

Congress of the United States
Washington, DC 20515

April 21, 2021

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

Dear Acting Chair Slaughter, Commissioner Phillips, Commissioner Chopra, and Commissioner Wilson:

We write to express our concern that the Google Play Store may have violated Section 5 of the Federal Trade Commission (FTC) Act. New research suggests that Google misleadingly markets children's apps as compliant with the Children's Online Privacy Protection Act (COPPA) despite evidence that many of those apps illegally track children's behavior and share their personal information without consent.¹ The FTC must use its full authority to protect the interests of children, many of whom are increasingly online during the coronavirus pandemic. Therefore, we urge you to investigate whether the Google Play Store has engaged in unfair and deceptive practices that mislead parents and harm kids.

According to recent studies, apps that infringe on children's privacy by collecting and sharing kids' personal information in violation of COPPA are rampant on the Google Play Store.² COPPA prohibits the collection, use, or disclosure of children's personal information, including the use of personal information to profile children or serve targeted advertising to them, without notice to parents and parental consent.³ However, recent research shows that multiple apps in the Google Play Store used by children age five and under may violate COPPA by transmitting personal information, including advertising identifiers (data used to create advertising behavioral

¹ Center for Digital Democracy and Campaign for a Commercial-Free Childhood, *Request to Investigate Google's Unfair and Deceptive Practices in Marketing Apps for Children* (Mar. 31, 2021), https://www.democraticmedia.org/sites/default/files/field/public-files/2021/google_play_complaint_final_with_exhibits_3_31_21_0.pdf.

² *Id.* at 4-8.

³ COPPA FAQs, A, <https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions>.

profiles of users), to third parties.⁴ Of the 153 apps that researchers analyzed in Google Play Store's Designed for Families program, which includes apps that solely target children, a staggering 46 percent shared users' personal information (specifically advertising identifiers), demonstrating how commonly these apps share children's data.⁵ Additional expert analysis indicates that apps directed towards children in the Google Play Store are transmitting personal information to third parties without obtaining parental consent.⁶ An abundance of research casts significant doubt on COPPA compliance among apps on the Google Play Store.

Despite all of this evidence to the contrary, Google represents to consumers that the apps in its Designed for Families program are COPPA compliant. According to official Google materials, any app that solely targets children must be a part of Google's Designed for Families program and must comply with Google's Families Policy.⁷ Under Google's Families Policy, apps with a target audience that includes children under the age of thirteen must use ad software development kits (SDKs) from Google's Families Ads Program and must comply with all applicable laws and regulations relating to children, including COPPA.⁸ Recent class action lawsuits suggest that some of the SDKs in Google's Families Ads Program not only tracked children's online behavior, but the developers of the SDKs exploited the data for profit without disclosure or consent, in violation of COPPA.⁹ Tens of thousands of apps in the Google Play Store that target children may have used these SDKs.¹⁰ The research and information cited above suggest that Google is not ensuring that the apps participating in its Designed for Families program comply with COPPA, despite making representations that they do.

In 2018, experts¹¹ and lawmakers¹² called on the FTC to investigate the Google Play Store for potential violations of consumer protection and privacy laws. The FTC's decision not to investigate may have resulted in unnecessary harm to children and families. During a period in

⁴ Fangwei Zhao et al., *Data Collection Practices of Mobile Applications Played by Preschool-Aged Children*, JAMA Pediatrics (Sept. 8, 2020), https://jamanetwork.com/journals/jamapediatrics/article-abstract/2769689?utm_campaign=articlePDF&utm_medium=articlePDFlink&utm_source=articlePDF&utm_content=jamapediatrics.2020.3970.

⁵ *Id.* at 4.

⁶ *Request to Investigate*, *supra* note 1, at 7.

⁷ Designing Apps for Children and Families, https://support.google.com/googleplay/android-developer/answer/9893335?hl=en&ref_topic=9877766.

⁸ Creating Apps and Games for Children and Families, <https://developer.android.com/google-play/guides/families>.

⁹ *Request to Investigate*, *supra* note 1, at 8-9.

¹⁰ *Id.*

¹¹ Institute for Public Representation at Georgetown Law on behalf of Campaign for a Commercial-Free Childhood, Center for Digital Democracy, and others, *Request to Investigate Google's Unfair and Deceptive Practices in Marketing Apps for Children* (Dec. 19, 2018), <https://www.law.georgetown.edu/wp-content/uploads/2018/12/12-19-Google-Play-Store-Complaint-With-Exhibits.pdf>.

¹² Letter from Senator Edward J. Markey, Senator Tom Udall, and Senator Richard Blumenthal to Chairman Simons, Commissioner Phillips, Commissioner Chopra, Commissioner Slaughter, and Commissioner Wilson, Federal Trade Commission (Dec. 19, 2018), <https://www.markey.senate.gov/imo/media/doc/FTC%20Google%20Play%20Store.pdf>.

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which children's technology use has skyrocketed, our renewed call for the FTC to investigate the Google Play Store is even more urgent.

Thank you for your attention to this matter. We respectfully request a written response to this letter by May 12, 2021.

Sincerely,

Edward J. Markey
United States Senator

Kathy Castor
Member of Congress