

(b)(5)

From: Magee, Peder
Sent: 8 Mar 2019 15:25:54 -0500
To: Olsen, Chris;Weingarten, Libby (lweingarten@wsgr.com)
Cc: George, Tiffany;Cohen, Kristin
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(4);
(b)(3):6(f)

Hi Chris and Libby:

[REDACTED]

Peder

(b)(5)

(b)(5)

From: Cohen, Kristin
Sent: 8 Jul 2019 18:07:37 +0000
To: 'Baron, Rachel E.'
Cc: Magee, Peder
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(5)

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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(b)(5)

(b)(5)

From: Cohen, Kristin
Sent: 8 Jul 2019 18:09:06 +0000
To: 'Baron, Rachel E.'
Cc: Magee, Peder
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(5)

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

From: Cohen, Kristin
Sent: 28 Feb 2019 16:16:09 +0000
To: 'Olsen, Chris'; Weingarten, Libby
Cc: Magee, Peder; George, Tiffany
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(4);
(b)(3):6(f)

Hi Chris,

(b)(4);
(b)(3):6(f)

[REDACTED]

Let us know if you have any questions or want to discuss further.

Best,
Kristin

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

From: Olsen, Chris <colsen@wsgr.com>
Sent: Monday, February 25, 2019 9:04 AM
To: Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; Weingarten, Libby <lweingarten@wsgr.com>
Subject: RE: [REDACTED]

Hi guys. [REDACTED]

(b)(4);
(b)(3):6(f)

From: Cohen, Kristin [<mailto:kcohen@ftc.gov>]
Sent: Wednesday, January 30, 2019 8:14 AM
To: Olsen, Chris; George, Tiffany
Cc: Magee, Peder; Weingarten, Libby
Subject: RE: [REDACTED]

Thanks, Chris. We will take a look at this and get back to you.

(b)(4);
(b)(3):6(f)

From: Olsen, Chris <colsen@wsgr.com>
Sent: Tuesday, January 29, 2019 5:29 PM
To: George, Tiffany <tgeorge@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Weingarten, Libby <lweingarten@wsgr.com>
Subject: FW: [REDACTED]

(b)(4);
(b)(3):6(f)

[REDACTED]

We look forward to hearing from you.

Thanks. And thanks again, everyone, for the time today.

Chris

(b)(4);
(b)(3):6(f)

From: George, Tiffany [<mailto:tgeorge@ftc.gov>]
Sent: Tuesday, September 11, 2018 4:52 PM
To: Olsen, Chris; Magee, Peder
Cc: Weingarten, Libby
Subject: RE: [REDACTED]

Hi Chris, here is a list of the documents. Please let us know if you have any questions.

Thanks,
Tiffany

(b)(4);
(b)(3):6(f)

From: Olsen, Chris
Sent: Tuesday, September 11, 2018 1:37 PM
To: George, Tiffany ; Magee, Peder
Cc: Weingarten, Libby
Subject: RE: [REDACTED]

Thanks guys. And thanks for the note re the amount, Peder.

(b)(4);
(b)(3):6(f)

From: George, Tiffany [<mailto:tgeorge@ftc.gov>]
Sent: Tuesday, September 11, 2018 1:34 PM
To: Olsen, Chris; Magee, Peder
Cc: Weingarten, Libby
Subject: RE: [REDACTED]

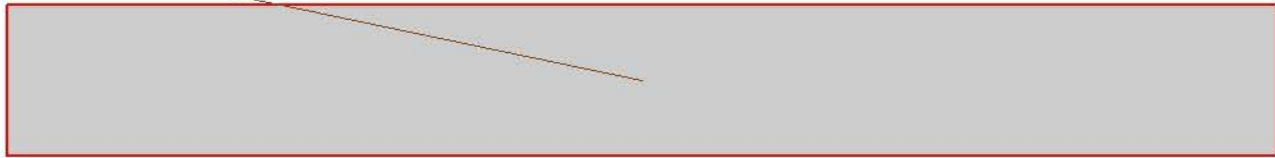
Hi Chris, we are working on this and will get back to you as soon as we can. Thanks.

(b)(4);
(b)(3):6(f)
(b)(4);
(b)(3):6(f)

From: Olsen, Chris <colsen@wsgr.com>
Sent: Tuesday, September 11, 2018 11:36 AM
To: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Weingarten, Libby <lweingarten@wsgr.com>
Subject: RE: [REDACTED]

[REDACTED]

(b)(4);
(b)(3):6(f)



Thanks very much,
Chris

From: Magee, Peder [<mailto:PMAGEE@ftc.gov>]
Sent: Monday, September 10, 2018 4:08 PM
To: Olsen, Chris
Cc: George, Tiffany
Subject: 

(b)(4);
(b)(3):6(f)

Hi Chris:

As we discussed attached are the complaint and order.

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

(b)(5)

From: Cohen, Kristin
Sent: 8 Jul 2019 20:00:29 +0000
To: 'Baron, Rachel E.'
Cc: Magee, Peder
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(5)

Hi Rachel,

Thanks,
Kristin

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

From: Cohen, Kristin
Sent: 11 Sep 2019 12:21:12 +0000
To: DEbrief
Cc: Magee, Peder;George, Tiffany
Subject: Final order in FTC v. Google, Youtube X190037
Attachments: 2019.09.10 YouTube Order.pdf

Attached please find the final order in FTC v. Google and YouTube in X190037.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”) (collectively, “Plaintiffs”) filed their Complaint for Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312. Defendants have waived service of the summons and the Complaint. Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants violated the COPPA Rule and Section 5 of the FTC Act, 15 U.S.C. § 45, by failing to post a privacy policy on their online service providing clear, understandable, and complete notice of their information practices with respect to the Collection of Personal Information from Children, failing to provide direct notice to Parents of such information practices, and failing to Obtain Verifiable Parental Consent prior to Collecting, using, or Disclosing Personal Information from Children.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. **“Channel Owner”** means individuals or entities who upload videos onto the YouTube Service.
- B. **“Child”** or **“Children”** means an individual or individuals under the age of 13.

C. **“Clear and Conspicuous”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as Children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

D. “**Collects**” or “**Collection**” means the gathering of any Personal Information from a Child by any means, including but not limited to:

1. Requesting, prompting, or encouraging a Child to submit Personal Information online;

2. Enabling a Child to make Personal Information publicly available in identifiable form. An Operator shall not be considered to have Collected Personal Information if it takes reasonable measures to Delete all or virtually all Personal Information from a Child’s postings before they are made public and also to Delete such Personal Information from its records; or

3. Passive tracking of a Child online.

E. “**Compliance Date**” means four months after entry of this Order.

F. “**Content**” means any video or channel page found on the YouTube Service.

G. “**Defendants**” means Google LLC, a Delaware limited liability company, and YouTube, LLC, a Delaware limited liability company, and their successors and assigns.

H. “**Delete**” means to remove Personal Information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

I. “**Disclose**” or “**Disclosure**” means, with respect to Personal Information:

1. The Release of Personal Information Collected by an Operator from a Child in identifiable form for any purpose, except where an Operator provides such information to a Person who provides Support for the Internal Operations of the Website or Online Service; and
2. Making Personal Information Collected by an Operator from a Child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

J. **“Internet”** means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

K. **“Obtaining Verifiable Parental Consent”** means making any reasonable effort (taking into consideration available technology) to ensure that before Personal Information is Collected from a Child, a Parent of the Child:

1. Receives notice of the Operator’s Personal Information Collection, use, and Disclosure practices; and
2. Authorizes any Collection, use, and/or Disclosure of the Personal Information, using a method reasonably calculated, in light of available technology, to ensure that the Person providing consent is the Child’s Parent.

L. **“Online Contact Information”** means an email address or any other substantially similar identifier that permits direct contact with a Person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

M. **“Operator”** means any Person who operates a website located on the Internet or an online service and who Collects or maintains Personal Information from or about the users of or visitors to such website or online service, or on whose behalf such information is Collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with one or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). Personal Information *is Collected or maintained on behalf of* an Operator when:

1. It is Collected or maintained by an agent or service provider of the Operator; or
2. The Operator benefits by allowing another Person to Collect Personal Information directly from users of such website or online service.

N. **“Parent”** includes a legal guardian.

O. **“Person”** means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

P. **“Personal Information”** means individually identifiable information about an individual Collected online, including:

1. A first and last name;
2. A home or other physical address including street name and name of a city or town;
3. Online Contact Information;
4. A screen or user name where it functions in the same manner as Online Contact Information;
5. A telephone number;
6. A Social Security number;
7. A persistent identifier that can be used to recognize a user over time and across different websites or online services, where such persistent identifier is used for functions other than or in addition to Support for the Internal Operations of the Website or Online Service. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;
8. A photograph, video, or audio file where such file contains a Child’s image or voice;
9. Geolocation information sufficient to identify street name and name of a city or town; or
10. Information concerning the Child or the Parents of that Child that the Operator Collects online from the Child and combines with an identifier described in this definition.

Q. **“Release of Personal Information”** means the sharing, selling, renting, or transfer of Personal Information to any Third Party.

R. **“Support for the Internal Operations of the Website or Online Service”** means

1. Those activities necessary to:
 - a) Maintain or analyze the functioning of the website or online service;
 - b) Perform network communications;
 - c) Authenticate users of, or personalize the content on, the website or online service;
 - d) Serve contextual advertising on the website or online service or cap the frequency of advertising;
 - e) Protect the security or integrity of the user, website, or online service;
 - f) Ensure legal or regulatory compliance; or
 - g) Fulfill a request of a Child as permitted by Section 312.5(c)(3) and (4) of the COPPA Rule (attached as Appendix A);
2. So long as the information Collected for these activities listed in 1(a) – (g) is not used or Disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

S. **“Third Party”** means any Person who is not:

1. An Operator with respect to the Collection or maintenance of Personal Information on the website or online service; or
2. A Person who provides Support for the Internal Operations of the Website or Online Service and who does not use or Disclose information protected under the COPPA Rule (attached as Appendix A).

T. **“Website or Online Service Directed to Children”** means a commercial website or online service, or portion thereof, that is targeted to Children.

1. In determining whether a website or online service, or a portion thereof, is directed to Children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to Children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to Children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.
2. A website or online service shall be deemed directed to Children when it has actual knowledge that it is Collecting Personal Information directly from users of another Website or Online Service Directed to Children.
3. A website or online service that is directed to Children under the criteria set forth in paragraph (1) of this definition, but that does not target Children as its primary audience, shall not be deemed directed to Children if it:

- a) Does not Collect Personal Information from any visitor prior to Collecting age information; and
- b) Prevents the Collection, use, or Disclosure of Personal Information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of the COPPA Rule (attached as Appendix A).

4. A website or online service shall not be deemed directed to Children solely because it refers or links to a commercial Website or Online Service Directed to Children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

U. “YouTube Service” means the general audience YouTube user-generated video-sharing platform(s), currently at www.youtube.com and on YouTube mobile application(s), on which, among other things, consumers can view videos or upload videos to share.

ORDER

I. INJUNCTION CONCERNING DESIGNATING CONTENT ON THE YOUTUBE SERVICE AS DIRECTED TO CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating the YouTube Service, are permanently restrained and enjoined from:

A. Failing to develop, implement, and maintain a system for Channel Owners to designate whether their Content on the YouTube Service is directed to Children. Such system

shall include a Clear and Conspicuous notice that Content made available on the YouTube Service that is directed to Children may be subject to the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A) and that Channel Owners are obligated to designate such Content as directed to Children; and

B. Failing to provide annual training regarding complying with the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), for each Person responsible for managing Defendants' relationships with Channel Owners on the YouTube Service.

II. INJUNCTION CONCERNING COLLECTION OF PERSONAL INFORMATION FROM CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating a Website or Online Service Directed to Children on the YouTube Service are hereby permanently restrained and enjoined from:

A. Failing to make reasonable efforts, taking into account available technology, to ensure that a Parent of a Child receives direct notice of Defendants' practices with regard to the Collection, use, or Disclosure of Personal Information from Children, including notice of any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

B. Failing to post a prominent and clearly labeled link to an online notice of its information practices with regard to Children on the home or landing page or screen of its

website or online service, and at each area of the website or online service where Personal Information is Collected from Children, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

C. Failing to Obtain Verifiable Parental Consent before any Collection, use, or Disclosure of Personal Information from Children, including consent to any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to Obtaining Verifiable Parental Consent; and

D. Violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A).

**III. INJUNCTION CONCERNING USE OF PREVIOUSLY
COLLECTED PERSONAL INFORMATION**

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, are ordered to refrain, within ninety (90) days of the Compliance Date, from Disclosing, using, or benefitting from Personal Information previously Collected from users of Content that is designated as directed to Children by a Channel Owner under the system required under Section I.A. above, as long as such designation occurs within sixty (60) days of the Compliance Date. Provided, however, that such Personal Information may be Disclosed to the extent requested by a government agency or required by law, regulation, or court order.

IV. CIVIL PENALTY AND OTHER MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of one hundred and thirty six million dollars (\$136,000,000) is entered in favor of Plaintiff FTC against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff FTC one hundred thirty six million dollars (\$136,000,000), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within thirty (30) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

C. Judgment in the amount of thirty four million dollars (\$34,000,000) is entered in favor of Plaintiff State of New York against Defendants, jointly and severally, as damages, restitution, or other compensation to its residents.

D. Defendants are ordered to pay to Plaintiff State of New York, by making payment to State of New York Department of Law, thirty four million dollars (\$34,000,000). Such payment must be made within thirty (30) days of entry of this Order by wire transfer in accordance with instructions provided by a representative of Plaintiff State of New York.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission or the State of New York in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission or the State of New York pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers, which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission and the State of New York an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, each Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who have supervisory responsibilities relating to the subject matter of Sections I and II of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission and the State of New York:

A. One year after the Compliance Date, each Defendant must submit a compliance report, sworn under penalty of perjury. In such report, each Defendant must:

1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and the State of New York may use to communicate with that Defendant;
2. Identify all of Defendant's businesses involved in operating the YouTube Service or in Collecting, using, or Disclosing Personal Information from Children on or from the YouTube Service by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. Describe the activities of each such business directly involved with operating the YouTube Service, including the goods and services offered and the means of advertising, marketing, and sales;
4. Describe in detail whether and how Defendants are in compliance with each Section of this Order;
5. Provide a copy of each materially different version of any privacy notice posted on or otherwise applicable to the YouTube Service or sent to users of the YouTube Service;

6. Describe in detail the methods used, if any, to track Child users of the YouTube Service (including methods used for passive tracking and means for users to control or opt out of tracking), and the measures taken to avoid tracking Children;

7. Describe in detail the methods used to Obtain Verifiable Parental Consent prior to any Collection, use, and/or Disclosure of Personal Information from Children through the YouTube Service;

8. Describe in detail the means provided for Parents to review the Personal Information Collected from their Children through the YouTube Service and to refuse to permit its further use or maintenance; and

9. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in: (1) any designated point of contact; or (2) the structure of that Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Each Defendant must submit to the Commission and the State of New York notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission and the State of New York required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

F. Unless otherwise directed by a State of New York representative in writing, all submissions to the State of New York pursuant to this Order must be emailed to ifraud@ag.ny.gov and sent by overnight courier (not the U.S. Postal Service) to: Bureau Chief, Bureau of Internet and Technology, New York State Attorney General’s Office, 28 Liberty Street, New York, New York 10005. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, each Defendant in connection with operating the YouTube Service must create and retain the following records:

A. Accounting records showing the revenues of all goods and services sold;

B. Personnel records showing, for each Person providing services, whether as an employee or otherwise, that Person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission and the State of New York;

D. Records of all consumer complaints relating to the unauthorized Collection, use or Disclosure of Personal Information of Children interacting with the YouTube Service, and any response;

E. A copy of each materially different form, page, or screen created, maintained, or otherwise provided by each Defendant through which Personal Information of Children is Collected through the YouTube Service, and a copy of each materially different document containing any representation regarding Collection, use, and Disclosure practices pertaining to Personal Information from Children Collected through the YouTube Service. Each webpage copy shall be accompanied by the URL of the webpage where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting information on the Internet; and

F. A copy of each unique advertisement, other marketing material, telemarketing script, or other representation related to the Collection of Personal Information of Children that is made in connection with promoting or offering for sale the YouTube Service.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or the State of New York, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and the State of New York are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and the State of New York are authorized to communicate directly with each Defendant. Each Defendant must permit representatives of the Commission and the State of New York to interview any employee or other Person affiliated with Defendant who has agreed to such an interview. The Person interviewed may have counsel present.

C. The Commission and the State of New York may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this 10th day of September, 2019.


UNITED STATES DISTRICT JUDGE

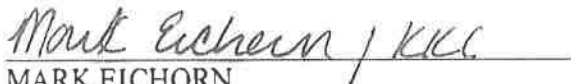
SO STIPULATED AND AGREED:

FOR PLAINTIFFS

FEDERAL TRADE COMMISSION:



MANEESHA MITHAL
Associate Director
Division of Privacy and Identity Protection



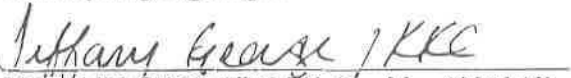
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FOR THE PEOPLE OF THE STATE OF NEW YORK:

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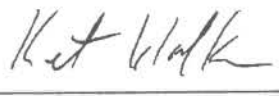
DEFENDANT: GOOGLE LLC



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

DEFENDANT: YOUTUBE, LLC
By: Google LLC, its Managing Member



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

APPENDIX A

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, Email, Internet, Online service, Privacy, Record retention, Safety, science and technology, Trade practices, Web site, Youth.

■ Accordingly, for the reasons stated above, the Federal Trade Commission revises part 312 of Title 16 of the Code of Federal Regulations to read as follows:

PART 312—CHILDREN'S ONLINE PRIVACY PROTECTION RULE

Sec.

- 312.1 Scope of regulations in this part.
- 312.2 Definitions.
- 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
- 312.4 Notice.
- 312.5 Parental consent.
- 312.6 Right of parent to review personal information provided by a child.
- 312.7 Prohibition against conditioning a child's participation on collection of personal information.

312.8 Confidentiality, security, and integrity of personal information collected from children.

312.9 Enforcement.

312.10 Data retention and deletion requirements.

312.11 Safe harbor programs.

312.12 Voluntary Commission Approval Processes.

312.13 Severability.

Authority: 15 U.S.C. 6501–6508.

§ 312.1 Scope of regulations in this part.

This part implements the Children's Online Privacy Protection Act of 1998, (15 U.S.C. 6501, *et seq.*) which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information from a child by any means, including but not limited to:

(1) Requesting, prompting, or encouraging a child to submit personal information online;

(2) Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child's postings before they are made public and also to delete such information from its records; or

(3) Passive tracking of a child online.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclose or disclosure means, with respect to personal information:

(1) The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the Web site or online service; and

(2) Making personal information collected by an operator from a child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a Web site or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(1) Receives notice of the operator's personal information collection, use, and disclosure practices; and

(2) Authorizes any collection, use, and/or disclosure of the personal information.

Online contact information means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

Operator means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information is *collected or maintained on behalf of an operator* when:

(1) It is collected or maintained by an agent or service provider of the operator; or

(2) The operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(1) A first and last name;

(2) A home or other physical address including street name and name of a city or town;

(3) Online contact information as defined in this section;

(4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;

(5) A telephone number;

(6) A Social Security number;

(7) A persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;

(8) A photograph, video, or audio file where such file contains a child's image or voice;

(9) Geolocation information sufficient to identify street name and name of a city or town; or

(10) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Release of personal information means the sharing, selling, renting, or transfer of personal information to any third party.

Support for the internal operations of the Web site or online service means:

(1) Those activities necessary to:

(i) Maintain or analyze the functioning of the Web site or online service;

(ii) Perform network communications;

(iii) Authenticate users of, or personalize the content on, the Web site or online service;

(iv) Serve contextual advertising on the Web site or online service or cap the frequency of advertising;

(v) Protect the security or integrity of the user, Web site, or online service;

(vi) Ensure legal or regulatory compliance; or

(vii) Fulfill a request of a child as permitted by § 312.5(c)(3) and (4);

(2) So long as The information collected for the activities listed in paragraphs (1)(i)–(vii) of this definition is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a

profile on a specific individual, or for any other purpose.

Third party means any person who is not:

- (1) An operator with respect to the collection or maintenance of personal information on the Web site or online service; or
- (2) A person who provides support for the internal operations of the Web site or online service and who does not use or disclose information protected under this part for any other purpose.

Web site or online service directed to children means a commercial Web site or online service, or portion thereof, that is targeted to children.

(1) In determining whether a Web site or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising promoting or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.

(2) A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.

(3) A Web site or online service that is directed to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it:

- (i) Does not collect personal information from any visitor prior to collecting age information; and
- (ii) Prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.

(4) A Web site or online service shall not be deemed directed to children solely because it refers or links to a commercial Web site or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

- (a) Provide notice on the Web site or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));
- (b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§ 312.5);
- (c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);
- (d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and
- (e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Direct notice to the parent.* An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(c) *Content of the direct notice to the parent—(1) Content of the direct notice to the parent under § 312.5(c)(1) (Notice*

to Obtain Parent's Affirmative Consent to the Collection, Use, or Disclosure of a Child's Personal Information). This direct notice shall set forth:

- (i) That the operator has collected the parent's online contact information from the child, and, if such is the case, the name of the child or the parent, in order to obtain the parent's consent;
 - (ii) That the parent's consent is required for the collection, use, or disclosure of such information, and that the operator will not collect, use, or disclose any personal information from the child if the parent does not provide such consent;
 - (iii) The additional items of personal information the operator intends to collect from the child, or the potential opportunities for the disclosure of personal information, should the parent provide consent;
 - (iv) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section;
 - (v) The means by which the parent can provide verifiable consent to the collection, use, and disclosure of the information; and
 - (vi) That if the parent does not provide consent within a reasonable time from the date the direct notice was sent, the operator will delete the parent's online contact information from its records.
- (2) *Content of the direct notice to the parent under § 312.5(c)(2) (Voluntary Notice to Parent of a Child's Online Activities Not Involving the Collection, Use or Disclosure of Personal Information).* Where an operator chooses to notify a parent of a child's participation in a Web site or online service, and where such site or service does not collect any personal information other than the parent's online contact information, the direct notice shall set forth:
- (i) That the operator has collected the parent's online contact information from the child in order to provide notice to, and subsequently update the parent about, a child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information;
 - (ii) That the parent's online contact information will not be used or disclosed for any other purpose;
 - (iii) That the parent may refuse to permit the child's participation in the Web site or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and
 - (iv) A hyperlink to the operator's online notice of its information

practices required under paragraph (d) of this section.

(3) *Content of the direct notice to the parent under § 312.5(c)(4) (Notice to a Parent of Operator's Intent to Communicate with the Child Multiple Times).* This direct notice shall set forth:

(i) That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;

(ii) That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;

(iii) That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;

(iv) That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;

(v) That if the parent fails to respond to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and

(vi) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(4) *Content of the direct notice to the parent required under § 312.5(c)(5) (Notice to a Parent In Order to Protect a Child's Safety).* This direct notice shall set forth:

(i) That the operator has collected the name and the online contact information of the child and the parent in order to protect the safety of a child;

(ii) That the information will not be used or disclosed for any purpose unrelated to the child's safety;

(iii) That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;

(iv) That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) *Notice on the Web site or online service.* In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page or screen of its Web site or online service, and, at each area of the Web site or online service

where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience Web site or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the Web site or online service's information practices must state the following:

(1) The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online service. *Provided that:* The operators of a Web site or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice;

(2) A description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information; and

(3) That the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§ 312.5 Parental consent.

(a) *General requirements.* (1) An operator is required to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

(b) *Methods for verifiable parental consent.* (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated,

in light of available technology, to ensure that the person providing consent is the child's parent. (2) Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:

(i) Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;

(ii) Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

(iii) Having a parent call a toll-free telephone number staffed by trained personnel;

(iv) Having a parent connect to trained personnel via video-conference;

(v) Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete; or

(vi) *Provided that,* an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory email to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier email.

(3) *Safe harbor approval of parental consent methods.* A safe harbor program approved by the Commission under § 312.11 may approve its member operators' use of a parental consent method not currently enumerated in paragraph (b)(2) of this section where the safe harbor program determines that such parental consent method meets the requirements of paragraph (b)(1) of this section.

(c) *Exceptions to prior parental consent.* Verifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child *except* as set forth in this paragraph:

(1) Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1). If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the

operator must delete such information from its records;

(2) Where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(2);

(3) Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;

(4) Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(3). An operator will not be deemed to have made reasonable efforts to ensure that a parent receives notice where the notice to the parent was unable to be delivered;

(5) Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of a child, and where such information is not used or disclosed for any purpose unrelated to the child's safety. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to provide a parent with notice as described in § 312.4(c)(4);

(6) Where the purpose of collecting a child's name and online contact information is to:

- (i) Protect the security or integrity of its Web site or online service;
- (ii) Take precautions against liability;
- (iii) Respond to judicial process; or
- (iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety; and where such information is not be used for any other purpose;

(7) Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the Web site or online service. In such case, there also shall be no obligation to provide notice under § 312.4; or

(8) Where an operator covered under paragraph (2) of the definition of *Web site or online service directed to children* in § 312.2 collects a persistent identifier and no other personal information from a user who affirmatively interacts with the operator and whose previous registration with that operator indicates that such user is not a child. In such case, there also shall be no obligation to provide notice under § 312.4.

§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a Web site or online service, the operator of that Web site or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

- (i) Ensure that the requestor is a parent of that child, taking into account available technology; and
- (ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children. The operator must also take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintaining the confidentiality, security and integrity of such information, and who provide assurances that they will maintain the information in such a manner.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502 (a) of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Data retention and deletion requirements.

An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.

§ 312.11 Safe harbor programs.

(a) *In general.* Industry groups or other persons may apply to the Commission for approval of self-regulatory program guidelines ("safe harbor programs"). The application shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the application. The Commission shall issue a written determination within 180 days of the filing of the application.

(b) *Criteria for approval of self-regulatory program guidelines.* Proposed safe harbor programs must demonstrate

that they meet the following performance standards:

(1) Program requirements that ensure operators subject to the self-regulatory program guidelines ("subject operators") provide substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8, and 312.10.

(2) An effective, mandatory mechanism for the independent assessment of subject operators' compliance with the self-regulatory program guidelines. At a minimum, this mechanism must include a comprehensive review by the safe harbor program, to be conducted not less than annually, of each subject operator's information policies, practices, and representations. The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.

(3) Disciplinary actions for subject operators' non-compliance with self-regulatory program guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of any action taken against subject operators by the industry group issuing the self-regulatory guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the self-regulatory guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the self-regulatory guidelines; or

(v) Any other equally effective action.

(c) *Request for Commission approval of self-regulatory program guidelines.* A proposed safe harbor program's request for approval shall be accompanied by the following:

(1) A detailed explanation of the applicant's business model, and the technological capabilities and mechanisms that will be used for initial and continuing assessment of subject operators' fitness for membership in the safe harbor program;

(2) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(3) A comparison of each provision of §§ 312.2 through 312.8, and 312.10 with the corresponding provisions of the guidelines; and

(4) A statement explaining:

(i) How the self-regulatory program guidelines, including the applicable assessment mechanisms, meet the requirements of this part; and

(ii) How the assessment mechanisms and compliance consequences required

under paragraphs (b)(2) and (b)(3) provide effective enforcement of the requirements of this part.

(d) *Reporting and recordkeeping requirements.* Approved safe harbor programs shall:

(1) By July 1, 2014, and annually thereafter, submit a report to the Commission containing, at a minimum, an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section, a description of any disciplinary action taken against any subject operator under paragraph (b)(3) of this section, and a description of any approvals of member operators' use of a parental consent mechanism, pursuant to § 312.5(b)(4);

(2) Promptly respond to Commission requests for additional information; and

(3) Maintain for a period not less than three years, and upon request make available to the Commission for inspection and copying:

(i) Consumer complaints alleging violations of the guidelines by subject operators;

(ii) Records of disciplinary actions taken against subject operators; and

(iii) Results of the independent assessments of subject operators' compliance required under paragraph (b)(2) of this section.

(e) *Post-approval modifications to self-regulatory program guidelines.* Approved safe harbor programs must submit proposed changes to their guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(2) of this section. The statement required under paragraph (c)(4) of this section must describe how the proposed changes affect existing provisions of the guidelines.

(f) *Revocation of approval of self-regulatory program guidelines.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory program guidelines or their implementation do not meet the requirements of this part. Safe harbor programs that were approved prior to the publication of the Final Rule amendments must, by March 1, 2013, submit proposed modifications to their guidelines that would bring them into compliance with such amendments, or their approval shall be revoked.

(g) *Operators' participation in a safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§ 312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or

bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator's participation in the safe harbor program, whether the subject operator has taken action to remedy such non-compliance, and whether the operator's non-compliance resulted in any one of the disciplinary actions set forth in paragraph (b)(3).

§ 312.12 Voluntary Commission Approval Processes.

(a) *Parental consent methods.* An interested party may file a written request for Commission approval of parental consent methods not currently enumerated in § 312.5(b). To be considered for approval, a party must provide a detailed description of the proposed parental consent methods, together with an analysis of how the methods meet § 312.5(b)(1). The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request; and

(b) *Support for internal operations of the Web site or online service.* An interested party may file a written request for Commission approval of additional activities to be included within the definition of support for internal operations. To be considered for approval, a party must provide a detailed justification why such activities should be deemed support for internal operations, and an analysis of their potential effects on children's online privacy. The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

§ 312.13 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

By direction of the Commission, Commissioner Rosch abstaining, and Commissioner Ohlhausen dissenting.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Maureen K. Ohlhausen

I voted against adopting the amendments to the Children's Online Privacy Protection Act (COPPA) Rule because I believe a core provision of the amendments exceeds the scope of the authority granted us by Congress in COPPA, the statute that underlies and authorizes the Rule.⁴⁰¹ Before I explain my concerns, I wish to commend the Commission staff for their careful consideration of the multitude of issues raised by the numerous comments in this proceeding. Much of the language of the amendments is designed to preserve flexibility for the industry while striving to protect children's privacy, a goal I support strongly. The final proposed amendments largely strike the right balance between protecting children's privacy online and avoiding undue burdens on providers of children's online content and services. The staff's great expertise in the area of children's privacy and deep understanding of the values at stake in this matter have been invaluable in my consideration of these important issues.

In COPPA Congress defined who is an operator and thereby set the outer boundary for the statute's and the COPPA Rule's reach.⁴⁰² It is undisputed that COPPA places obligations on operators of Web sites or online services directed to children or operators with actual knowledge that they are collecting personal information from

⁴⁰¹ 15 U.S.C. 6501–6506.

⁴⁰² COPPA, 15 U.S.C. 6501(2), defines the term "operator" as "any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about users of or visitors to such Web site or online service, or on whose behalf such information is collected and maintained * * *." As stated in the Statement of Basis and Purpose for the original COPPA Rule, "The definition of 'operator' is of central importance because it determines who is covered by the Act and the Rule." Children's Online Privacy Protection Rule 64 FR 59888, 59891 (Nov. 3, 1999) (final rule).

children. The statute provides, "It is unlawful for an operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed [by the FTC]." ⁴⁰³

The Statement of Basis and Purpose for the amendments (SBP) discusses concerns that the current COPPA Rule may not cover child-directed Web sites or services that do not themselves collect children's personal information but may incorporate third-party plug-ins that collect such information ⁴⁰⁴ for the plug-ins' use but do not collect or maintain the information for, or share it with, the child-directed site or service. To address these concerns, the amendments add a new proviso to the definition of operator in the COPPA Rule: "Personal information is collected or maintained on behalf of an operator when: (a) it is collected or maintained by an agent or service provider of the operator; or (b) the operator benefits by allowing another person to collect personal information directly from users of such Web site or online service." ⁴⁰⁵

The proposed amendments construe the term "on whose behalf such information is collected and maintained" to reach child-directed Web sites or services that merely derive from a third-party plug-in some kind of benefit, which may well be unrelated to the collection and use of children's

⁴⁰³ 15 U.S.C. 6502(a)(1).

⁴⁰⁴ If the third-party plug-ins are child-directed or have actual knowledge that they are collecting children's personal information they are already expressly covered by the COPPA statute. Thus, as the SBP notes, a behavioral advertising network that targets children under the age of 13 is already deemed an operator. The amendment must therefore be aimed at reaching third-party plug-ins that are either not child-directed or do not have actual knowledge that they are collecting children's personal information, which raises a question about what harm this amendment will address. For example, it appears that this same type of harm could occur through general audience Web sites and online services collecting and using visitors' personal information without knowing whether some of the data is children's personal information, which is a practice that COPPA and the amendments do not prohibit.

⁴⁰⁵ 16 CFR 312.2 (Definitions).

information (e.g., content, functionality, or advertising revenue). I find that this proviso—which would extend COPPA obligations to entities that do not collect personal information from children or have access to or control of such information collected by a third-party does not comport with the plain meaning of the statutory definition of an operator in COPPA, which covers only entities "on whose behalf such information is collected and maintained." ⁴⁰⁶ In other words, I do not believe that the fact that a child-directed site or online service receives any kind of benefit from using a plug-in is equivalent to the collection of personal information by the third-party plug-in on behalf of the child-directed site or online service.

As the Supreme Court has directed, an agency "must give effect to the unambiguously expressed intent of Congress." ⁴⁰⁷ Thus, regardless of the policy justifications offered, I cannot support expanding the definition of the term "operator" beyond the statutory parameters set by Congress in COPPA.

I therefore respectfully dissent.

[FR Doc. 2012–31341 Filed 1–16–13; 8:45 am]

BILLING CODE 6750–01–P

⁴⁰⁶ This expanded definition of operator reverses the Commission's previous conclusion that the appropriate test for determining an entity's status as an operator is to "look at the entity's relationship to the data collected," using factors such as "who owns and/or controls the information, who pays for its collection and maintenance, the pre-existing contractual relationships regarding collection and maintenance of the information, and the role of the Web site or online service in collecting and/or maintaining the information (i.e., whether the site participates in collection or is merely a conduit through which the information flows to another entity)." Children's Online Privacy Protection Rule 64 FR 59888, 59893, 59891 (Nov. 3, 1999) (final rule).

⁴⁰⁷ *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.").

(b)(5)

From: Cohen, Kristin
Sent: 7 Mar 2019 22:24:50 +0000
To: Magee, Peder; George, Tiffany
Subject: [Redacted]

(b)(5)

[Redacted]

(b)(5)

From: George, Tiffany <tgeorge@ftc.gov>

Sent: Thursday, March 07, 2019 5:22 PM

(b)(5)

To: Eichorn, Mark <MEICHORN@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>

Subject: [Redacted]

[Redacted]

(b)(5)

From: Eichorn, Mark <MEICHORN@ftc.gov>

Sent: Thursday, March 07, 2019 5:18 PM

To: Mithal, Maneesha <MMITHAL@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>

Subject: [Redacted]

(b)(5)

[Redacted]

(b)(4);
(b)(3):6(f)

From: Cohen, Kristin
Sent: 15 Mar 2019 18:58:37 +0000
To: Magee, Peder;Eichorn, Mark;George, Tiffany
Subject: FW: [REDACTED]
Attachments: [REDACTED]

(b)(5)

[REDACTED]

(b)(4);
(b)(3):6(f)

From: Olsen, Chris <colsen@wsgr.com>
Sent: Friday, March 15, 2019 2:52 PM
To: Magee, Peder <PMAGEE@ftc.gov>; Weingarten, Libby <lweingarten@wsgr.com>
Cc: George, Tiffany <tgeorge@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: [REDACTED]

(b)(4);
(b)(3):6(f)

[REDACTED]

We look forward to discussing on Monday.

Thanks,
Chris

From: Magee, Peder [<mailto:PMAGEE@ftc.gov>]
Sent: Thursday, March 14, 2019 4:34 PM
To: Olsen, Chris; Weingarten, Libby
Cc: George, Tiffany; Cohen, Kristin
Subject: RE: status

1:00 pm works for a call. I'll check on the jurisdiction.

From: Olsen, Chris <colsen@wsgr.com>
Sent: Thursday, March 14, 2019 3:14 PM
To: Magee, Peder <PMAGEE@ftc.gov>; Weingarten, Libby <lweingarten@wsgr.com>
Cc: George, Tiffany <tgeorge@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: status

(b)(4);
(b)(3):6(f)

[REDACTED]

Thanks,
Chris

From: Magee, Peder [<mailto:PMAGEE@ftc.gov>]
Sent: Thursday, March 14, 2019 12:10 PM
To: Olsen, Chris; Weingarten, Libby
Cc: George, Tiffany; Cohen, Kristin
Subject: status

(b)(4);
(b)(3):6(f)

Hi Chris and Libby:



Thanks

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

(b)(4);
(b)(3):6(f)

From: Cohen, Kristin
Sent: 1 Apr 2019 12:59:10 +0000
To: Winter, Brad
Cc: Magee, Peder; George, Tiffany
Subject: FW: [REDACTED]
Attachments: [REDACTED]

Hi Brad,

(b)(5)

[REDACTED]

Thanks again for all your help.

(b)(4);
(b)(3):6(f)

From: Olsen, Chris <colsen@wsgr.com>
Sent: Friday, March 29, 2019 6:03 PM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Weingarten, Libby <lweingarten@wsgr.com>
Subject: [REDACTED]

(b)(4);
(b)(3):6(f)

[REDACTED]

We are happy to discuss after you've had a chance to take a look.

Have a nice weekend,
Chris

(b)(6)

Christopher N. Olsen | Privacy and Data Protection
Wilson Sonsini Goodrich & Rosati
1700 K Street NW | Washington, DC 20006
202.973.8803 (direct [REDACTED] mobile)
colsen@wsgr.com | www.wsgr.com

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From: Cohen, Kristin
Sent: 6 Sep 2019 20:12:51 +0000
To: Jordan Adler;Clark Russell
Subject: FW: YouTube Complaint Errata
Attachments: Errata Civil Cover Sheet.pdf, Errata Exhibits.pdf, File Stamped Errata
Complaint.pdf, Errata ECF Notification.pdf

(b)(5)



Thanks,
Kristin

CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

I. (a) PLAINTIFFS FEDERAL TRADE COMMISSION PEOPLE OF THE STATE OF NEW YORK (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS GOOGLE LLC YOUTUBE, LLC COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>Santa Clara</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
--	--

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Kristin Cohen, Peder Magee, Tiffany George, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326-2276; Clark Russell, Jordan Adler, New York State Attorney General, 28 Liberty St., NY, NY 10005 (212) 416-8422	ATTORNEYS (IF KNOWN) Christopher N. Olsen, Libby Weingarten, Wilson Sonsini Goodrich & Rosata, 1700 K Street, NW, Washington, DC 20006 (202) 973-8800
--	--

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																								
<input checked="" type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																				
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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<input checked="" type="radio"/> E. General Civil (Other)		OR	<input type="radio"/> F. Pro Se General Civil	
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)	

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
Sections 5(a), 13(b) and 16(a)(1) of FTC Act, the Children's Online Privacy Protection Act and COPPA Rule

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>September 4, 2019</u>	SIGNATURE OF ATTORNEY OF RECORD <u>Kristin Krause Cohen</u>
--------------------------------	---

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

EXHIBIT A

Google Presentation to Mattel
Insights on Families Online (partial)



INSIGHTS on FAMILIES online



Confidential • Proprietary

Google

YouTube is today's leader in reaching children age 6-11 against top TV channels

63%

You Tube

YouTube.com

63%

nick

TV Properties

57%

Disney
CHANNEL

TV Properties

49%

CN
CARTOON NETWORK

TV Properties

Google

Source: Nielsen MRI 2015 Kids Study
YouTube Reach in the last 30 days, Desktop Only
Mobile not available

Google

EXHIBIT B

Google Presentation to Hasbro,
Stat Pack: Additional insight into mobile usage among parents +
children (partial)

Google

Stat Pack: Additional insight into mobile usage among parents + children

#1

YouTube is unanimously
voted as the favorite
website of kids 2 - 12



Age 2



Age 3



Age 4



Age 5

Age 6

Age 7

Age 8

Age 9

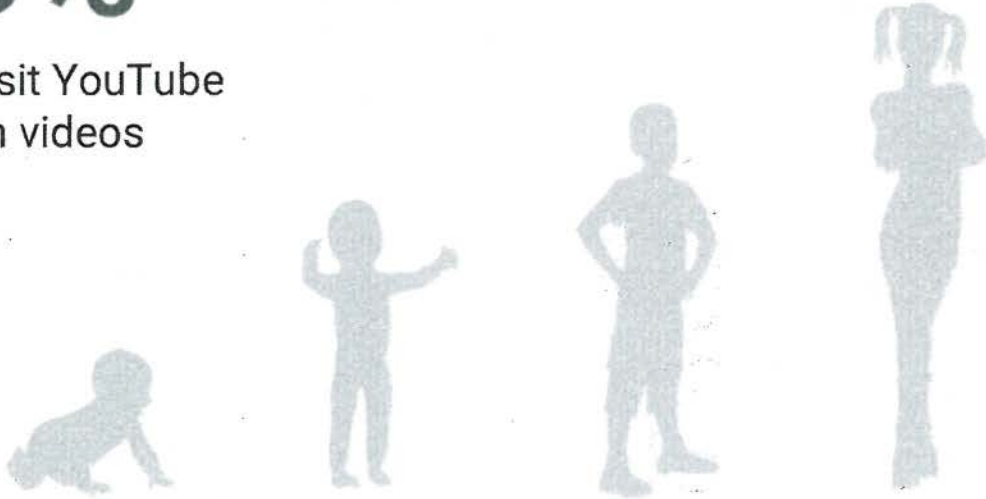
Age 10

Google

Source: The Marketing Store/KidSay, "Global Kids Study", 2014

93%

of tweens visit YouTube
to watch videos



Age 2 Age 3 Age 4 Age 5 Age 6 Age 7 Age 8 Age 9 Age 10

EXHIBIT C

Google Presentation to Hasbro,
2016 Kids + Family Digital Trends (partial)













2016 Kids + Family Digital Trends



In fact, it's the #1 website regularly visited by kids

INDEXED TO
YOUTUBE REACH

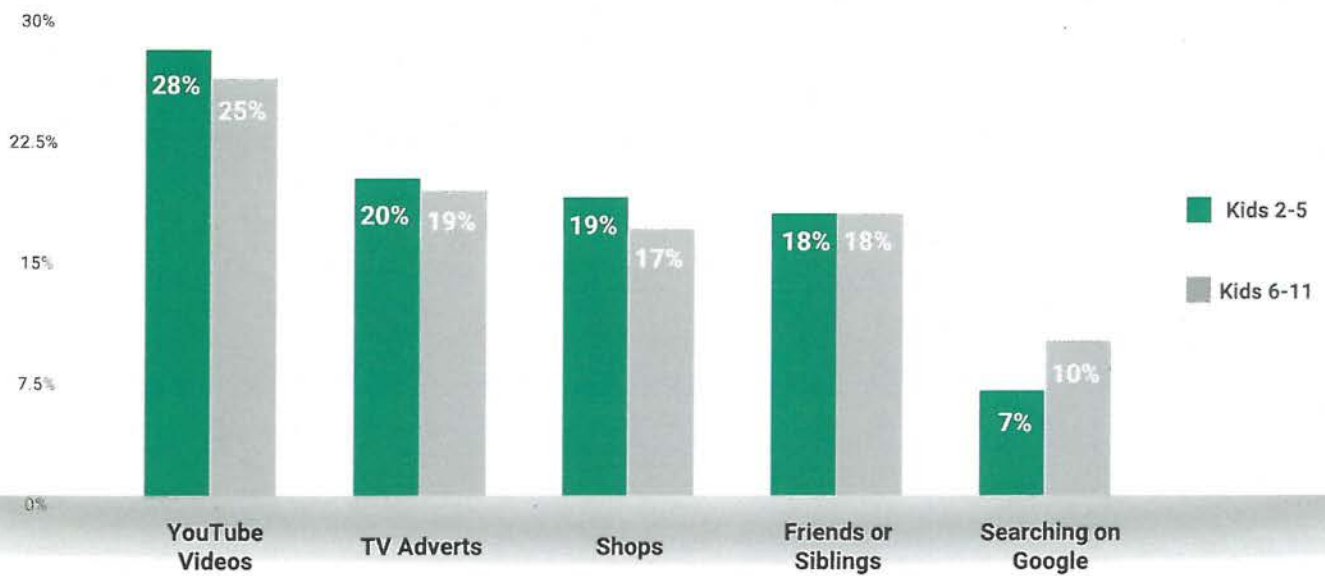
	100		30
	59		28
	37		28
	35		26
	30		24

Google

Source: LMX 2016

According to parents...

YouTube is the #1 source where children discover new toys + games



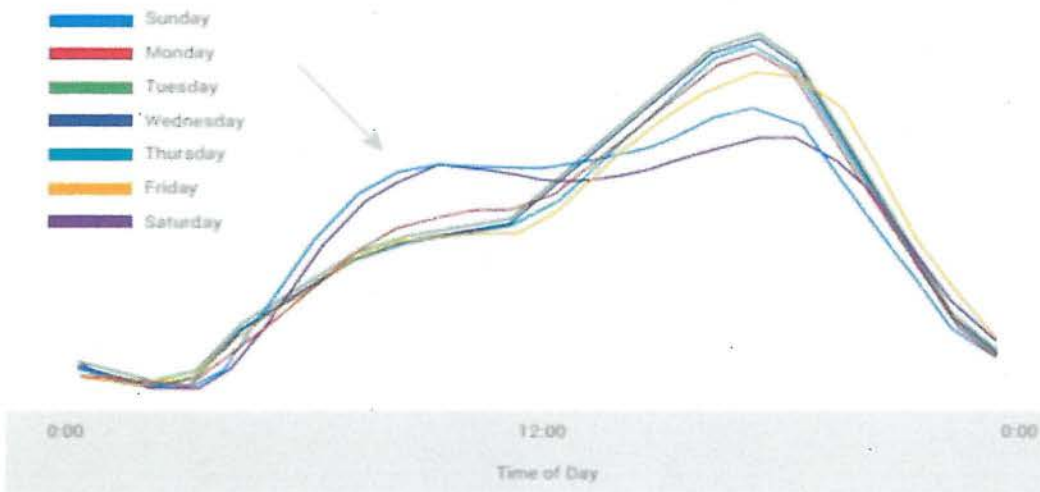
Google

Source: Google Consumer Surveys July 2016, Parents of Children 2-14, 1683 responses

YouTube: The new "Saturday Morning Cartoons"

41% of parents watch family content on YouTube together with their children

W25-49 Watching "Cartoons" on YouTube



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,
600 Pennsylvania Ave., NW
Washington, DC 20580,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,
28 Liberty Street
New York, NY 10005

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,
1600 Amphitheatre Parkway
Mountain View, CA 94043

and

YOUTUBE, LLC,
a Delaware limited liability company,
901 Cherry Ave.
San Bruno, CA 94066

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent

injunction, and other equitable relief for Defendants' violations of the Children's Online Privacy Protection Rule ("Rule" or "COPPA Rule"), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN'S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children's personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained.

Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and

- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.
8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint,

acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

25. In addition to marketing YouTube as a top destination for kids, Defendants have a content rating system that categorizes content into age groups and includes categories for children under 13 years old. In order to align with content policies for advertising, Defendants rate all videos uploaded to YouTube, as well as the channels as a whole. Defendants assign each channel and video a rating of Y (generally intended for ages 0-7); G (intended for any age); PG (generally intended for ages 10+); Teen (generally intended for ages 13+); MA (generally intended for ages 16+); and X (generally intended for ages 18+). Defendants assign these ratings through both automated and manual review. Previously, Defendants also used a classification for certain videos shown on YouTube as "Made for Kids."

26. Defendants do not treat Y rated channels or videos differently for purposes of data collection from other content on YouTube. Defendants continue to allow the channel owner to monetize Y rated content and earn revenue from behavioral advertising. Defendants also had no policy in place to treat content classified as "Made for Kids" differently for purposes of behavioral advertising on YouTube.

27. In 2015, Defendants created a separate mobile application called "YouTube Kids," aimed at children age 2-12, generally using content rated Y or G taken from YouTube on an automated basis. Defendants also specifically curate, through manual review, content that appears on the YouTube Kids home screen, which Defendants refer to as the "home canvas." Content that appears on YouTube Kids continues to be available on YouTube. Unlike Defendants' practices on YouTube, Defendants do not collect persistent identifiers from users of

YouTube Kids in order to serve behavioral advertising. Instead, Defendants monetize YouTube Kids solely through delivery of contextual advertising.

YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Other Documents[1:19-cv-02642 FEDERAL TRADE COMMISSION et al v. GOOGLE LLC et al](#)**U.S. District Court****District of Columbia****Notice of Electronic Filing**

The following transaction was entered by Cohen, Kristin on 9/6/2019 at 3:37 PM and filed on 9/6/2019

Case Name: FEDERAL TRADE COMMISSION et al v. GOOGLE LLC et al

Case Number: [1:19-cv-02642](#)

Filer: FEDERAL TRADE COMMISSION
STATE OF NEW YORK ATTORNEY GENERAL

Document Number: [3](#)

Docket Text:

[ERRATA Complaint for Permanent Injunction, Civil Penalties, and Other Equitable Relief by FEDERAL TRADE COMMISSION, STATE OF NEW YORK ATTORNEY GENERAL. \(Attachments: # \(1\) Exhibit to the Complaint, # \(2\) Civil Cover Sheet\)\(Cohen, Kristin\)](#)

1:19-cv-02642 Notice has been electronically mailed to:

Kristin Krause Cohen kcohen@ftc.gov

1:19-cv-02642 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=9/6/2019] [FileNumber=6187837-0]
[5a1e3fc7f0c3acd3664eb355a4a59691e1a30870cd2e892b6b9d579fb54058d2bbf2d
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Document description:Exhibit to the Complaint

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=9/6/2019] [FileNumber=6187837-1]
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Document description:Civil Cover Sheet

Original filename:suppressed

Electronic document Stamp:

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04beab66dde537600f932bf33ba8bf72761c3cc923767f4b51f3e1f6f21]]

From: Cohen, Kristin
Sent: 19 Jun 2019 17:39:05 +0000
To: Crawford, Molly
Subject: FW: YouTube [REDACTED]

(b)(5)

Fyi

From: Cohen, Kristin
Sent: Wednesday, June 19, 2019 1:03 PM
To: Estrada, Danielle <destrada@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: FW: YouTube [REDACTED]

Fyi

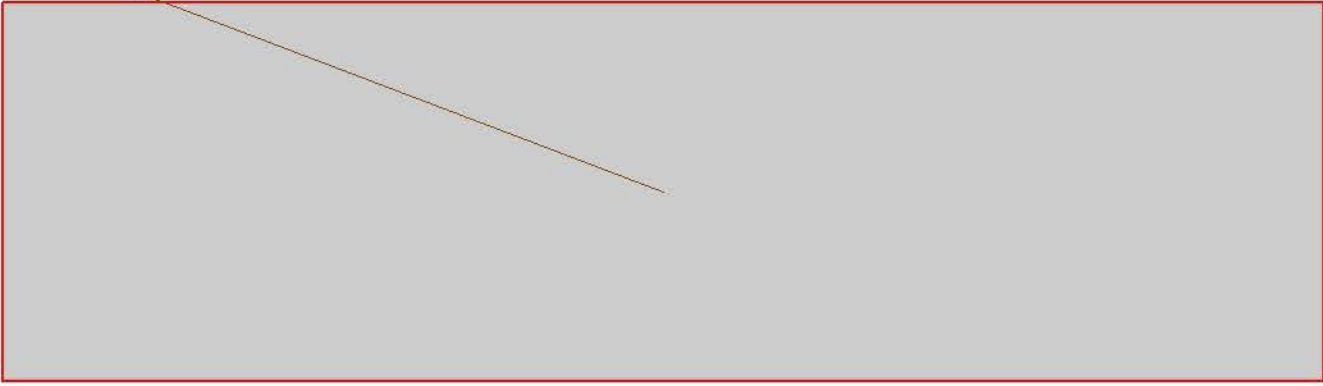
From: Hosken, Laura L. <LHosken@ftc.gov>
Sent: Wednesday, June 19, 2019 12:58 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Subject: FW: YouTube [REDACTED]

From: Hosken, Laura L.
Sent: Wednesday, June 19, 2019 9:38 AM
To: Kobayashi, Bruce <bkobayashi@ftc.gov>; Daniel, Timothy <tdaniel@ftc.gov>; Pappalardo, Janis K. <JPAPPALARDO@ftc.gov>
Subject: YouTube [REDACTED]

Hi Bruce,

(b)(5)

(b)(5)



Let me know if you have any questions.

Laura

From: Delaney, Elizabeth A
Sent: 19 Jun 2019 14:01:56 -0400
To: Magee, Peder;Cohen, Kristin
Cc: Crawford, Molly
Subject: FW: YouTube [REDACTED]

(b)(5)

(b)(5)

From: King, Austin <aking3@ftc.gov>
Sent: Wednesday, June 19, 2019 1:31 PM
To: Crawford, Molly <mcrawford@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Delaney, Elizabeth A <EDELANEY@ftc.gov>; Spector, Robin <rspector@ftc.gov>
Subject: FW: YouTube [REDACTED]

(b)(5)

(b)(5)

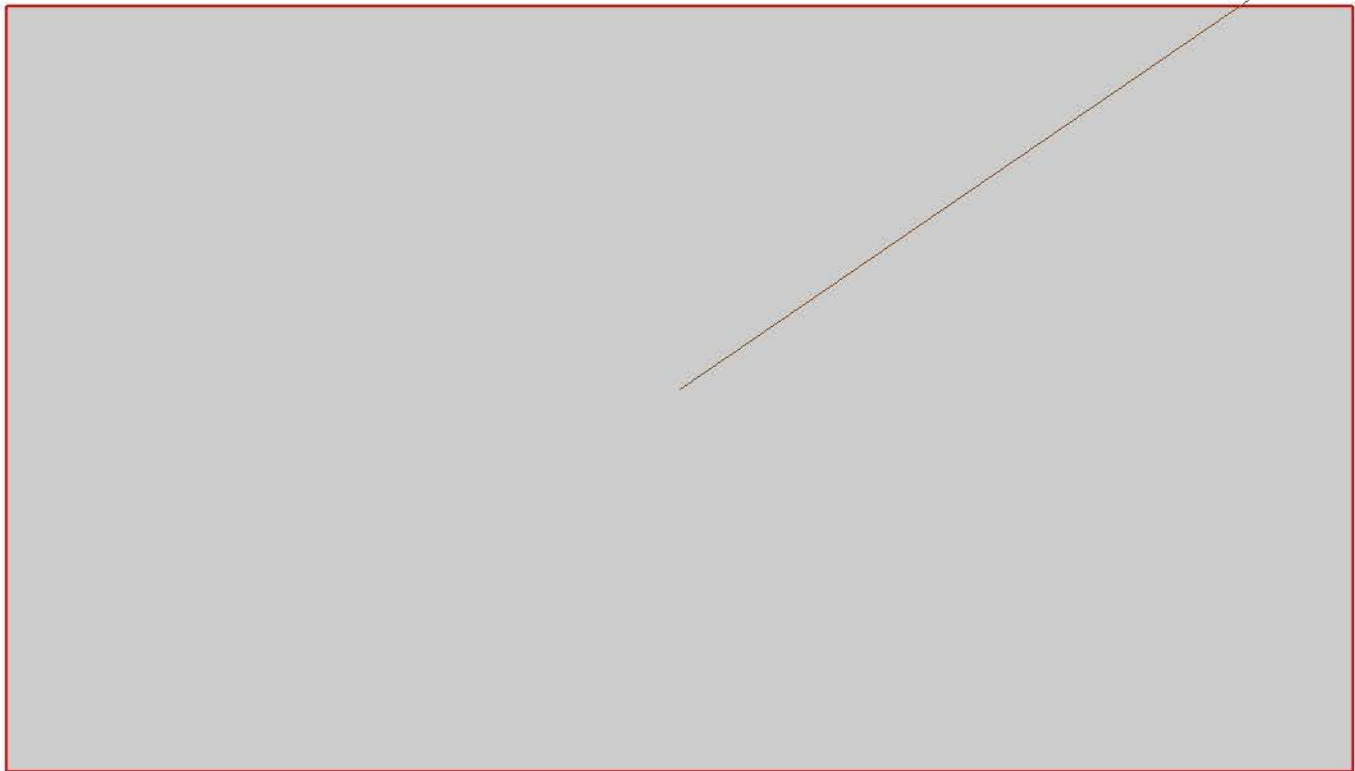
Thanks!
Austin

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Wednesday, June 19, 2019 12:33 PM
To: King, Austin <aking3@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>
Subject: RE: YouTube [REDACTED]

(b)(5)

(b)(5)

(b)(5)



From: King, Austin <aking3@ftc.gov>

Sent: Wednesday, June 19, 2019 11:04 AM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

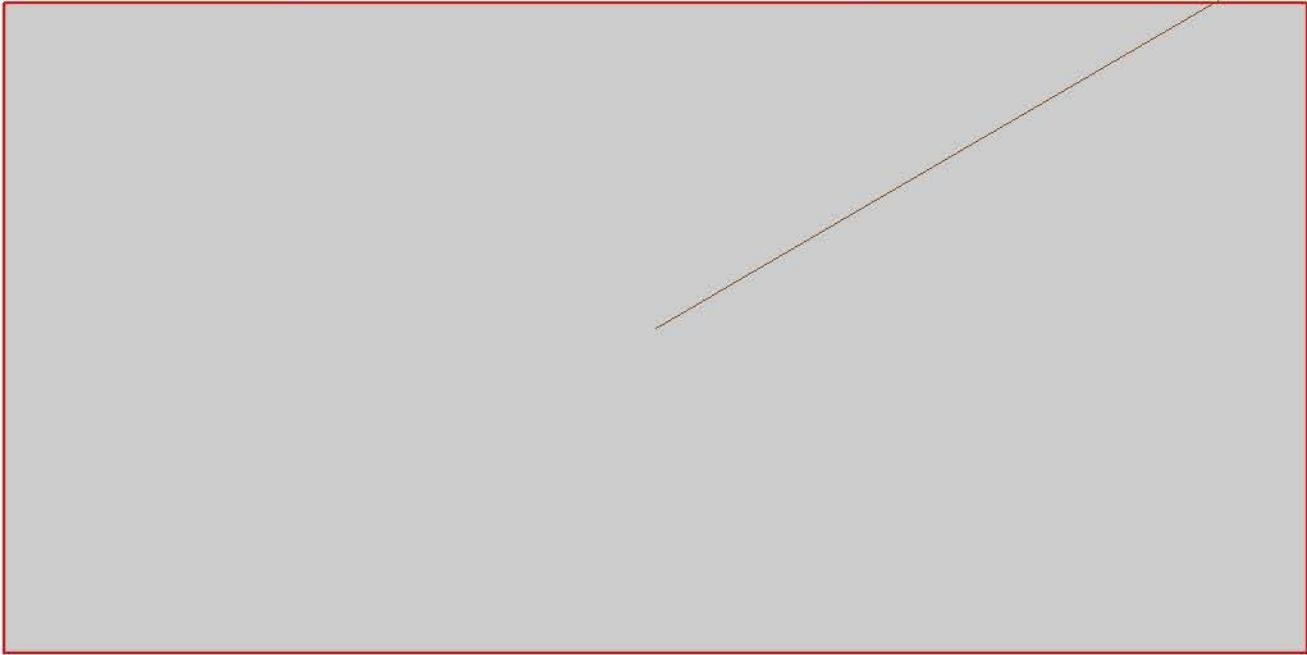
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: RE: YouTube



(b)(5)

(b)(5)



Austin

From: King, Austin

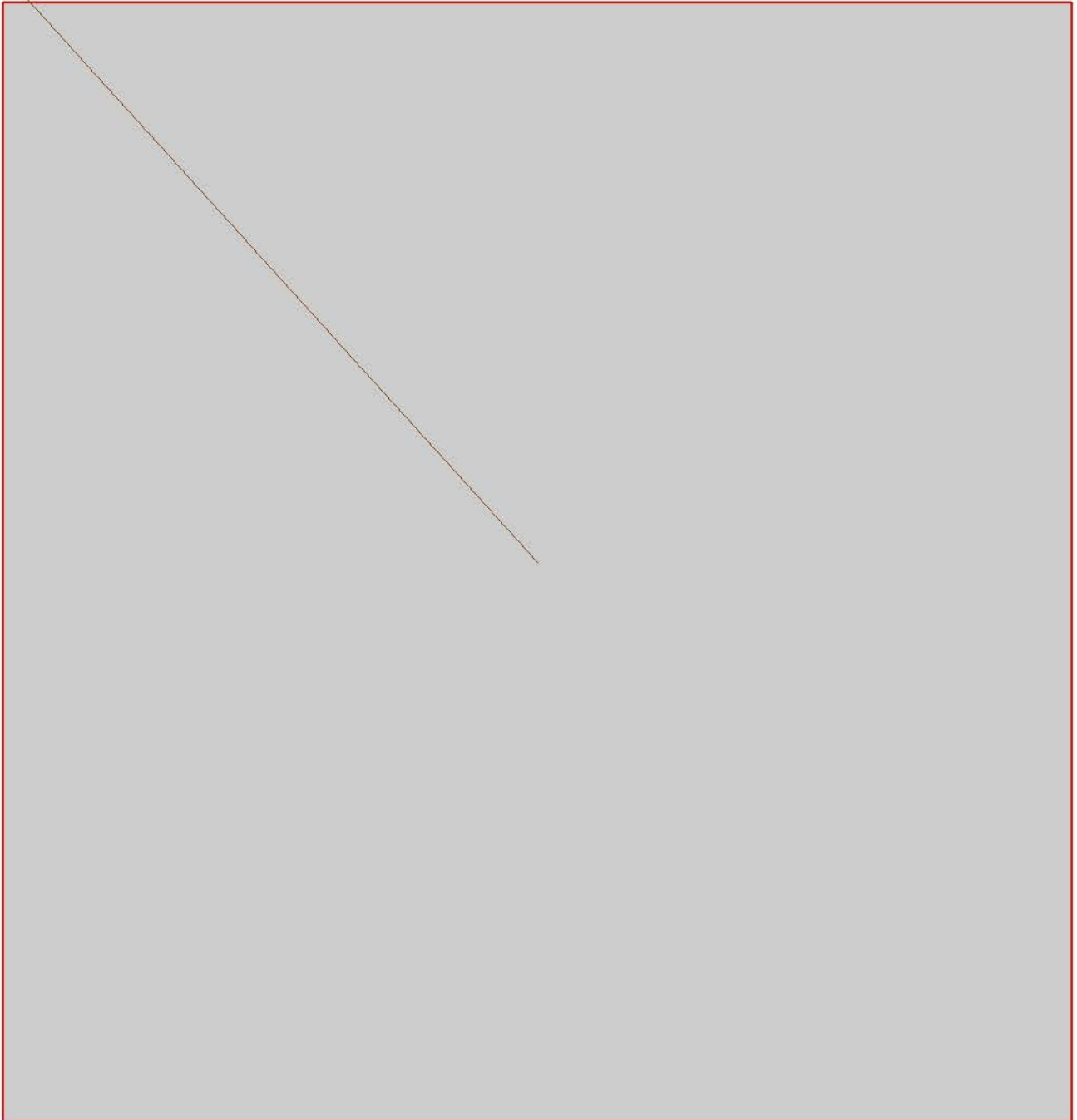
Sent: Monday, June 17, 2019 6:18 PM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

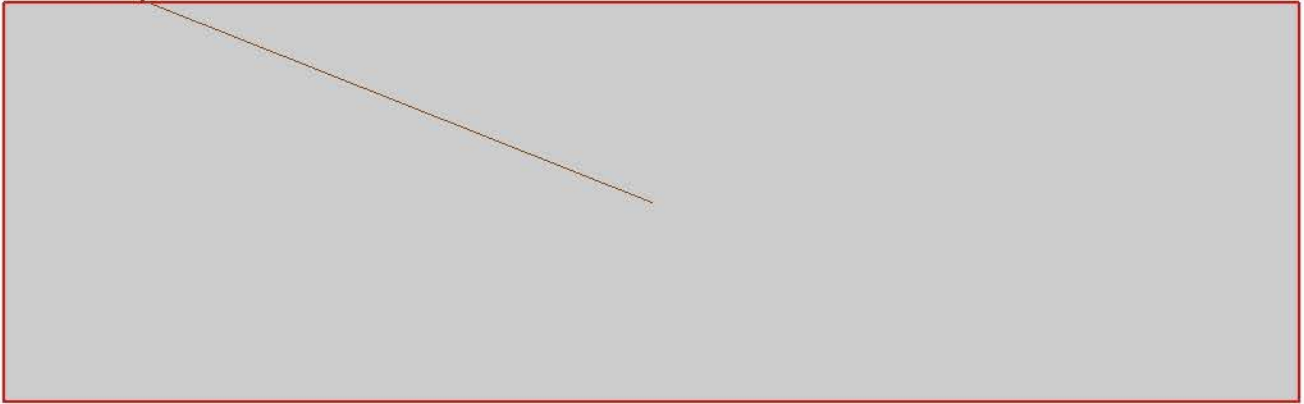
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: YouTube

Dear YouTube team,



(b)(5)



Many thanks for your insights on this question—and for all your work on this case!

Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

From: Russell, Clark
Sent: 4 Sep 2019 13:00:36 +0000
To: Cohen, Kristin
Cc: Jordan Adler
Subject: Google [REDACTED]
Attachments: Google [REDACTED]

(b)(5)

(b)(5)

(b)(5)

(b)(5)

Thanks Kristin!

Great working with you

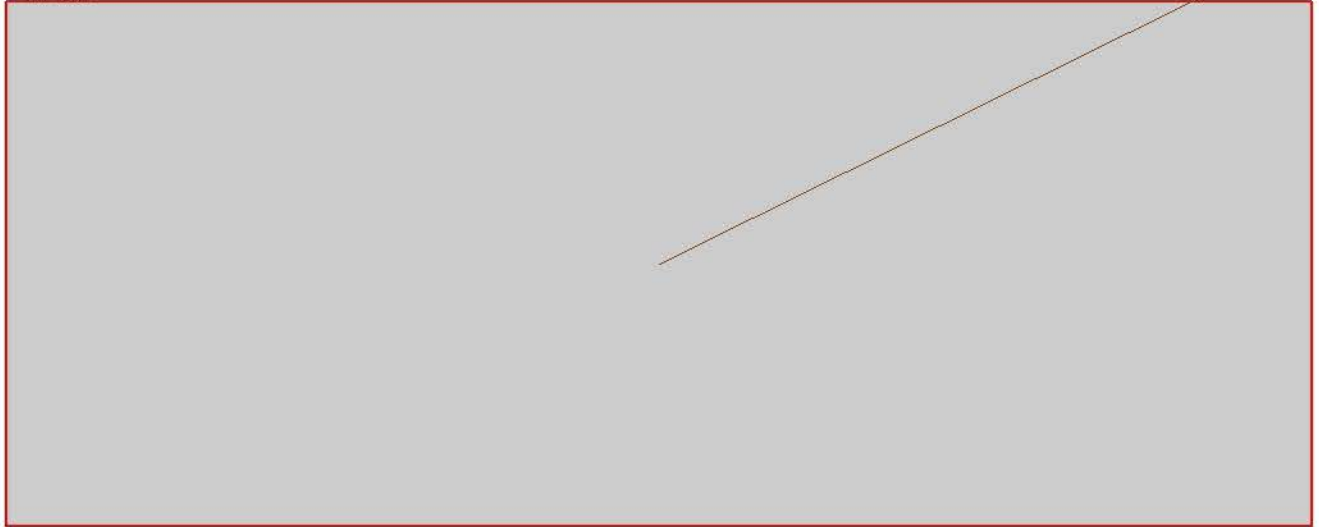
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From: Delaney, Elizabeth A
Sent: 17 Jun 2019 11:01:34 -0400
To: Magee, Peder;Cohen, Kristin;Mithal, Maneesha
Cc: Kaufman, Daniel;Smith, Andrew;Crawford, Molly
Subject: Google YouTube

(b)(5)

Hi all.



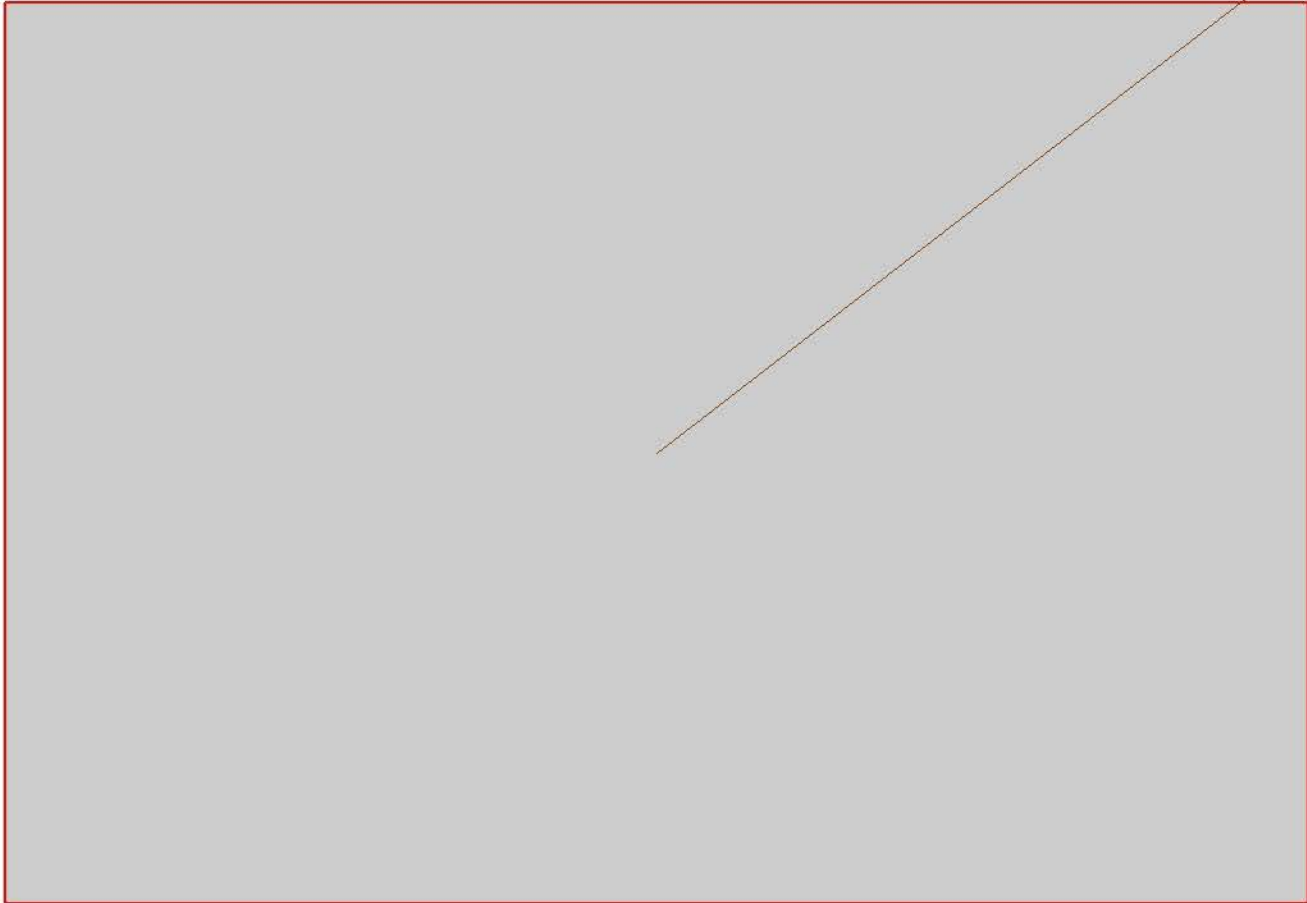
Thanks,

Beth

(b)(5)

From: Cohen, Kristin
Sent: 18 Jun 2019 20:45:17 +0000
To: Crawford, Molly
Cc: Magee, Peder; Estrada, Danielle
Subject: [REDACTED]

(b)(5)



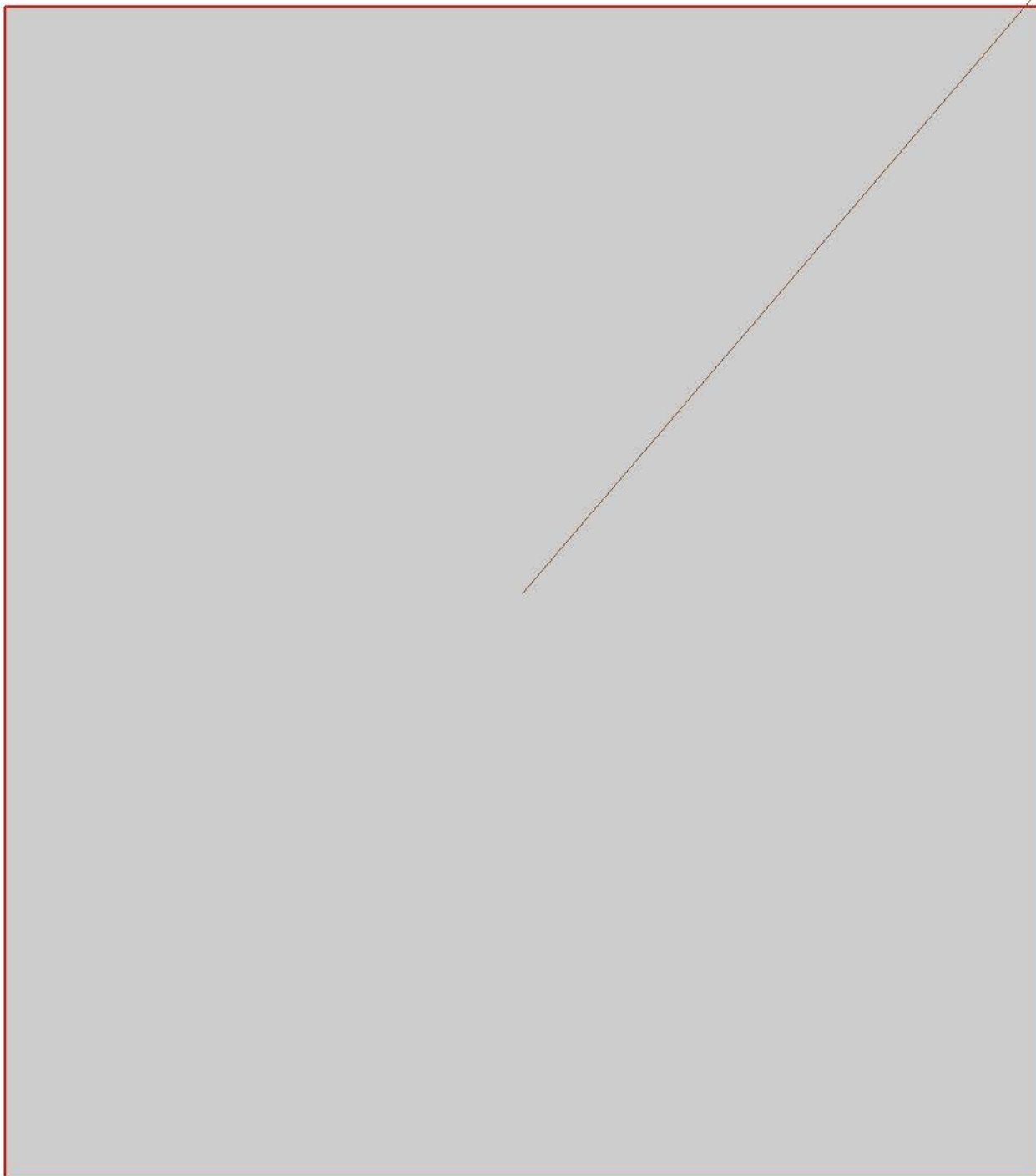
Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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(b)(5)

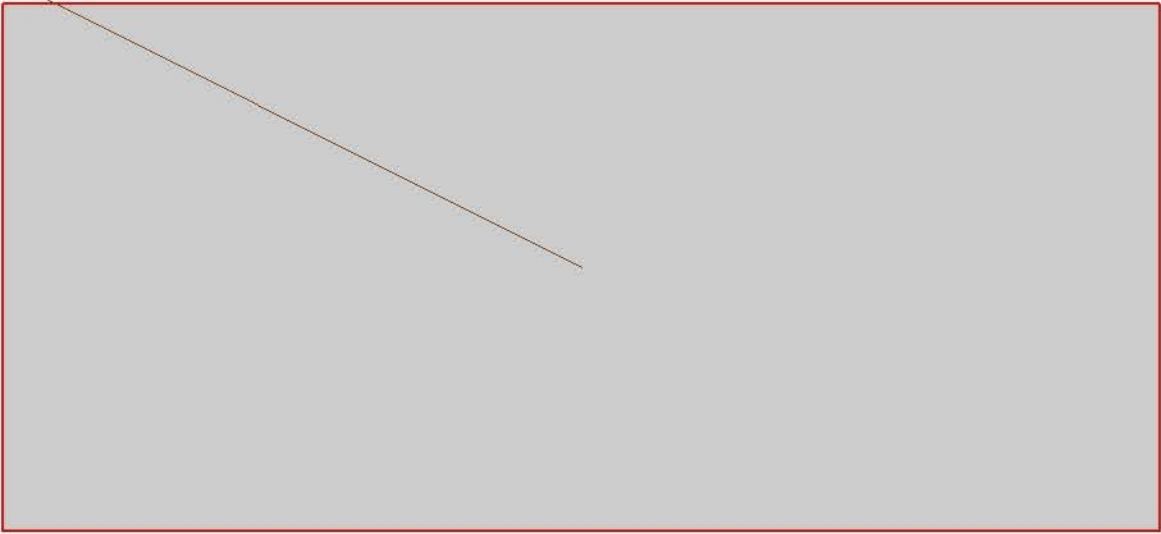
From: Chopra, Rohit
Sent: 13 Jun 2019 09:21:03 -0400
To: Magee, Peder;Cohen, Kristin;George, Tiffany;Mithal, Maneesha
Cc: Estrada, Danielle;Kaufman, Daniel;Meyer, Erie K;Levine, Samuel
Subject: [REDACTED]

All,



(b)(5)

(b)(5)



RC

(b)(5)

From: Cohen, Kristin
Sent: 25 Jun 2019 17:48:51 +0000
To: Crawford, Molly; Magee, Peder; Kaufman, Daniel; Mithal, Maneesha
Subject: RE [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

From: Crawford, Molly <mcrawford@ftc.gov>
Sent: Tuesday, June 25, 2019 12:18 PM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>
Subject: RE [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, June 25, 2019 12:07 PM
To: Crawford, Molly <mcrawford@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>
Subject: RE [REDACTED]

(b)(5)

[REDACTED]

From: Crawford, Molly <mcrawford@ftc.gov>
Sent: Tuesday, June 25, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Kaufman, Daniel

(b)(5)

(b)(5)

<DKAUFMAN@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Subject: [REDACTED]

[REDACTED]

Molly Crawford | Attorney Advisor | Office of Chairman Joseph Simons
Federal Trade Commission | 600 Pennsylvania Avenue, NW, H-448 | Washington, D.C. 20580
Phone: 202.326.3076 | Fax: 202.326.3393 | Email: mcrawford@ftc.gov

(b)(5) **From:** Winter, Brad
Sent: 13 Nov 2018 10:35:34 -0500
To: Magee, Peder;Cohen, Kristin
Subject: RE: [REDACTED]

(b)(5)

Yes, I am just now but heading to an appointment. [REDACTED]

I'm stepping away but free 2:30-4 pm.
-Brad

(b)(5) **From:** Magee, Peder
Sent: Tuesday, November 13, 2018 10:24 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Winter, Brad <BWINTER@ftc.gov>
Subject: RE: [REDACTED]

Hi Brad, just circling back on this. I think we spoke on Friday you said you'd be able to have a look Tuesday. Thanks

(b)(5) **From:** Cohen, Kristin
Sent: Tuesday, November 13, 2018 8:24 AM
To: Winter, Brad <BWINTER@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>
Subject: [REDACTED]

(b)(5)

Hi Brad,

[REDACTED]

From: DEbrief
Sent: 11 Sep 2019 09:19:34 -0400
To: Cohen, Kristin
Cc: Wolfe, Douglas
Subject: RE: Final order in FTC v. Google, Youtube X190037

Thank you for your email submission.

DEbrief@ftc.gov

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Wednesday, September 11, 2019 8:21 AM
To: DEbrief <DEbrief@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Final order in FTC v. Google, Youtube X190037

Attached please find the final order in FTC v. Google and YouTube in X190037.

(b)(5) **From:** Clark, Andrew
Sent: 28 May 2019 16:49:07 +0000
To: Cohen, Kristin
Subject: RE: Form 712
Attachments: [redacted]

Attached. Let me know if you need anything further.

(b)(5) **From:** Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, May 28, 2019 11:23 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>; Goldberg, Richard <RGolber@CIV.USDOJ.GOV>
Subject: [redacted]

(b)(5) Hi Andrew,

[redacted]

Best,
Kristin

(b)(5) **From:** Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, May 28, 2019 11:20 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Subject: [redacted]

From: Cohen, Kristin
Sent: 28 Jun 2019 14:53:56 +0000
To: 'Baron, Rachel E.'
Cc: Magee, Peder; George, Tiffany
Subject: RE: Google/YouTube [REDACTED]
Attachments: [REDACTED]

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

From: Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
Sent: Friday, June 28, 2019 10:24 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

Hi all,

Thanks,
Rachel

(b)(5)

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Thursday, June 27, 2019 7:26 AM
To: Baron, Rachel E. <rabaron@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

(b)(5)

(b)(5)

From: Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
Sent: Wednesday, June 26, 2019 5:43 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Wednesday, June 26, 2019 5:35 PM
To: Baron, Rachel E. <rabaron@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

Thanks so much!

From: Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
Sent: Tuesday, June 25, 2019 4:05 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, June 25, 2019 3:57 PM
To: Baron, Rachel E. <rabaron@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

Hi Rachel,

Best,
Kristin

From: Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
Sent: Monday, June 24, 2019 5:14 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

Of course. Call me anytime tomorrow: (202) 532-4488.

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Monday, June 24, 2019 5:10 PM
To: Baron, Rachel E. <rabaron@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

----- Original Message -----

From: "Baron, Rachel E." <Rachel.E.Baron@usdoj.gov>
Date: Mon, June 24, 2019 4:52 PM -0400
To: "Cohen, Kristin" <kcohen@ftc.gov>
CC: "Magee, Peder" <PMAGEE@ftc.gov>, "George, Tiffany" <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

(b)(5)

(b)(5)

Hi Kristin,

[REDACTED]

Thanks,
Rachel Baron

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Wednesday, June 05, 2019 10:22 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

(b)(5)

Hi Andrew,

[REDACTED]

Thanks again,
Kristin

From: Clark, Andrew <Andrew.Clark@usdoj.gov>
Sent: Wednesday, June 05, 2019 9:58 AM
To: Townsend, James <jtownsend@ftc.gov>

(b)(5)

Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: [REDACTED]

Thanks much.

(b)(5)

From: Townsend, James <jtownsend@ftc.gov>
Sent: Wednesday, June 05, 2019 9:29 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: [REDACTED]

(b)(5)

Dear Andrew Clark,

[REDACTED]

James Townsend

Office of the General Counsel | Federal Trade Commission
600 Pennsylvania Avenue NW, Washington, D.C. 20580
(202) 326-2225 | jtownsend@ftc.gov

From: Cohen, Kristin
Sent: 25 Jun 2019 19:57:25 +0000
To: 'Baron, Rachel E.'
Cc: Magee, Peder; George, Tiffany
Subject: RE: Google/YouTube [REDACTED]
Attachments: [REDACTED]

Hi Rachel,

Best,
Kristin

From: Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
Sent: Monday, June 24, 2019 5:14 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

Of course. Call me anytime tomorrow: (202) 532-4488.

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Monday, June 24, 2019 5:10 PM
To: Baron, Rachel E. <raboron@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

----- Original Message -----

From: "Baron, Rachel E." <Rachel.E.Baron@usdoj.gov>
Date: Mon, June 24, 2019 4:52 PM -0400
To: "Cohen, Kristin" <kcohen@ftc.gov>
CC: "Magee, Peder" <PMAGEE@ftc.gov>, "George, Tiffany" <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

Hi Kristin,

Thanks,
Rachel Baron

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Wednesday, June 05, 2019 10:22 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: [REDACTED]

Hi Andrew,

[REDACTED]

Thanks again,
Kristin

(b)(5)

From: Clark, Andrew <Andrew.Clark@usdoj.gov>
Sent: Wednesday, June 05, 2019 9:58 AM
To: Townsend, James <jtownsend@ftc.gov>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: [REDACTED]

Thanks much.

(b)(5)

From: Townsend, James <jtownsend@ftc.gov>
Sent: Wednesday, June 05, 2019 9:29 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: [REDACTED]

(b)(5)

Dear Andrew Clark,

[REDACTED]

James Townsend
Office of the General Counsel | Federal Trade Commission
600 Pennsylvania Avenue NW, Washington, D.C. 20580
(202) 326-2225 | jtownsend@ftc.gov

From: Smith, Andrew
Sent: 17 Jun 2019 11:19:28 -0400
To: Magee, Peder;Cohen, Kristin;Mithal, Maneesha
Cc: Kaufman, Daniel;Crawford, Molly
Subject: RE: Google YouTube

Andrew Smith | Director | Bureau of Consumer Protection
Federal Trade Commission | 600 Pennsylvania Avenue, NW | Washington, D.C. 20580
Phone: 202-326-3280 | Email: asmith@ftc.gov

From: Delaney, Elizabeth A <EDELANEY@ftc.gov>
Sent: Monday, June 17, 2019 11:02 AM
To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>
Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Smith, Andrew <asmith@ftc.gov>; Crawford, Molly <mcrawford@ftc.gov>
Subject: Google YouTube

Hi all,

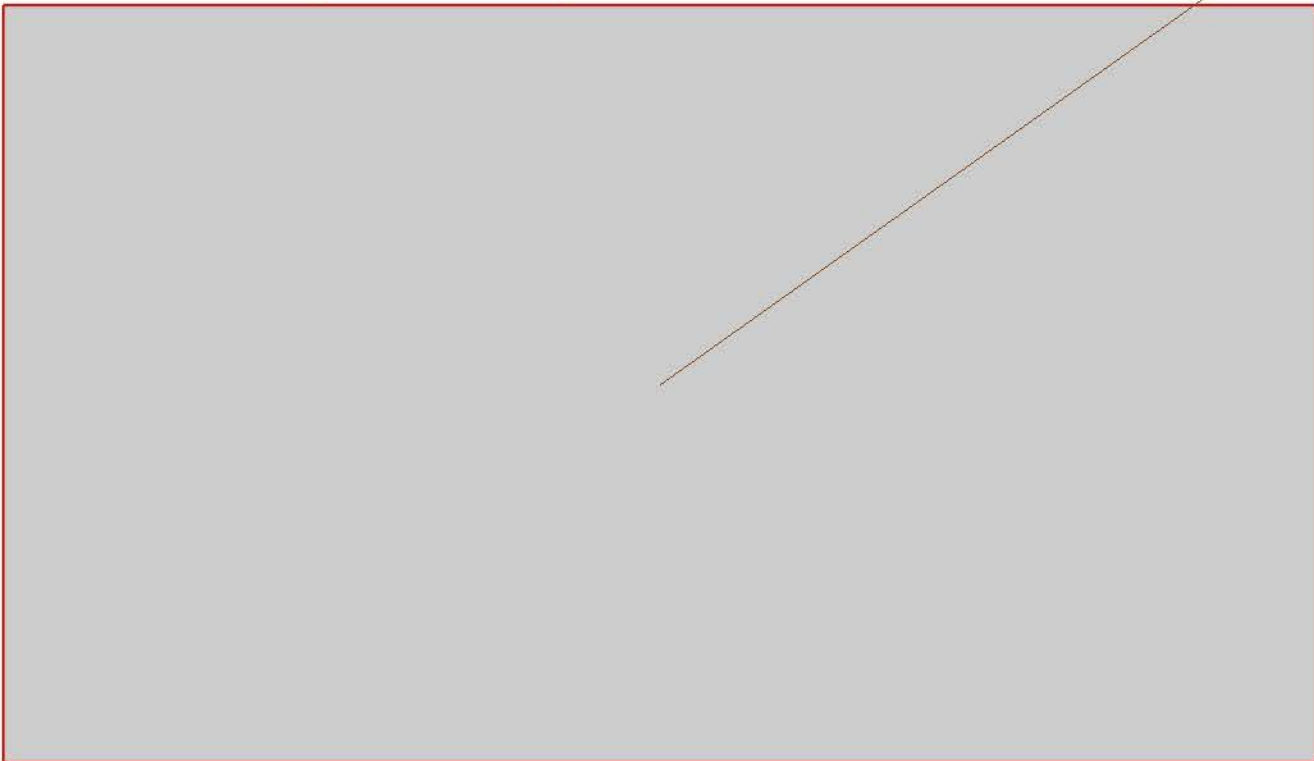
Thanks,

Beth

(b)(5)

From: Cohen, Kristin
Sent: 15 Jul 2019 19:51:13 +0000
To: Crawford, Molly;Mithal, Maneesha;Eichorn, Mark
Cc: Kaufman, Daniel;Estrada, Danielle
Subject: RE: [REDACTED]

(b)(5)



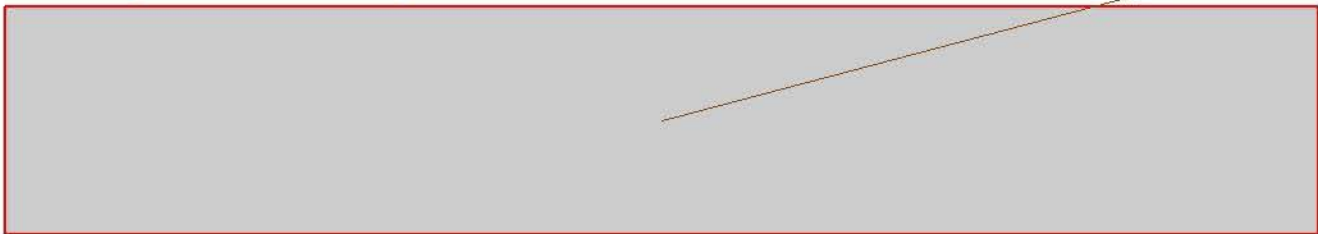
From: Crawford, Molly <mccrawford@ftc.gov>
Sent: Monday, July 15, 2019 2:09 PM
To: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Subject: RE: [REDACTED]

Sorry should have added Daniel.

