

Congress of the United States
Washington, DC 20515

May 28, 2020

Joseph J. Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue
Washington, DC 20580

Dear Chairman Simons:

We write in support of the May 14 letter complaint submitted by Children's Privacy Coalition for the Federal Trade Commission (FTC) to investigate TikTok's compliance with consent decree reached in *United States v. Musical.ly* (consent decree) and the Children's Online Privacy Protection Act (COPPA). As Members of the Energy and Commerce Committee, which regularly conducts oversight of online privacy issues and has jurisdiction over your agency, we encourage you to seriously consider this request.

Over the past two months, social distancing to curb the spread of the coronavirus has led to many Americans spending more time online. Recent studies estimate that internet usage has increased between 50-70% during the crisis, and with 55 million K-12 students learning remotely, many of these users are children.¹ TikTok has seen a surge in use, with downloads increasing 27% in the first 23 days of March alone, and the app surpassing two billion downloads at the end of April.² Parents are spread thin adjusting to working from home or searching for employment, helping their children with schoolwork, and managing the stress that comes with living through a global pandemic. As children are spending more time online, busy parents deserve the reassurance that the federal government is diligently working to protect the online safety of their family members.

As outlined by the Children's Privacy Coalition complaint, TikTok appears to have failed to fulfill its obligations under the consent decree to destroy all personal information on users younger than 13, post a prominent and clearly labeled privacy policy, inform parents of the data it is collecting on children and how it is used, obtain parental consent before collecting such data, and provide parents with the right to delete this information on their children.³ Given the resources TikTok has at its disposal, this failure to adhere to the consent decree may be an intentional effort to ignore the enforcement authority Congress bestowed upon your agency.⁴ The

¹ Ines Novacic, *With schools closed, kids face another type of viral threat: misinformation online*, CBSNews (April 3, 2020) <https://www.cbsnews.com/news/coronavirus-schools-closed-kids-face-misinformation-online-cbsn-originals-documentary/>

² Paige Leskin, *TikTok surpasses 2 billion downloads and sets a record for app installs in a single quarter*, Business Insider (April 30, 2020) <https://www.businessinsider.com/tiktok-app-2-billion-downloads-record-setting-q1-sensor-tower-2020-4>

³ Michael Rosenbloom, Angela J. Campbell, Laura M. Moy, *Complaint and Request for Investigation of TikTok for Violations of the Children's Online Privacy Protection Act and Implementing*, p. 21. (May 14, 2020) https://commercialrechildhood.org/wp-content/uploads/2020/05/tik_tok_complaint.pdf

⁴ *TikTok's owner had \$7 billion in revenue for the first half of the year*, CNBC (September 30, 2019), <https://www.cnbc.com/2019/09/30/tiktok-owner-bytedances-first-half-revenue-better-than-expected-at-over-7-billion-sources.html>

blatant disregard for the consent decree could encourage other websites to fail to adhere to settlements made with your agency, thereby weakening protections for all Americans online.

TikTok's apparent failure to uphold to the consent decree also places it in continued violation of COPPA, which prohibits websites from collecting personal identifiable information on children under the age of 13 without verifiable parental consent, and requires the prominent placement and parental notification of privacy policies on web platforms.⁵ While TikTok limits what users under the age of 13 who choose to use "younger user accounts" can see and do on their platform, there is no mechanism for the application to notify parents of privacy policies or obtain their consent for the personal information it collects from those users.⁶ Failing to adhere to COPPA in a system designed for children younger than 13 further demonstrates TikTok's apathy towards U.S. law.

