

# United States Senate

WASHINGTON, DC 20510

August 6, 2019

Mark Zuckerberg  
Chief Executive Officer  
Facebook  
1 Hacker Way  
Menlo Park, CA 94025

Dear Mr. Zuckerberg:

We write regarding reports that Facebook's Messenger Kids app contained a serious design flaw that allowed children to circumvent restrictions on who they could talk with online. Specifically, Messenger Kids allowed children to enter group chats with individuals who were not previously approved by the young users' parents.<sup>1</sup> While software bugs are a common occurrence, the need to protect children who use Messenger Kids and Facebook's promises to parents set a higher bar for privacy and online safety. We write seeking more transparency regarding the nature of the Messenger Kids flaw and answers on what Facebook is doing to ensure that the product meets the expectations of parents and its obligations under the law.

Facebook's Messenger Kids app is intended for kids between the ages of six and 12, and therefore, must comply with the Children's Online Privacy Protection Act (COPPA).<sup>2</sup> This statute requires Facebook to receive parental consent before collecting any personal information from children.<sup>3</sup> We have previously written to express our concerns that Messenger Kids does not meet the COPPA requirements.<sup>4</sup> These concerns were further reinforced last October when nearly 20 experts and advocacy groups filed a complaint to the Federal Trade Commission (FTC) including evidence that the Messenger Kids app collects the personal information of children without clear disclosures of Facebook's data practices and without gaining parental consent.<sup>5</sup> Against this backdrop, we are disturbed to learn that in thousands of cases, children using Messenger Kids were able to join group chats in which not all of the members of the chat had

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<sup>1</sup> Russell Brandom, *Facebook design flaw let thousands of kids join chats with unauthorized users*, The Verge (July 22, 2019), <https://www.theverge.com/2019/7/22/20706250/facebook-messenger-kids-bug-chat-app-unauthorized-adults>.

<sup>2</sup> Queenie Wong, *Facebook's Messenger Kids gets mixed reviews from parents in the first year*, cnet (Dec. 4, 2018), <https://www.cnet.com/news/facebooks-messenger-kids-gets-mixed-reviews-from-parents-in-first-year/>.

<sup>3</sup> 12 U.S.C. § 1303(b)(1)(A) (2012).

<sup>4</sup> Letter from Senator Edward J. Markey (D-MA) and Senator Richard Blumenthal (D-CT), to Mark Zuckerberg, Chief Executive Officer, Facebook (Dec. 7, 2017).

<sup>5</sup> *Request for the Federal Trade Commission to investigate and take enforcement action against Facebook for violating the Children's Online Privacy Protection Act*, Submitted to the Federal Trade Commission by Campaign for a Commercial-Free Childhood et al. (Oct. 3, 2018), <https://www.commercialfreechildhood.org/sites/default/files/devel-generate/wab/FTC%20FB%20Messenger%20Kids%20Letter.pdf>.

been approved by their parents. Together, these issues point to a worrying pattern of lax privacy protections for kids on the Messenger Kids platform.

Children's privacy and safety online should be Messenger Kids' top priority. Your company has a responsibility to meet its promise to parents that children are not exposed to unapproved contacts, a promise that it appears that Facebook has not fulfilled. This is particularly troubling given that the July 24, 2019, settlement between Facebook and the FTC appears to release Facebook from any liability for all known violations of the Federal Trade Commission Act Section 5 as of June 12, 2019 and all violations of the FTC's 2012 consent decree.<sup>6</sup>

Therefore, we request answers to the following questions by August 27, 2019:

1. When did Facebook first become aware of the Messenger Kids design flaw that allowed children to engage in chats with unapproved users?
2. When did Facebook make the impacted children and parents aware of the flaw in the Messenger Kids product and any actions Facebook had taken in response? Does Facebook believe that all affected parents have been notified?
3. How long has this design flaw existed within the Messenger Kids app?
4. Are parents able to review the unapproved group chats their children were a part of or otherwise learn what information was shared in these interactions? If not, why not?
5. Has Facebook initiated a review of the Messenger Kids app to identify other flaws that present similar children's privacy concerns? If not, will Facebook commit to doing so?
6. What product design and testing measures has Facebook put into place to ensure that any further flaw does not undermine the security of the Messenger Kids app in the future?
7. Was Facebook ever contacted by the Federal Trade Commission (FTC) regarding the October 3, 2018 Request for Investigation regarding Messenger Kids? If so, what were the results of this communication?
8. In light of Facebook's July 24, 2019 settlement with the FTC, does Facebook consider itself released from liability for the matters raised by the October 3, 2018 Request for Investigation regarding Messenger Kids?
9. Does Facebook consider itself released from liability from any COPPA violations related to this design flaw because of its July 24, 2019 settlement with the FTC?

Thank you in advance for your attention to these concerns.

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<sup>6</sup> Facebook, Inc., In the Matter of, 19-cv-2184, *Stipulated Order for Civil Monetary Judgement and Injunctive Relief*, 1 (July 24, 2019).

Sincerely,

*Edward J. Markey*

Edward J. Markey  
United States Senator

*Richard Blumenthal*

Richard Blumenthal  
United States Senator