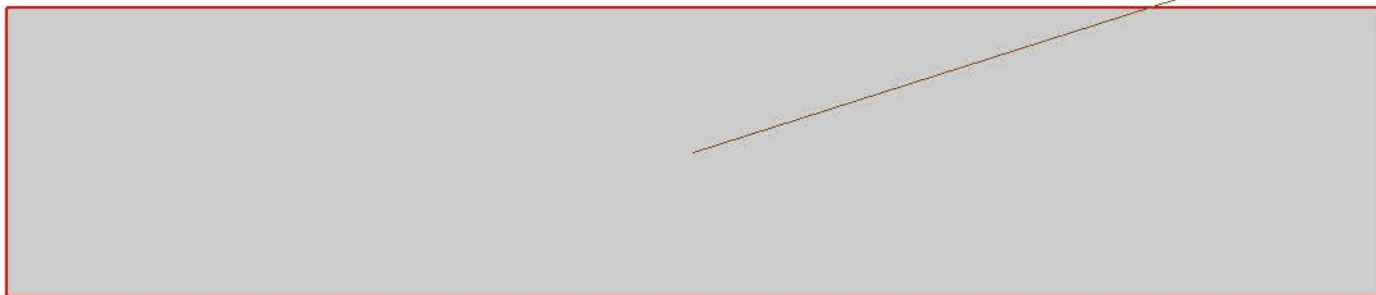
From: Crawford, Molly
Sent: Monday, July 15, 2019 1:59 PM
To: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: [REDACTED]

(b)(5)

(b)(5)



(b)(5)



Molly Crawford | Attorney Advisor | Office of Chairman Joseph Simons
Federal Trade Commission | 600 Pennsylvania Avenue, NW, H-448 | Washington, D.C. 20580
Phone: 202.326.3076 | Fax: 202.326.3393 | Email: mcrawford@ftc.gov

(b)(5)

From: Winter, Brad
Sent: 1 Apr 2019 15:37:49 -0400
To: Cohen, Kristin
Cc: Magee, Peder; George, Tiffany
Subject: RE [REDACTED]

(b)(5)

Kristin,

[REDACTED]

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Monday, April 01, 2019 12:18 PM
To: Winter, Brad <BWINTER@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: [REDACTED]

(b)(5)

[REDACTED]

Thanks for your help.

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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(b)(5)
(b)(5)
From: Adler, Jordan
Sent: 4 Sep 2019 01:23:12 +0000
To: Cohen, Kristin; Magee, Peder; George, Tiffany; Clark Russell
Subject: RE: [REDACTED]
Attachments: [REDACTED]

(b)(5)
Kristin,

[REDACTED]

I will be online for a while in case there are any issues with the document.

Thanks!
Jordan

Jordan S. Adler | Senior Enforcement Counsel
Bureau of Internet and Technology (BIT)
New York State Office of the Attorney General
28 Liberty St., New York, NY 10005
(t) 212-416-6307 | (f) 212-416-8369
jordan.adler@ag.ny.gov
<http://www.ag.ny.gov/bureau/internet-bureau>

(b)(5)
From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, September 3, 2019 12:19 PM
To: Adler, Jordan <Jordan.Adler@ag.ny.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Russell, Clark <Clark.Russell@ag.ny.gov>
Subject: [REDACTED]

(b)(5)
Hi Clark and Jordan,

[REDACTED]

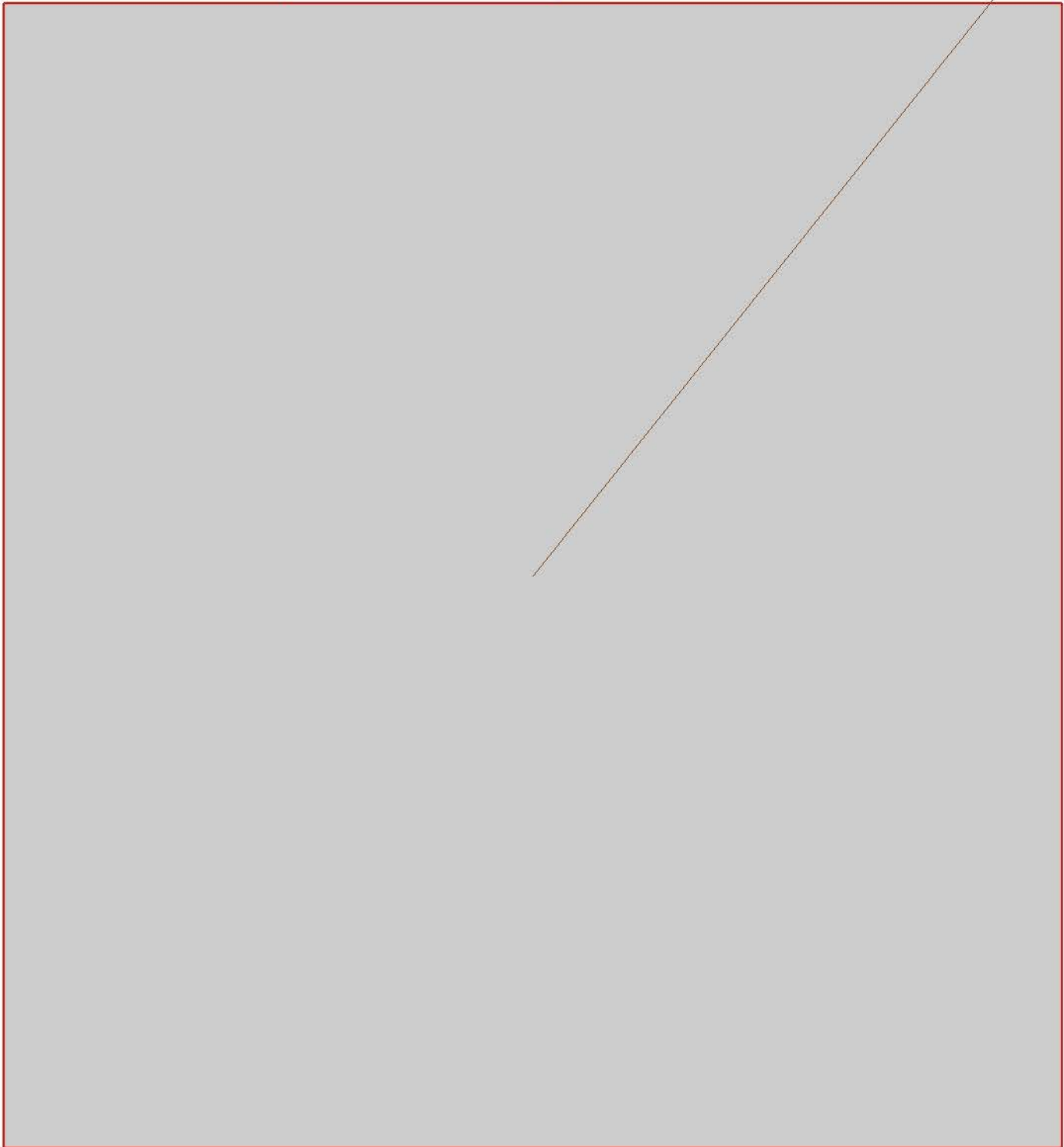
Thank you!

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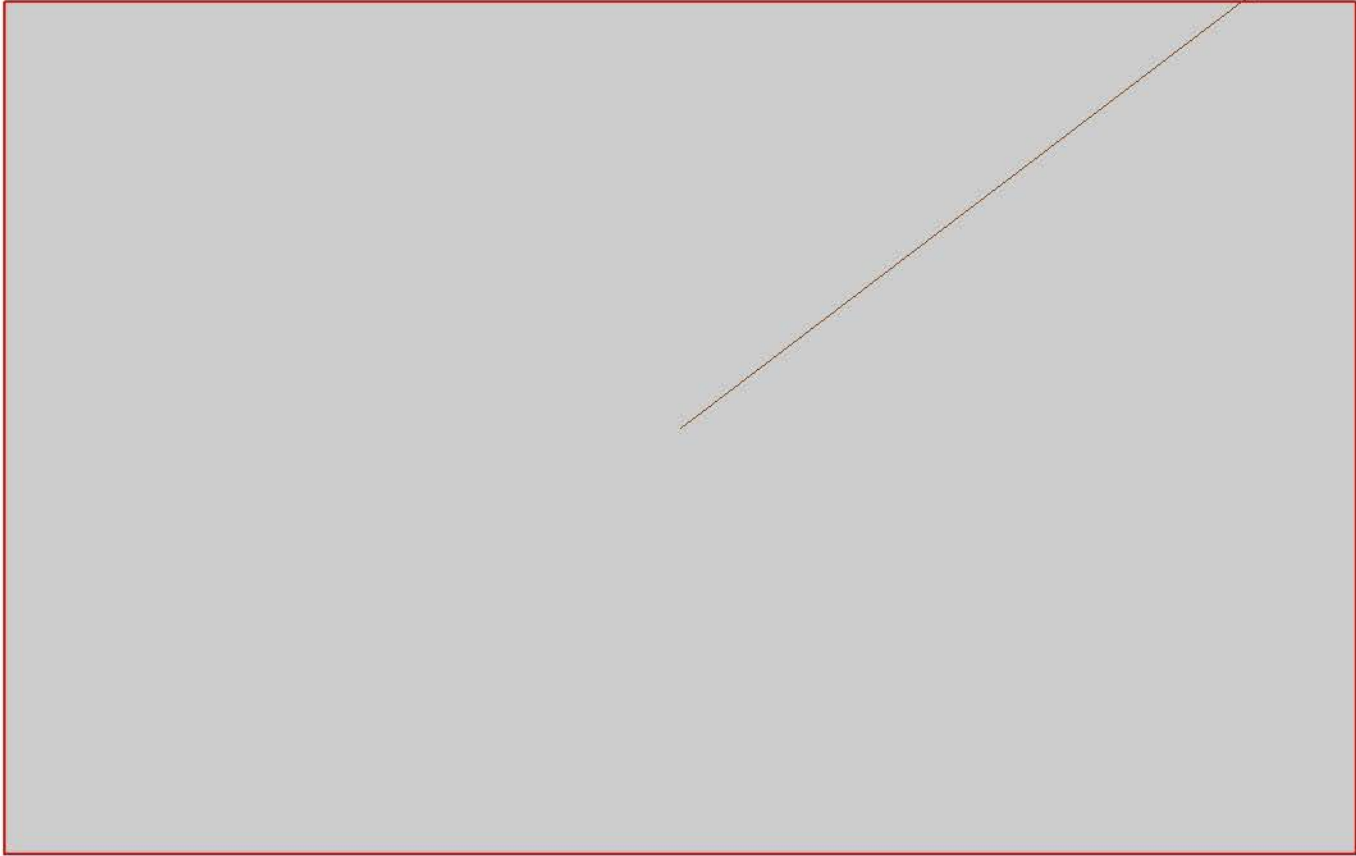
(b)(5)

From: Cohen, Kristin
Sent: 14 Jun 2019 14:04:56 +0000
To: Chopra, Rohit; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: RE: [REDACTED]

(b)(5)



(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

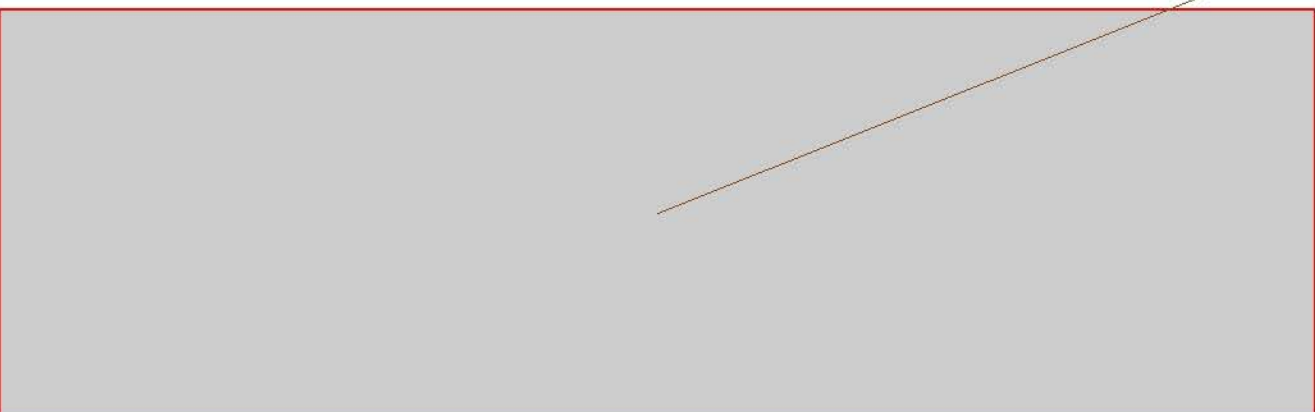
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: [REDACTED]

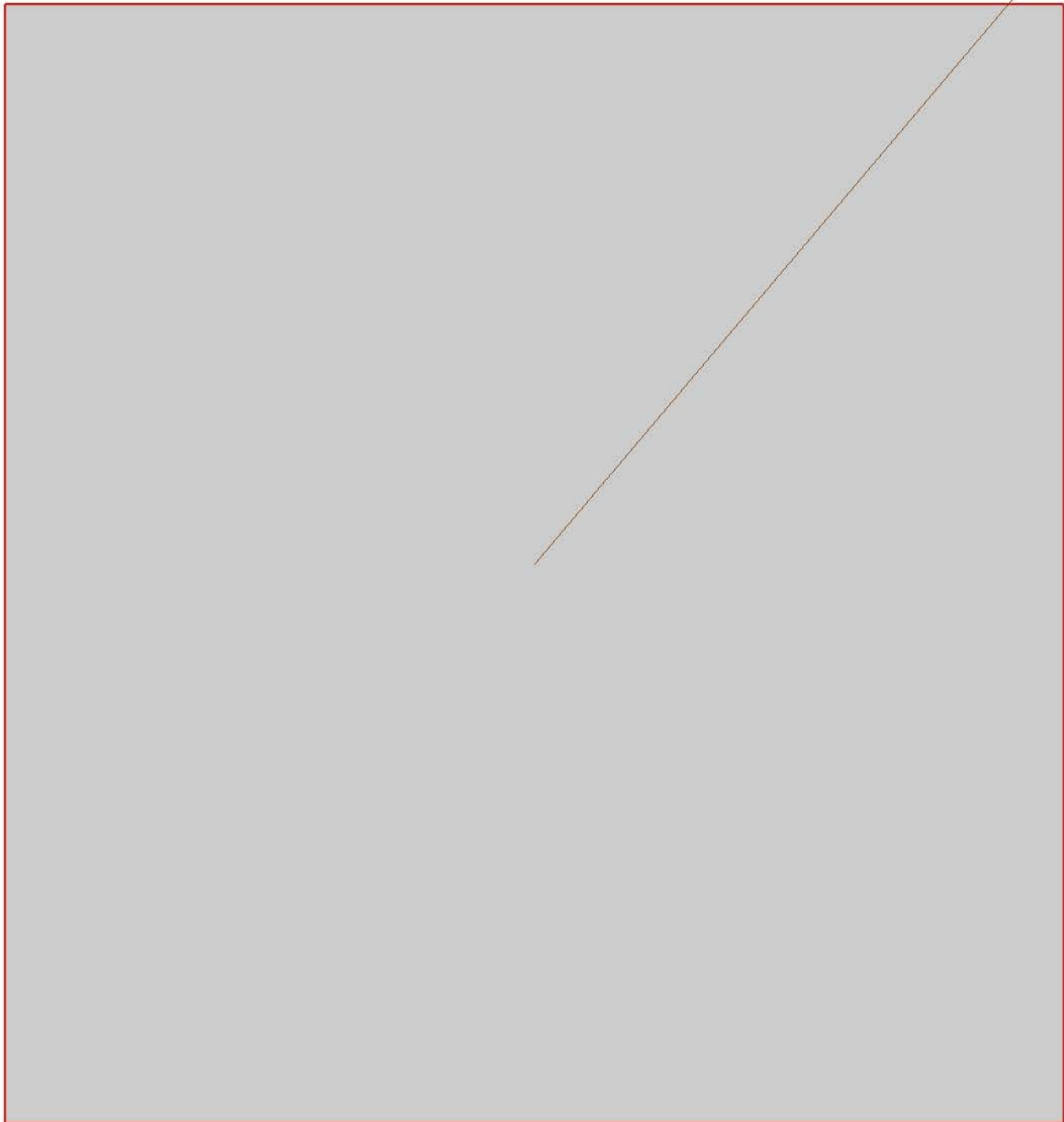
(b)(5)

All,

(b)(5)



(b)(5)



RC

(b)(5)

From: Winter, Brad
Sent: 1 Apr 2019 10:42:07 -0400
To: Cohen, Kristin
Cc: Magee, Peder; George, Tiffany
Subject: RE [REDACTED]

(b)(5)

Hi,

[REDACTED]

-Brad

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Monday, April 01, 2019 8:59 AM
To: Winter, Brad <BWINTER@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: FW: [REDACTED]

(b)(5)

Hi Brad,

[REDACTED]

Thanks again for all your help.

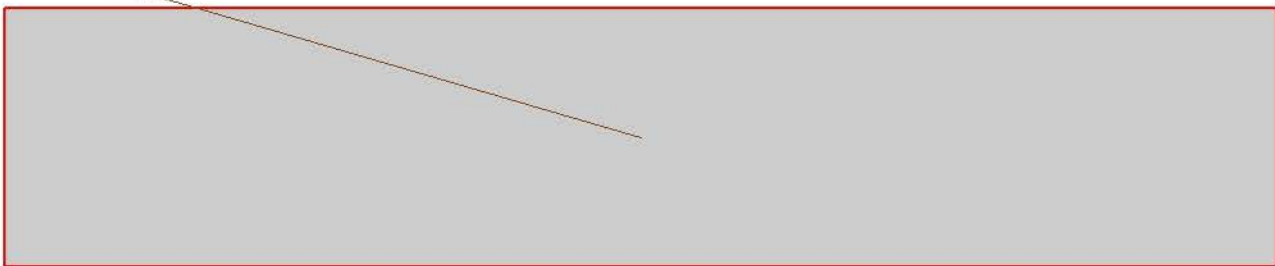
From: Olsen, Chris <colsen@wsgr.com>
Sent: Friday, March 29, 2019 6:03 PM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

(b)(5)

(b)(4);
(b)(3):6(f)

Cc: Weingarten, Libby <lweingarten@wsgr.com>

Subject [REDACTED]



Have a nice weekend,
Chris

(b)(6)

Christopher N. Olsen | Privacy and Data Protection

Wilson Sonsini Goodrich & Rosati

1700 K Street NW | Washington, DC 20006

202.973.8803 (direct [REDACTED] (mobile)

colsen@wsgr.com | www.wsgr.com

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(b)(5)

(b)(5)

From: Cohen, Kristin
Sent: 5 Jun 2019 14:22:02 +0000
To: 'Clark, Andrew'
Cc: Magee, Peder; George, Tiffany
Subject: RE: [REDACTED]
Attachments: [REDACTED]

(b)(5)

(b)(5)

Hi Andrew,

[REDACTED]

Thanks again,
Kristin

(b)(5)

From: Clark, Andrew <Andrew.Clark@usdoj.gov>
Sent: Wednesday, June 05, 2019 9:58 AM
To: Townsend, James <jtownsend@ftc.gov>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: [REDACTED]

Thanks much.

