directed at children have been accessing geolocation data and transmitting persistent identifiers without parental consent. These allegations raise serious questions about whether these apps are in violation of the Children's Online Privacy Protection Act (COPPA).¹ Of additional concern is the practice of app stores promoting certain apps as designed for children, when in fact they are not appropriate for children if they are not complying with COPPA. We urge the Federal Trade Commission (FTC) to investigate whether these apps, and the advertising companies they work with, are in fact tracking children with

¹ Jennifer Valentino-DeVries et al., *How Game Apps That Captivate Kids Have Been Collecting Their Data*, N.Y. Times (Sept. 12, 2018), <https://www.nytimes.com/interactive/2018/09/12/technology/kids-apps-data-privacy-google-twitter.html>; Hamza Shaban, *Thousands of apps in Google Play Store may be illegally tracking children, study finds*, The Washington Post (April 18, 2018), https://www.washingtonpost.com/news/the-switch/wp/2018/04/16/thousands-of-android-apps-may-be-illegally-tracking-children-study-finds/?utm_term=.d4d70d77695f.

persistent identifiers and collecting their personal information in violation of COPPA, and whether parents are being misled about their practices by their placement in “kids” or “families” sections of app stores.

In a study published earlier this year, researchers looked at 5,855 child-directed apps, and found that approximately 57% of them were engaging in activity prohibited by COPPA.² Among other restrictions, COPPA prohibits apps directed at children under 13 from accessing geolocation information without verifiable parental consent.³ However, at least 235 of the apps analyzed accessed this sensitive information.⁴ In one example, all but one of 82 apps developed by Tiny Lab Productions not only accessed geolocation information, but shared it with advertising companies.⁵ The researchers also found that over 1,000 of the apps analyzed shared persistent identifiers with third parties, raising questions about whether these identifiers are being used to target children with behavioral advertising.⁶

Also of concern is the practice of apps being improperly promoted as kid friendly when in fact the app engages in activity prohibited by COPPA. The aforementioned study specifically looked at apps enrolled in Google’s Designed for Families program. Google places these apps in the “Families” section of the Google Play store based in part on the developers’ certification that their apps comply with COPPA’s restrictions on advertising practices.⁷ However, as the study demonstrated, a large number of the apps found in this designated area of the store have been engaging in practices prohibited by COPPA.

Given the sensitive nature of children’s personal information, app developers, advertising companies, and companies with app stores must take responsible steps to protect kids’ privacy and comply with COPPA. Congress passed COPPA to protect children’s privacy by providing parents with tools to control the information collected online about children under 13. The FTC plays a vital role in enforcing COPPA and ensuring that the privacy of children online is respected. The Commission should review:

- 1) The extent app developers are complying with COPPA, including:
 - What personal information app developers are collecting from children and disclosing to advertising companies; and
 - How app developers ensure that the advertising companies they work with comply with COPPA.

- 2) The extent advertising companies are complying with COPPA, including:

² Irwin Reyes et al., “Won’t Somebody Think of the Children?” *Examining COPPA Compliance at Scale*, Proceedings on Privacy Enhancing Technologies (2018), 63-83, <https://petsymposium.org/2018/files/papers/issue3/popets-2018-0021.pdf>.

³ Children’s Online Privacy Protection Act of 1998 (COPPA), 15 U.S.C. §§ 6501–6506 (2003).

⁴ Reyes, *supra* note 2.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Families and COPPA*, Google Play Developer Policy Center, <https://play.google.com/about/families/designed-for-families/program-requirements/> (accessed Sept. 20, 2018).

- How advertising companies ensure developers comply with terms of service that forbid their use in children's apps; and
 - What advertising companies do with the personal information they receive about children.
- 3) To what extent app stores verify that apps marketed as appropriate for children are complying with COPPA, including how app stores enforce the terms of their programs for child-directed apps or verify compliance with COPPA before marketing them as safe for children.

Thank you for your attention to this important matter. We respectfully request a written response by October 31, 2018.

Sincerely,



Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator