

# United States Senate

WASHINGTON, DC 20510

December 19, 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 regarding potential children's privacy and consumer protection violations in the Google Play store. Experts have recently uncovered additional evidence demonstrating that children's apps promoted in the Google Play store may share children's personal data, include content or advertising not appropriate for children, or fail to implement reasonable security practices in accordance with the Children's Online Privacy Protection Act (COPPA).<sup>1</sup> These findings, along with concerns we have previously raised, provide strong impetus for a comprehensive investigation into the Google Play store and its compliance with existing laws

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<sup>1</sup> *Request to Investigate Google's Unfair and Deceptive Practices in Marketing Apps for Children*. Submitted to the Federal Trade Commission by the Institute for Public Representation at Georgetown Law on behalf of Campaign for a Commercial-Free Childhood (CCFC), Center for Digital Democracy (CDD) and others. (December 19, 2018).

under your purview. We urge you to review this information without delay to ensure children are properly protected online.

According to a recently conducted analysis, the Google Play store includes multiple children's apps that share users' information in an insecure manner, in violation of COPPA. Under COPPA Rule 312.8, online service providers directed to children are required to "maintain the confidentiality, security, and integrity of information they collect from children, including by taking reasonable steps to release such information only to parties capable of maintaining its confidentiality and security."<sup>2</sup> However, multiple apps designed for children to use with toys such as Elmo and Furby in the Google Play Family section share users' persistent identifiers with third parties in an unencrypted form. By sharing child users' personal data in an unencrypted manner, apps on this platform appear to fall short of COPPA security standards.

In addition, the Google Play store appears to run afoul of the FTC Act's prohibition on unfair and deceptive practices by including content or advertising that is not appropriate for children in children's apps. Under Google's Designed for Families guidelines, apps in the Family section of the Google Play store may not include content or advertising that is not "appropriate for children."<sup>3</sup> Researchers have recently documented, however, that many children's apps in this section of Google's app store violate this standard. Some of these children's apps portray activities that could frighten children or result in harm if imitated by children. In addition, advertisements referencing alcohol, video games designed for adults, and gambling, for example, all appear in apps that Google characterizes as appropriate for children. We encourage the Commission to investigate whether Google is abiding by its commitment that the Family section of its app store only includes advertising and content that is appropriate for children.

Finally, new analysis demonstrates that certain apps, which Google characterizes as appropriate for children, are sharing kids' sensitive personal information without the required parental consent. Consistent with previously released research, a review of the Google Play store reveals that 84 apps on Google's platform currently transfer users' location information to third parties. Of great concern is the finding that many of these apps are located in Google's Family section and yet do not give direct notice to parents or receive their consent for sharing. These findings further suggest that Google may be both violating COPPA and misrepresenting its services.

Our inquiry today comes on the heels of previous letters to the Commission in which we questioned whether apps enrolled in Google's Designed for Families program and available in the Family section of the Google Play store are operating in violation of COPPA by sharing child users' data, including geolocation information, without the requisite consent under COPPA.<sup>4</sup> We have also directed the Commission to investigate reports of children's apps, including many that

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<sup>2</sup> COPPA FAQs, A-1, <https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions>.

<sup>3</sup> *Designed for Family Program Requirements*, <https://perma.cc/ML9K-TETX> (last visited Dec. 17, 2018).

<sup>4</sup> Letter sent from Senator Edward J. Markey and Senator Richard Blumenthal to Chairman Simons, Commissioner Phillips, Commissioner Chopra, Commissioner Slaughter, and Commissioner Wilson, Federal Trade Commission (Oct. 3, 2018).

are available in the Google Play store, that engage in manipulative marketing practices that violate Section 5 of the Federal Trade Commission (FTC) Act.<sup>5</sup>

The FTC is statutorily obliged to enforce COPPA and protect American consumers from unfair and deceptive practices. We have brought to your attention a number of pressing concerns that call into question Google's compliance with existing laws, and we encourage you to initiate an investigation into the aforementioned concerns as soon as possible. Thank you for your attention to this matter. We respectfully request a written response to this letter by Tuesday, January 8, 2019.

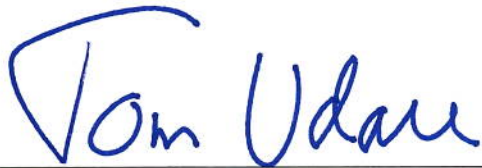
Sincerely,



Edward J. Markey  
United States Senator



Richard Blumenthal  
United States Senator



Tom Udall  
United States Senator

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<sup>5</sup> Letter sent 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 (Nov. 13, 2018).