(b)(5)

From: Townsend, James <jtownsend@ftc.gov>
Sent: Wednesday, June 05, 2019 9:29 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: [REDACTED]

(b)(5)

Dear Andrew Clark,

[REDACTED]

James Townsend
Office of the General Counsel | Federal Trade Commission
600 Pennsylvania Avenue NW, Washington, D.C. 20580
(202) 326-2225 | jtownsend@ftc.gov

(b)(4);
(b)(3):6(f)
(b)(4);
(b)(3):6(f)
(b)(4);
(b)(3):6(f)

From: Olsen, Chris
Sent: 2 Mar 2019 12:02:38 +0000
To: Cohen, Kristin;George, Tiffany;Magee, Peder
Cc: Weingarten, Libby
Subject: RE: [REDACTED]
Attachments: [REDACTED]

[REDACTED]

Please note this response, like our prior responses, is CONFIDENTIAL and should be treated as such. The official language below covers this submission.

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(b)(4);
(b)(3):6(f)

From: Cohen, Kristin [mailto:kcohen@ftc.gov]
Sent: Friday, March 1, 2019 3:23 PM
To: Olsen, Chris; George, Tiffany; Magee, Peder
Cc: Weingarten, Libby
Subject: RE: [REDACTED]

Thank you, Chris.

(b)(4);
(b)(3):6(f)
(b)(4);
(b)(3):6(f)

From: Olsen, Chris <colsen@wsgr.com>
Sent: Friday, March 01, 2019 3:22 PM
To: Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>
Cc: Weingarten, Libby <lweingarten@wsgr.com>
Subject: RE: [REDACTED]

[REDACTED]

Thanks,
Chris

Please note this response, like our prior responses, is CONFIDENTIAL and should be treated as such. The official language below covers this submission.

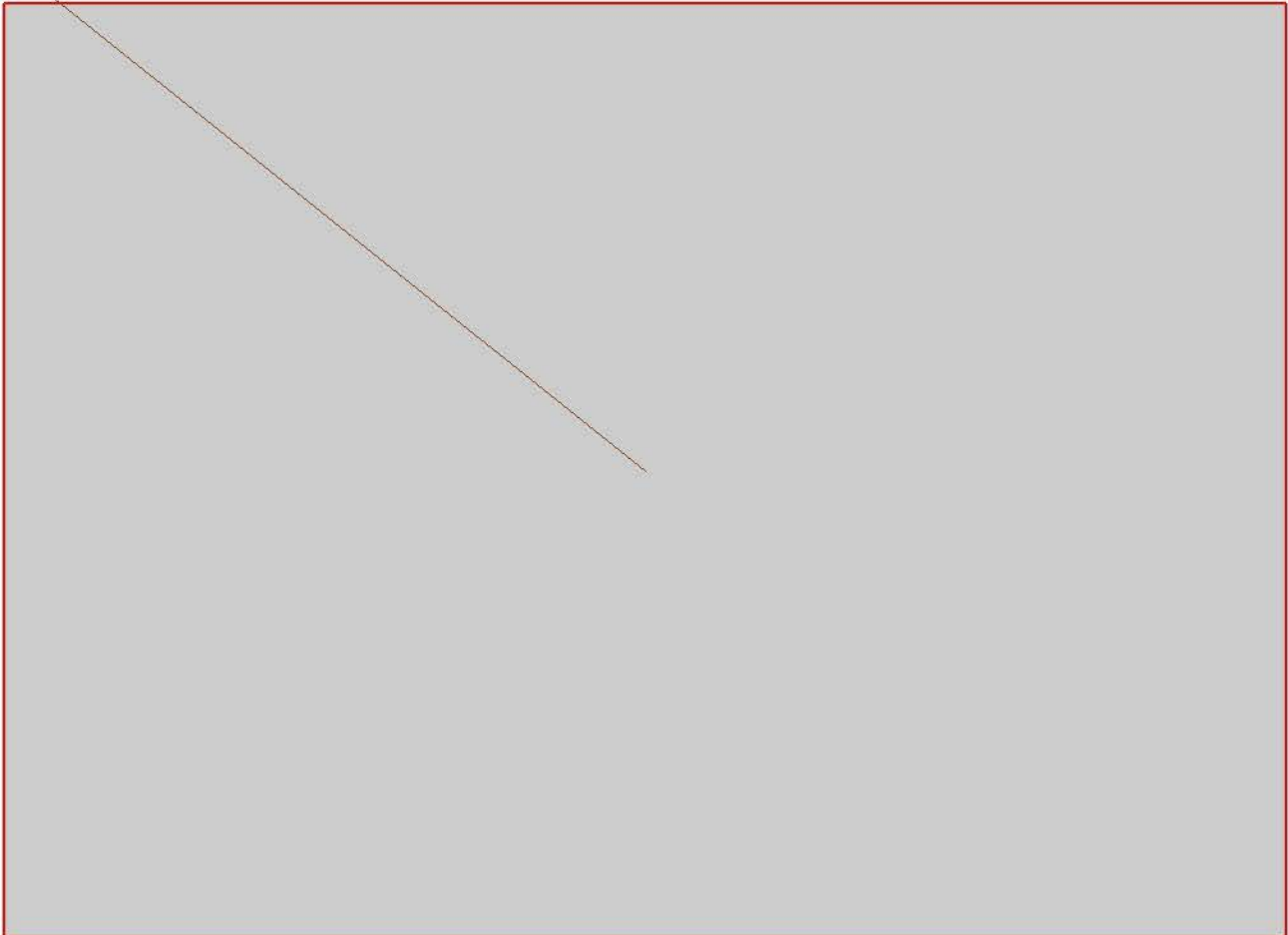
Please be aware that the enclosed information contains proprietary and confidential trade secret and other information, the disclosure of which would cause significant harm to Google. Google requests that the Commission keep these materials confidential consistent with the relevant provisions of the FTC Act, 15 U.S.C. §§ 46(f), 57b-2(a-f), FOIA exemptions three, four, and seven, 5 U.S.C. § 552(b)(3), (4), and (7), and all other applicable statutes, regulations, and customary confidentiality policies. In the event that any third party (including any other governmental agency or body) seeks disclosure of, or access to, these materials under FOIA or another context, Google requests to be timely notified by your office and given an opportunity to object to any such disclosure or grant of access. Furthermore, in the event that your office discloses these materials to any third party, Google requests that you advise such third party of the highly confidential nature of these materials. Additionally, Google requests that these materials be destroyed by your office or returned upon the closure of this investigation.

(b)(4);
(b)(3):6(f)

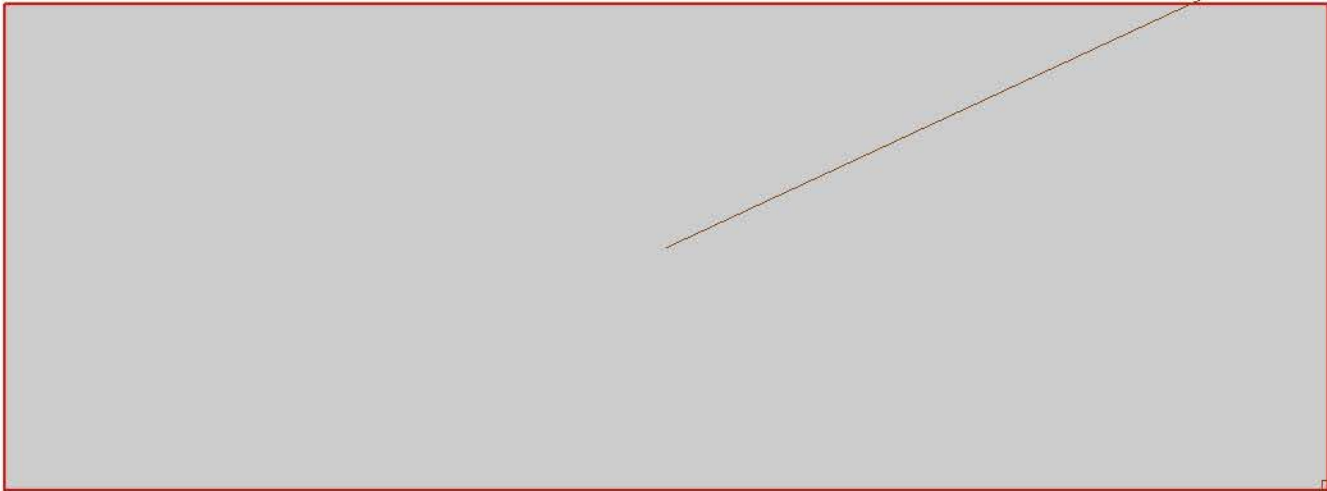
From: Cohen, Kristin [<mailto:kcohen@ftc.gov>]
Sent: Friday, February 22, 2019 4:01 PM
To: Olsen, Chris; Weingarten, Libby
Cc: Magee, Peder; George, Tiffany
Subject: [REDACTED]

(b)(4);
(b)(3):6(f)

Hi Chris,

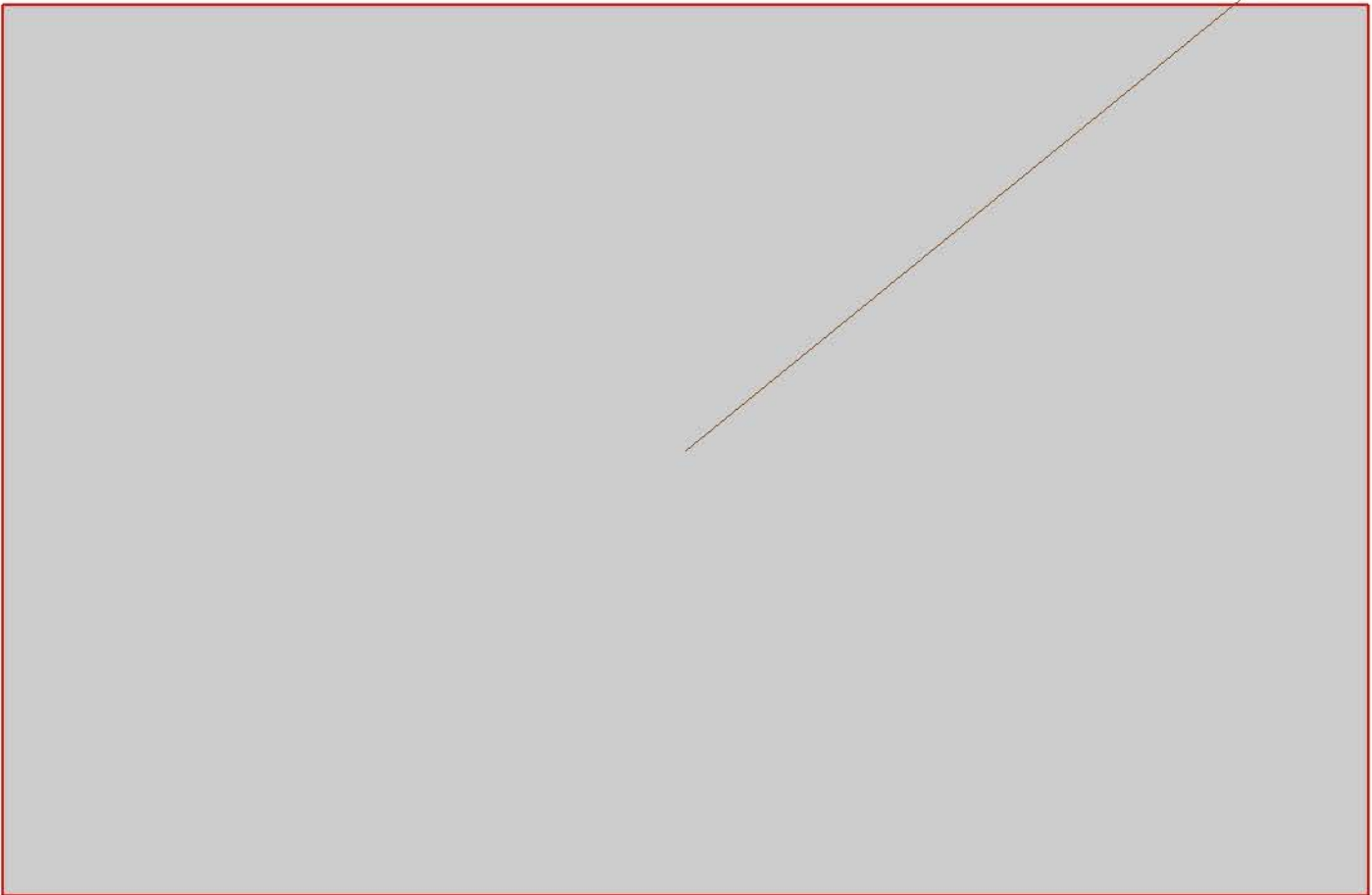


(b)(4);
(b)(3):6(f)



Thanks,
Kristin

(b)(4);
(b)(3):6(f)



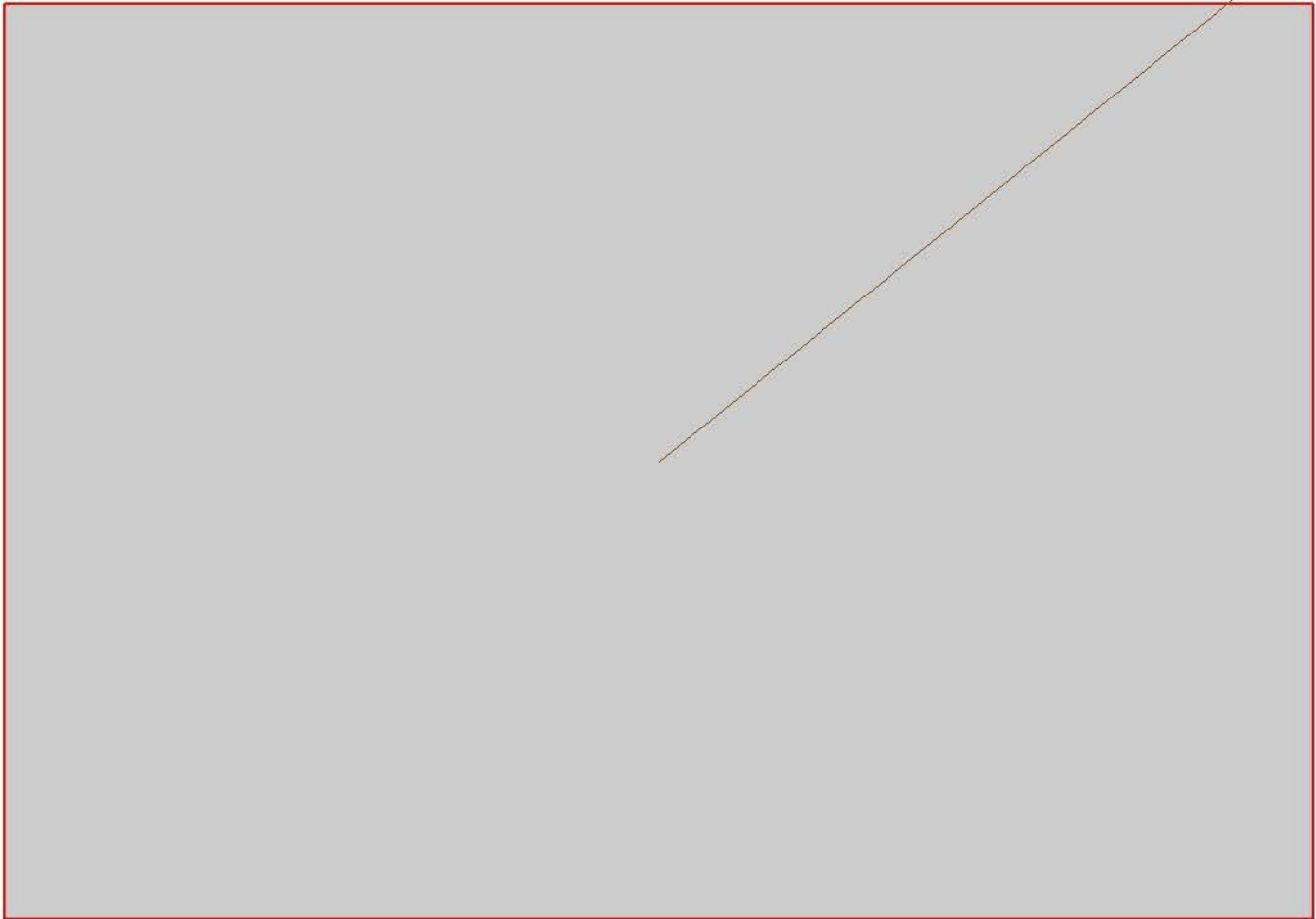
Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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From: Cohen, Kristin
Sent: 11 Apr 2019 20:15:46 +0000
To: Chopra, Rohit; Estrada, Danielle
Cc: Mithal, Maneesha; Eichorn, Mark; George, Tiffany; Levine, Samuel; King, Austin; Crawford, Molly; Magee, Peder; Meyer, Erie K
Subject: RE: YouTube [REDACTED]

Commissioner Chopra:



Please let us know if you have any further questions.

From: Chopra, Rohit <r chopra@ftc.gov>
Sent: Wednesday, April 10, 2019 2:54 PM
To: Jagielski, Karen <KJAGIELSKI@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>; King, Austin <aking3@ftc.gov>; Crawford, Molly <mcrawford@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>
Subject: RE: YouTube [REDACTED]

Apologies, Danielle is handling this for BCP front office. Adding her!

