

Congress of the United States
Washington, DC 20515

July 2, 2024

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Garland,

We write to urge the U.S. Department of Justice (DOJ) to act expeditiously on the Federal Trade Commission’s (FTC or Commission) referral of a complaint against TikTok and its parent company, ByteDance Ltd. We are particularly concerned about the alleged violations of the Children’s Online Privacy Protection Act (COPPA) and the FTC’s 2019 settlement with TikTok for violations of COPPA. Given the ongoing youth mental health crisis — which the Surgeon General labeled an “emergency” in June¹ — the DOJ should thoroughly review the FTC referral and, if it determines that TikTok violated COPPA, quickly take action to remedy those violations.

The FTC referral against TikTok is particularly worrisome given its history of failing to comply with COPPA. In 2019, the Commission reached a settlement with TikTok, then known as Musical.ly, under which it paid \$5.7 million for violations of COPPA, then the largest fine that the Commission had secured under the law.² In its complaint, the FTC alleged that Musical.ly knew children were using the app, even providing guidance to parents about their children’s use of the app.³ In fact, during a two-week period in September 2016, Musical.ly received more than 300 complaints from parents requesting that the company close their child’s accounts.⁴ Yet, the company still collected personal information on its child users, without obtaining parental consent to do so — a violation of COPPA.⁵ The Commission rightfully investigated this conduct and, by a 5-0 vote, referred the complaint and proposed consent decree to DOJ, which filed the complaint and proposed consent decree in federal court on the Commission’s behalf.

¹ Vivek Murthy, *Surgeon General: Why I’m Calling for a Warning Label on Social Media Platforms*, N.Y. Times (June 17, 2024), <https://www.nytimes.com/2024/06/17/opinion/social-media-health-warning.html>.

² Press Release, Federal Trade Commission, Video Social Networking App Musical.ly Agrees to Settle FTC Allegations That it Violated Children’s Privacy Law (Feb. 27, 2019), <https://www.ftc.gov/news-events/news/press-releases/2019/02/video-social-networking-app-musically-agrees-settle-ftc-allegations-it-violated-childrens-privacy>.

³ Complaint, United States v. Musical.ly, ¶ 20, No. 2:19-cv-1439 (C.D. Calif.).

⁴ *Id.* ¶ 21.

⁵ *Id.* ¶ 31.

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Five years later, according to the FTC, TikTok is still failing to comply with COPPA. On June 18, the Commission released a statement indicating it had referred a complaint against TikTok to DOJ based on its review of the company's compliance with the 2019 settlement.⁶ According to the FTC, "[t]he investigation uncovered reason to believe named defendants are violating or are about to violate the law and that a proceeding is in the public interest."⁷ DOJ is now charged with reviewing that referral and determining whether to file a complaint on behalf of the Commission. Given TikTok's previous violations of COPPA and the critical need to protect children's online privacy, we urge the Department to expeditiously investigate these allegations and take all necessary action to protect children's online privacy.

Thank you for your attention to this important matter.

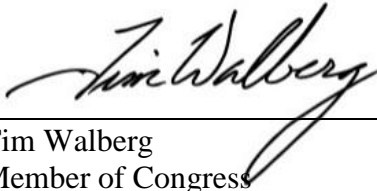
Sincerely,



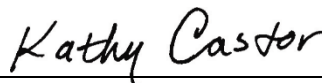
Edward J. Markey
United States Senator



Bill Cassidy
United States Senator



Tim Walberg
Member of Congress



Kathy Castor
Member of Congress

⁶ Press Release, Federal Trade Commission, Statement of the Federal Trade Commission In the Matter of Bytedance/Musical.ly (June 18, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/bytedance-musical-commission-statement.pdf.

⁷ *Id.*