

# United States Senate

February 16, 2022

The Honorable Lina Khan  
Chair  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chair Khan

We write regarding the potential threats to children who use Virtual Reality (VR) products and platforms. Children are a uniquely vulnerable population in the digital ecosystem. As VR consumer electronic offerings become increasingly popular<sup>1</sup> and as leading technology companies that have historically failed to protect children announce plans<sup>2</sup> to expand their businesses into the “metaverse,”<sup>3</sup> we urge the Federal Trade Commission (FTC or Commission) to use its full authority under the *Children’s Online Privacy Protection Act (COPPA)* and the *FTC Act* to ensure children are protected from the potential harms of these technologies.

While many VR offerings state that their products are not meant for kids,<sup>4</sup> many children nevertheless use these platforms.<sup>5</sup> In fact, two-thirds of parents with VR devices report that their children asked them to buy the device.<sup>6</sup> In 2017, 21 percent of parents said they had VR equipment at home, and approximately three quarters of children surveyed between the ages of 8 and 15 expressed significant interest in VR.<sup>7</sup> Given the growth of the VR marketplace in recent years,<sup>8</sup> these numbers have likely increased significantly. In fact, companies are already

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<sup>1</sup> See Sergei Vardomatski, *Augmented And Virtual Reality After Covid-19*, Forbes (Sep. 14, 2021), <https://www.forbes.com/sites/forbestechcouncil/2021/09/14/augmented-and-virtual-reality-after-covid-19/?sh=31f998222d97>; see also Noah Smith, *Virtual reality is starting to see actual gains in gaming* (Feb. 4, 2021), <https://www.washingtonpost.com/video-games/2021/02/04/virtual-reality-future-games/>.

<sup>2</sup> See Mark Zuckerberg, *Founders Letter*, Meta (Oct. 28, 2021), <https://about.fb.com/news/2021/10/founders-letter/>; see also Microsoft News Center, *Microsoft to acquire Activision Blizzard to bring the joy and community of gaming to everyone, across every device* (Jan. 18, 2022), <https://news.microsoft.com/2022/01/18/microsoft-to-acquire-activision-blizzard-to-bring-the-joy-and-community-of-gaming-to-everyone-across-every-device/>.

<sup>3</sup> The metaverse is a platform, jointly created by multiple industry leaders that would rely on virtual reality to allow users to connect and interact online. See Brian X. Chen, *What’s All the Hype About the Metaverse?* (Jan. 18, 2022), <https://www.nytimes.com/2022/01/18/technology/personaltech/metaverse-gaming-definition.html>.

<sup>4</sup> See Sony, Health Warning, “VR Headset Safety Notice,” <https://www.playstation.com/en-us/legal/health-warning/>.

<sup>5</sup> Will Oremus, *Kids are flocking to Facebook’s ‘metaverse.’ Experts worry predators will follow.*, Washington Post (Feb. 7, 2022), <https://www.washingtonpost.com/technology/2022/02/07/facebook-metaverse-horizon-worlds-kids-safety/>.

<sup>6</sup> See Jennifer S. Aubrey et al., *Virtual Reality 101: What You Need to Know about Kids and VR*, Common Sense (2018), [https://www.common Sense Media.org/sites/default/files/uploads/research/csm\\_vr101\\_final\\_under5mb.pdf](https://www.common Sense Media.org/sites/default/files/uploads/research/csm_vr101_final_under5mb.pdf).

<sup>7</sup> *Id.*

<sup>8</sup> See Chaim Gartenberg, *Meta’s Oculus Quest 2 has shipped 10 million units, according to Qualcomm*, The Verge (Nov. 16, 2021), <https://www.theverge.com/2021/11/16/22785469/meta-oculus-quest-2-10-million-units-sold-qualcomm-xr2>.

marketing multiple VR games that are designed for children and marketed as appropriate for users under the age of 13.<sup>9</sup>

Children’s increasing use of VR warrants serious concerns about new threats to young users’ wellbeing. Many VR platforms and headsets currently do not have basic parental controls, and reports point to harms such as harassment and unsafe content in the metaverse.<sup>10</sup> Additionally, VR companies’ plans to present commercial advertisements in the metaverse could lead to harmful marketing practices that may be inherently manipulative of children.<sup>11</sup> While policymakers, parents, and pediatricians would all benefit from increased understanding about the effects—positive and negative—that VR may have on children, sufficient information exists to warrant the FTC’s vigilance in this area.

Therefore, we encourage the Commission to monitor this issue and use its authority under *COPPA* and the *FTC Act* to protect children in the metaverse. *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.<sup>12</sup> Relatedly, Section 5 of the *FTC Act* prohibits companies from engaging in “unfair or deceptive acts or practices in or affecting interstate commerce.”<sup>13</sup> Under this standard, an act or practice is “unfair” if it “causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.”<sup>14</sup> A deceptive practice is defined as one in which “a representation, omission or practice is likely to mislead the consumer.”<sup>15</sup> The FTC thus has a statutory obligation to ensure that powerful technology platforms treat young people fairly, comply with the platforms’ own public statements, and protect children’s privacy.

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<sup>9</sup> See, e.g., Viveport, “Cabinets of Wonder,” <https://www.viveport.com/861cd7a8-7c68-4dc6-b04f-354a3751d9bb>; Amazon, “Abacus Brands Dino Dig VR,” [https://www.amazon.com/Abacus-Brands-Dino-Dig-Interactive/dp/B09394CFJJ/ref=sr\\_1\\_5?keywords=virtual+reality+games+for+kids&qid=1643663947&sr=8-5](https://www.amazon.com/Abacus-Brands-Dino-Dig-Interactive/dp/B09394CFJJ/ref=sr_1_5?keywords=virtual+reality+games+for+kids&qid=1643663947&sr=8-5) (“Manufacturer recommended age: 8 years and up”); see also Commonsense Media, Game Reviews, “Playstation VR,” <https://www.common sense media.org/reviews/age/8/age/9/age/10/age/11/category/game/platform/playstation-vr-54916> (multiple games rated “age 8+” and “age 10+”).

<sup>10</sup> See Catherine Buni, *If Social Media Can Be Unsafe for Kids, What Happens in VR?*, Slate (Oct. 11, 2021) <https://slate.com/technology/2021/10/facebook-virtual-reality-metaverse-safety-children-jakki-bailey.html>.

<sup>11</sup> Research indicates that children struggle to identify embedded advertising in video content. This raises concerns that they may experience similar difficulties identifying marketing in VR. See Oculus Blog, *Testing In-Headset VR Ads*, Meta (Jun. 16, 2021), <https://www.oculus.com/blog/testing-in-headset-vr-ads/>; Rebecca Mardon, *YouTube’s child viewers may struggle to recognise adverts in videos from ‘virtual play dates’*, London School of Economics (Sep. 25, 2019); see also V. Verdoodt, *Children’s Rights and Advertising Literacy in the Digital Era: Towards An Empowering Regulatory Framework For Commercial Communication*. Doctoral dissertation, Ghent University (2018).

<sup>12</sup> COPPA FAQs, A, <https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions>.

<sup>13</sup> 15 U.S.C. §45(a).

<sup>14</sup> *Id.* §45(n).

<sup>15</sup> *ITT Continental Baking Co. Inc.*, 83 F.T.C. 865, 965 (1976).

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Page 3

The need to protect young people from threats online is more urgent than ever. As new technologies emerge, it is incumbent upon the Commission to exercise this authority to protect children.

Thank you for your attention to this important matter.

Sincerely,



Edward J. Markey  
United States Senator



Kathy Castor  
Member of Congress



Lori Trahan  
Member of Congress