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Advocates Who Filed the Privacy Complaint Against Google/YouTube Laud Improvements, But Say FTC Settlement Falls Far Short

BOSTON, MA & WASHINGTON, DC—September 4, 2019—The advocates who triggered the Federal Trade Commission’s (FTC) investigation into YouTube’s violations of the Children’s Online Privacy Protection Act (COPPA) say the FTC’s settlement with Google will likely significantly reduce behavioral marketing to children on YouTube, but doesn’t do nearly enough to ensure children will be protected or to hold Google accountable.

In April, 2018, Campaign for a Commercial-Free Childhood (CCFC) and the Center for Digital Democracy (CDD), through their attorneys at Georgetown Law’s Institute for Public Representation (IPR), filed an [FTC complaint](#) detailing YouTube’s COPPA violations. Twenty-one other privacy and consumer groups signed on to CCFC and CDD’s complaint, which detailed how Google profits by collecting personal information from kids on YouTube, without first providing direct notice to parents and obtaining their consent as required by law. Google uses this information to target advertisements to children across the internet and across devices, in clear violation of COPPA.

Today, the FTC and the New York Attorney General announced a settlement with Google, fining the company \$170 million. The settlement also “requires Google and YouTube to develop, implement, and maintain a system that permits channel owners to identify their child-directed content on the YouTube platform so that YouTube can ensure it is complying with COPPA.” Content creators will be asked to disclose if they consider their videos to be child-directed; if they do, no behavioral advertising will be served to viewers of those videos.

“We are pleased that our advocacy has compelled the FTC to finally address YouTube’s longstanding COPPA violations and that there will be considerably less behavioral advertising targeted to children on the number one kids’ site in the world,” said CCFC’s Executive Director Josh Golin. “But it’s extremely disappointing that the FTC isn’t requiring more substantive changes or doing more to hold Google accountable for harming children through years of illegal data collection. A plethora of parental concerns about YouTube – from inappropriate content and recommendations to excessive screen time – can all be traced to Google’s business model of using data to maximize watch time and ad revenue.”

In a [July 3, 2019 letter](#) to the FTC, the advocates specifically warned that shifting the burden of COPPA compliance from Google and YouTube to content creators would be

ineffective. The letter noted many children's channels were unlikely to become COPPA compliant by turning off behavioral advertising, since Google warns that turning off these ads "may significantly reduce your channel's revenue." The letter also detailed Google's terrible track record of ensuring COPPA compliance on its platforms; a 2018 study found that 57% of apps in the Google Play Store's Designed for Families program were violating COPPA despite Google's policy that apps in the program must be COPPA compliant. And as Commissioner Rebecca Slaughter wrote in her dissent, many children's content creators are not U.S.-based and therefore are unlikely to be concerned about FTC enforcement.

"We are gratified that the FTC has finally forced Google to confront its longstanding lie that it wasn't targeting children on YouTube," said CDD's executive director Jeff Chester, who helped spearhead the campaign that led to the 1998 passage of COPPA. "However, we are very disappointed that the Commission failed to penalize Google sufficiently for its ongoing violations of COPPA and failed to hold Google executives personally responsible for the roles they played. A paltry financial penalty of \$170 million—from a company that earned nearly \$137 billion in 2018 alone -- sends a signal that if you are a politically powerful corporation, you do not have to fear any serious financial consequences when you break the law. Google made billions off the backs of children, developing a host of intrusive and manipulative marketing practices that take advantage of their developmental vulnerabilities. More fundamental changes will be required to ensure that YouTube is a safe and fair platform for young people."

Echoing Commissioner Rohit Copra's dissent, the advocates noted that unlike smaller companies sanctioned by the FTC, Google was not forced to pay a penalty larger than its "ill-gotten gains." In fact, with YouTube earning a reported \$750 million annually from children's content alone, the \$170 million fine amounts to less than three months of advertising revenue from kids' videos. With a maximum fine of \$41,484 *per violation*, the FTC easily could have sought a fine in the tens of billions of dollars.

"I am pleased that the FTC has made clear that companies may no longer avoid complying with COPPA by claiming their online services are not intended for use by children when they know that many children in fact use their services," said Angela Campbell, Director Emeritus of IPR's Communications and Technology Clinic at Georgetown Law, which researched and drafted the complaint. Campbell, currently chair of CCFC's Board, served as lead counsel to CCFC and CDD on the YouTube and other complaints alleging COPPA violations. She, along with Chester, was responsible for filing an FTC complaint in 1996 against a child-directed website that led to Congress's [passage of COPPA in 1998](#). COPPA gave the FTC expanded authority to implement and enforce the law, for example, by including civil penalties. About the proposed settlement, Campbell noted: "It's disappointing that the FTC has not fully used its existing authority to hold Google and YouTube executives personally liable for adopting and continuing to utilize a business model premised on ignoring children's privacy protection, to adopt a civil penalty substantial enough to deter future wrongdoing, or to

require Google to take responsibility for ensuring that children's content on YouTube platforms complies with COPPA."

On the heels of a sweetheart settlement with Facebook, the advocates said the deal with Google was further proof the FTC wasn't up to the task of protecting consumers' privacy.

Said Campbell, "I support Commissioner Slaughter's call to state attorney generals to step up and hold Google accountable.

Added Chester, "The commission's inability to stop Google's cynically calculated defiance of COPPA underscores why Congress must create a new consumer watchdog that will truly protect Americans' privacy."

Organizations which signed on to the CCFC/CDD 2018 FTC complaint were Berkeley Media Studies Group; Center for Media Justice; Common Sense; Consumer Action; Consumer Federation of America; Consumer Federation of California; Consumers Union, the advocacy division of Consumer Reports; Consumer Watchdog; Corporate Accountability; Defending the Early Years; Electronic Privacy Information Center ("EPIC"); New Dream; Obligation, Inc.; Parent Coalition for Student Privacy; Parents Across America; Parents Television Council; Privacy Rights Clearinghouse; Public Citizen; The Story of Stuff Project; TRUCE (Teachers Resisting Unhealthy Childhood Entertainment); and USPIRG.

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