The failure to comply with the consent decree and COPPA not only jeopardizes children's privacy, but also threatens their safety because uninformed parents are less equipped to monitor what their children are doing online. Without parental oversight, TikTok's limited services for users under the age of 13 are easy for children to subvert. There is no apparent mechanism in place to prevent users under 13 from deleting the app, reinstalling it, and then falsifying their age information to gain access to the full suite of services provided by TikTok.⁷ Given its popularity among young users, TikTok is a potential platform for predators to solicit children.⁸ While all children must be careful when using a service like TikTok, children younger than 13 are less equipped to navigate this threat and are particularly vulnerable to abuse when their parents are uninformed about the application. There are inherent dangers whenever children are online, but as long as TikTok is out of compliance with COPPA and the consent decree, young children are at heightened risk.

TikTok is owned by ByteDance, a Chinese start-up with links to their government. Given the reasonable concerns that the Chinese government may have access to the data TikTok collects on Americans, it is all the more troubling that the company appears to intentionally be in violation of U.S. data privacy laws.⁹

⁵ Stephen P. Mulligan and Chris D. Linebaugh, *Data Protection Law: An Overview*, Congressional Research Service (March 25, 2019)

<https://www.crs.gov/Reports/R45631?source=search&guid=cf27138c6434446b8dc5e6ec4a0a8eea&index=>

⁶ Michael Rosenbloom, Angela J. Campbell, Laura M. Moy, *Complaint and Request for Investigation of TikTok for Violations of the Children's Online Privacy Protection Act and Implementing*, p. 2. (May 14, 2020)

https://commercialfreechildhood.org/wp-content/uploads/2020/05/tik_tok_complaint.pdf

⁷ Michael Rosenbloom, Angela J. Campbell, Laura M. Moy, *Complaint and Request for Investigation of TikTok for Violations of the Children's Online Privacy Protection Act and Implementing*, p. 2. (May 14, 2020)

https://commercialfreechildhood.org/wp-content/uploads/2020/05/tik_tok_complaint.pdf

⁸ Jason Murdock, Los Angeles Man, 35, *Targeted Kids on TikTok App Posing as 13-Year-Old*, Newsweek (February 15, 2019) <https://www.newsweek.com/los-angeles-county-tiktok-application-lasd-james-anthony-gonzales-child-abuse-1333043>; Jason Duaine Hahn, *Father Warns Parents About Popular App After His 7-Year-Old Daughter Is Asked to Send Suggestive Photos*, People (August 23, 2017) <https://people.com/human-interest/father-warns-parents-about-popular-app-after-his-7-year-old-daughter-is-asked-to-send-suggestive-photos/>

⁹ Jack Nicas, Mike Issac, Ana Swanson, *TikTok Said to Be Under National Security Review*, NYTimes (November 1, 2019) <https://www.nytimes.com/2019/11/01/technology/tiktok-national-security-review.html>. Justin Sheman, *Unpacking TikTok, Mobile Apps and National Security Risks*, Lawfare (April 2, 2020)

<https://www.lawfareblog.com/unpacking-tiktok-mobile-apps-and-national-security-risks;>

We appreciate you reviewing the Children's Privacy Coalition's complaint and ask that you seriously consider investigating these apparent violations. The ever-changing digital landscape presents many challenges for parents to navigate. This task is made easier by the FTC's continued efforts to enforce the law and keep children safe online.

Regards,



Ann McLane Kuster
Member of Congress

Bobby L. Rush
Member of Congress

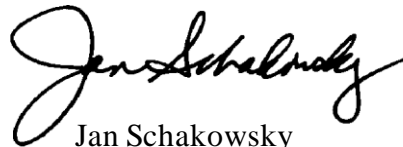
Eliot L. Engel
Member of Congress

Doris Matsui
Member of Congress

Jerry McNerney
Member of Congress

Yvette D. Clarke
Member of Congress

Nanette Diaz Barragán
Member of Congress



Jan Schakowsky
Member of Congress

Anna G. Eshoo
Member of Congress

Diane DeGette
Member of Congress

Kathy Castor
Member of Congress

Peter Welch
Member of Congress

Scott H. Peters
Member of Congress

Lisa Blunt Rochester
Member of Congress