

Congress of the United States
Washington, DC 20515

July 30, 2019

The Honorable Joseph H. Hunt
Assistant Attorney General
Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

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 Christine Wilson
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

Dear Assistant Attorney General Hunt, Chairman Simons, Commissioner Phillips, Commissioner Chopra, Commissioner Slaughter, and Commissioner Wilson:

We write regarding reports that the Federal Trade Commission has finalized its settlement with Google for violations of the Children's Online Privacy Protection Act (COPPA) for content on YouTube, Google's video streaming service.¹

As you may know, last year we sent a letter to Google raising concerns about its collection of children's personal information on YouTube in violation of COPPA following a complaint filed with the Commission by a coalition of privacy and child advocacy groups.² In particular, we raised concerns with Google's reported algorithmic targeting of children on YouTube, actual

¹ Tony Romm & Elizabeth Dwoskin, *FTC Approves Settlement with Google Over YouTube Kids Privacy Violations*, WASH. POST (July 19, 2019), https://www.washingtonpost.com/technology/2019/07/19/ftc-approves-settlement-with-google-over-youtube-kids-privacy-violations/?utm_term=.a569037d96ed.

² Letter from David N. Cicilline, Member, U.S. House of Representatives, & Jeff Fortenberry, Member, U.S. House of Representatives, to Sunday Pichai, Chief Executive Officer, Google LLC (Sept. 17, 2018), <https://cicilline.house.gov/sites/cicilline.house.gov/files/documents/Cicilline-Fortenberry%20Letter%20to%20Google.pdf>.

knowledge of children’s use of YouTube, and breadth of content directed toward children on YouTube.³

In response, Google claimed it had not violated the law because children’s use of YouTube is a violation of the company’s terms of service.⁴ Specifically, Google claimed that it “prohibit[s] the use of YouTube by children under the age of 13, and do[es] not encourage the use of YouTube by children.”⁵

This response, of course, was deeply unsatisfying given the significant evidence to the contrary.⁶ As a coalition of consumer and privacy advocates documented in a complaint they filed with the Commission in April 2018, Google collects personal information from millions of children using YouTube without first providing direct notice to parents and obtaining their verifiable consent. These actions are a violation of COPPA.

YouTube also financially benefits from interfacing with millions of children every day without oversight or transparency. Evidence shared with our offices demonstrates that YouTube is the most popular destination for children on the Internet. Content on YouTube—such as videos involving children’s toys and nursery rhymes—is clearly directed at children of various ages under 13. It is also likely that YouTube’s algorithms are designed to keep children on YouTube through functions like AutoPlay and video recommendations.

Although we are encouraged by the Commission’s investigation of this conduct, it is unclear whether the suggested remedy adopted by the Commission will adequately address Google’s pattern of violating COPPA. It is critical that the Justice Department settlement is commensurate with the breadth and severity of Google’s ongoing violation of COPPA.

For example, we believe the Commission can create a principled transparent approach for how children interface with these online platforms. Remedial actions including civil penalties and future oversight are reasonable considerations to ensure future compliance.

In light of these concerns, we believe that any settlement with Google should include the following:

1. Ensure the deletion of user data for users under the age 13;

³ *Id.*

⁴ Letter from David N. Cicilline, Member, U.S. House of Representatives, & Jeff Fortenberry, Member, U.S. House of Representatives, to Sunday Pichai, Chief Executive Officer, Google LLC (Sept. 17, 2018), <https://cicilline.house.gov/sites/cicilline.house.gov/files/documents/Cicilline-Fortenberry%20Letter%20to%20Google.pdf>.

⁵ Letter from Susan Molinari, Vice President of Public Policy and Government Affairs for the Americas, Google LLC, to David N. Cicilline, Member, U.S. House of Representatives, & Jeff Fortenberry, Member, U.S. House of Representatives (Oct. 18th, 2018) (on file with the House Antitrust Subcommittee).

⁶ Complaint, Request for Investigation of Amazon, Inc.’s Echo Dot Kids Edition for Violating the Children’s Online Privacy Protection Act (Fed. Trade Comm’n May 9, 2019), <https://www.echokidsprivacy.com/>.

2. Review all channels and videos directed at children from YouTube and move them to YouTube Kids.
3. Establish and employ a means for third-party qualified human reviewers to assure that programming is appropriate for children;
4. Identify a means to require opt-in by a parent on YouTube Kids, for any user under 13, thereby only allowing access once this proactive step is employed;
5. Require establishment of policies and procedures on YouTube Kids or any platform dedicated for children to protect children's privacy. It is our understanding that YouTube Kids presently employs the following policies, and they should be enshrined in a decision governing practices going forward:
 - a. No data collection for commercial purposes. Any data collected for "internal purposes" must be clearly identified as to what is being collected, for what purpose, and who has access to the data. It may not be sold to any third parties.
 - b. No links out to other sites or online services.
 - c. No targeted marketing.
 - d. No marketing disguised as content or product or brand integration, including influencer marketing.
7. Require an annual audit by a qualified, independent auditor to ensure compliance with all aspects of the consent decree. Make all audits publicly available without redaction on the Commission's website within 30 days of receipt.
8. Restrict launch of any new child-directed service until it has been reviewed and approved by an independent panel of experts – including child development and privacy experts – to be appointed by the FTC.
9. Publish documentation of Google's compliance with the consent decree as reported to the FTC.

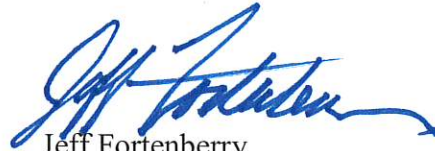
YouTube has grown substantially and is woven into the daily lives of children around the globe. It is important that we know what content our children are watching. Without proper disclaimers for parents and a required opt-in for children to YouTube Kids, YouTube will continue to build long-term users as early as possible. Access to children requires the highest level of responsibility for companies like Google. It is up to you to send the message that tech companies must put children's wellbeing before corporate profits.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "David N. Cicilline". The signature is written in a cursive style with a large, rounded initial 'D'.

David N. Cicilline
Member of Congress

A handwritten signature in blue ink that reads "Jeff Fortenberry". The signature is written in a cursive style with a large, stylized initial 'J'.

Jeff Fortenberry
Member of Congress

CC: The Honorable William Barr, Attorney General, U.S. Department of Justice