From: Chopra, Rohit

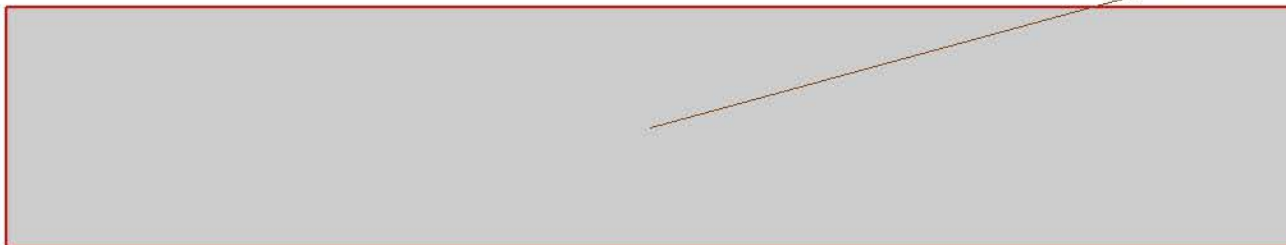
Sent: Wednesday, April 10, 2019 2:46 PM

To: Jagielski, Karen <KJAGIELSKI@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>; King, Austin <aking3@ftc.gov>; Crawford, Molly <mcrawford@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>

Subject: RE: YouTube [REDACTED]

Maneesha/Karen,



Thanks, RC

-----Original Appointment-----

From: Meyer, Erie K **On Behalf Of** Chopra, Rohit

Sent: Friday, March 15, 2019 4:30 PM

To: Chopra, Rohit; Magee, Peder; Meyer, Erie K

Cc: Mithal, Maneesha; Eichorn, Mark; George, Tiffany; Cohen, Kristin; Levine, Samuel; King, Austin; Crawford, Molly

Subject: YouTube [REDACTED]

When: Wednesday, March 20, 2019 11:30 AM-12:30 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ 326

(b)(5)

From: King, Austin
Sent: 19 Jun 2019 11:03:38 -0400
To: Cohen, Kristin; Magee, Peder; George, Tiffany
Cc: Mithal, Maneesha; Eichorn, Mark; Estrada, Danielle; Kaufman, Daniel
Subject: RE: YouTube [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

(b)(5)

[REDACTED]

Austin

From: King, Austin
Sent: Monday, June 17, 2019 6:18 PM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>
Subject: YouTube [REDACTED]

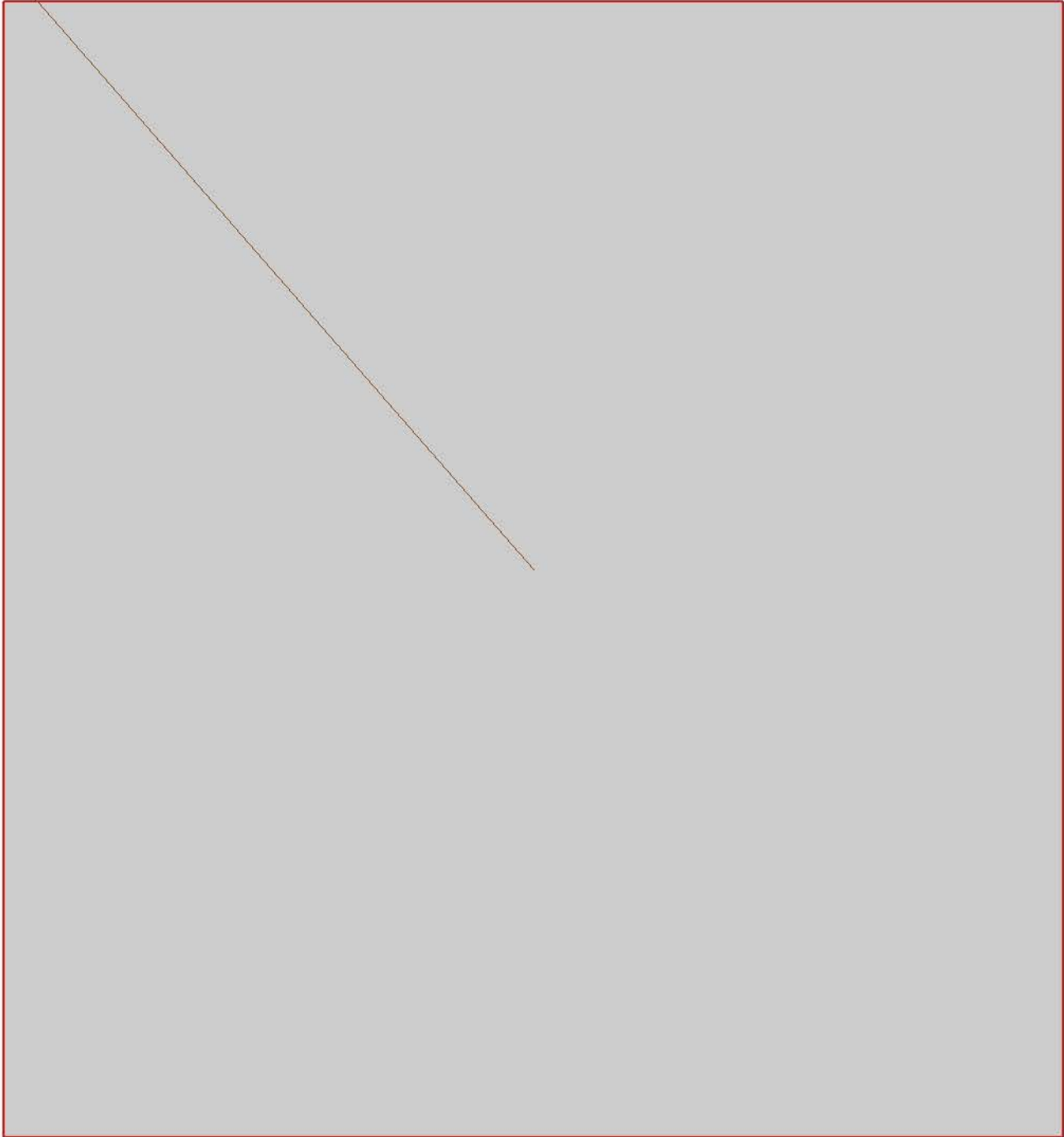
(b)(5)

(b)(5)

Dear YouTube team,

[REDACTED]

(b)(5)

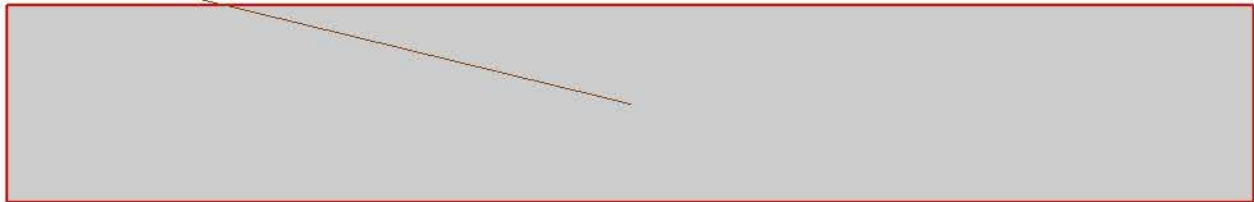


Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

From: Weingarten, Libby
Sent: 3 Sep 2019 23:23:52 +0000
To: Cohen, Kristin; Magee, Peder
Cc: Olsen, Chris
Subject: RE: YouTube

(b)(4);
(b)(3):6(f)

Hi Kristin, Peder,



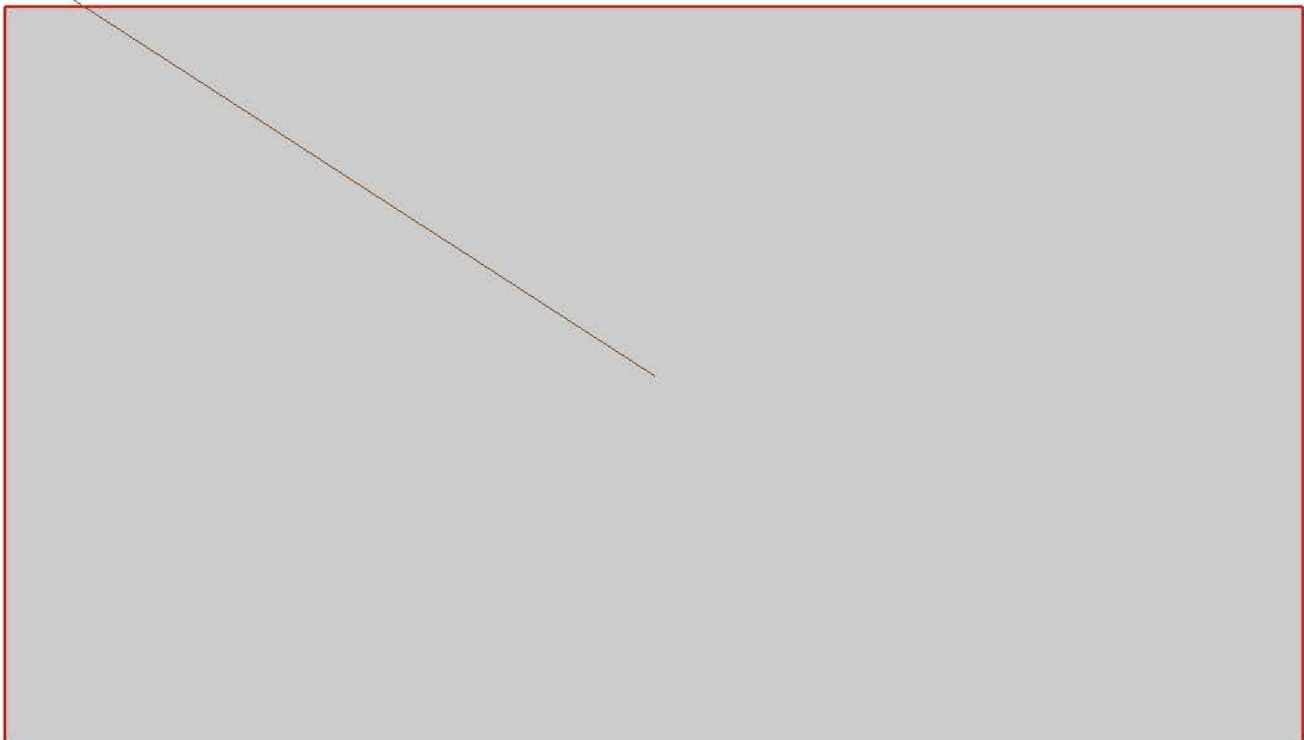
Best,
Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich Rosati | (202) 973-8861 | lweingarten@wsgr.com

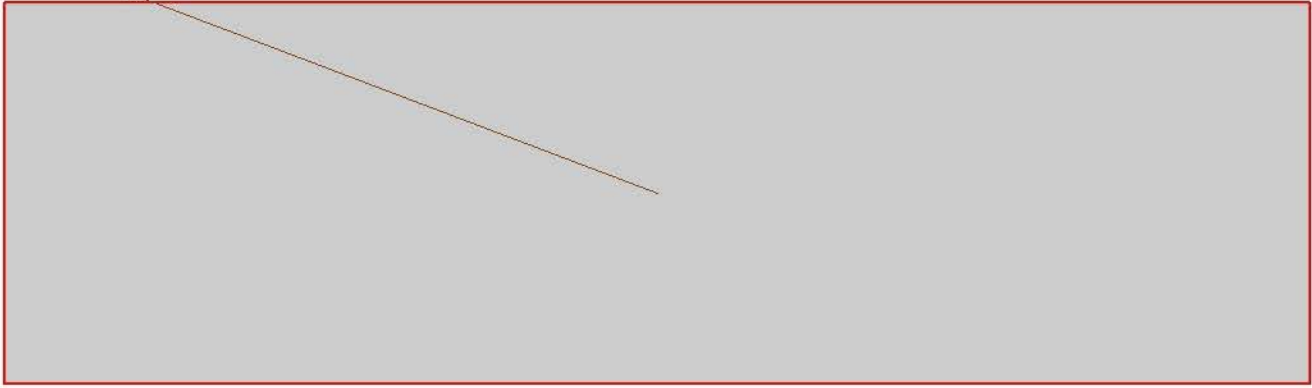
From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, September 3, 2019 5:15 PM
To: Weingarten, Libby <lweingarten@wsgr.com>
Subject: YouTube

(b)(4);
(b)(3):6(f)

Hi Libby,



(b)(4);
(b)(3):6(f)

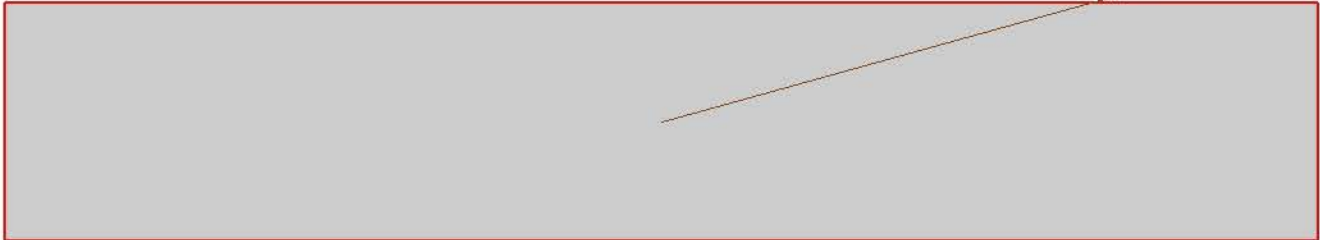


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From: Cohen, Kristin
Sent: 26 Apr 2019 12:43:38 +0000
To: 'Weingarten, Libby';Olsen, Chris
Cc: Magee, Peder;George, Tiffany
Subject: RE: YT / Signature page

(b)(4);
(b)(3):6(f)

Hi Libby,



From: Weingarten, Libby <lweingarten@wsgr.com>
Sent: Friday, April 26, 2019 8:22 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Olsen, Chris <colsen@wsgr.com>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: YT / Signature page

Great, thank you.

From: Cohen, Kristin [<mailto:kcohen@ftc.gov>]
Sent: Friday, April 26, 2019 6:08 AM
To: Weingarten, Libby; Olsen, Chris
Cc: Magee, Peder; George, Tiffany
Subject: RE: YT / Signature page

Thank you, Libby. Appreciate it. I will figure out whether we need you to send us the original this morning.

----- Original Message -----

From: "Weingarten, Libby" <lweingarten@wsgr.com>
Date: Thu, April 25, 2019 6:00 PM -0400
To: "Olsen, Chris" <colsen@wsgr.com>, "Cohen, Kristin" <kcohen@ftc.gov>
CC: "Magee, Peder" <PMAGEE@ftc.gov>, "George, Tiffany" <tgeorge@ftc.gov>
Subject: RE: YT / Signature page

Hi Kristin,

Attached is an updated signature page with all signatures on one page. Happy to chat tomorrow morning – my direct dial is 202-973-8861.

Thanks,
Libby

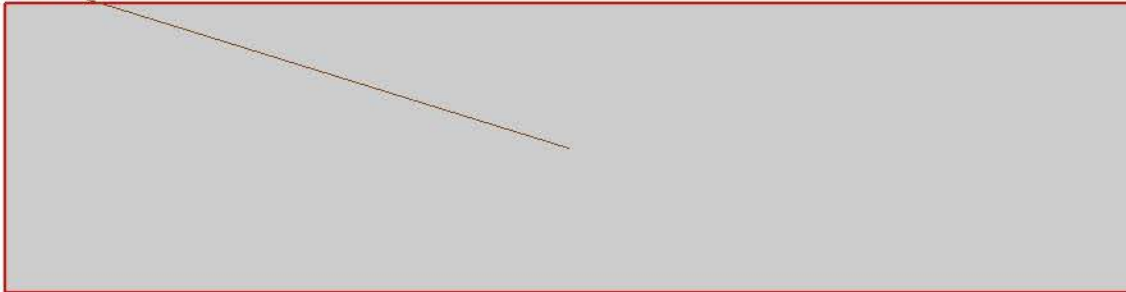
From: Olsen, Chris
Sent: Thursday, April 25, 2019 5:01 PM
To: Cohen, Kristin
Cc: Weingarten, Libby; Magee, Peder; George, Tiffany
Subject: Re: YT / Signature page

And,..thanks for working through this with us.

(b)(6)
Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) [REDACTED]

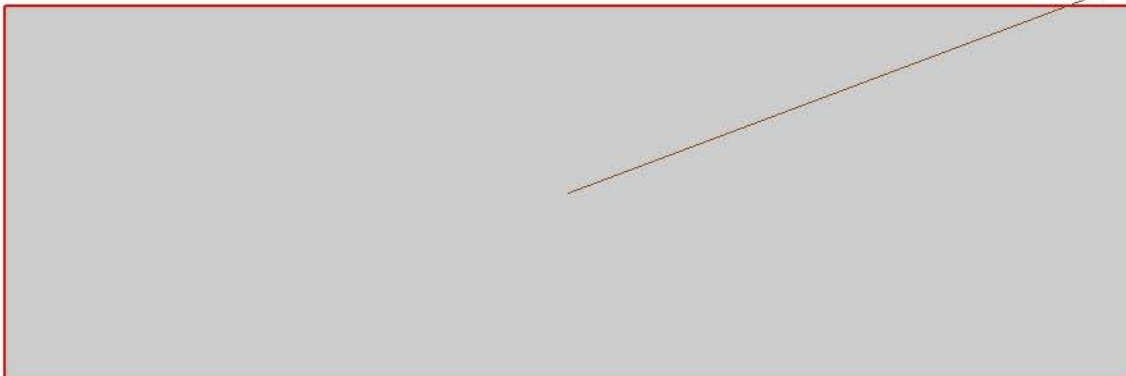
(b)(4);
(b)(3):6(f)
On Apr 25, 2019, at 4:54 PM, Cohen, Kristin <kcohen@ftc.gov> wrote:

Hi Chris,



From: Cohen, Kristin
Sent: Thursday, April 25, 2019 4:18 PM
To: 'Olsen, Chris' <colsen@wsgr.com>
Cc: Weingarten, Libby <lweingarten@wsgr.com>; Magee, Peder <PMAGEE@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: RE: YT / Signature page

Chris,



(b)(4);
(b)(3):6(f)

From: Olsen, Chris <colsen@wsgr.com>
Sent: Thursday, April 25, 2019 4:14 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Weingarten, Libby <lweingarten@wsgr.com>; Magee, Peder <PMAGEE@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: Re: YT / Signature page

(b)(4);
(b)(3):6(f)

[Redacted]

Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) [Redacted]

On Apr 25, 2019, at 4:03 PM, Cohen, Kristin <kcohen@ftc.gov> wrote:

Hi Chris and Libby,

[Redacted]

Thanks,
Kristin

From: Olsen, Chris <colsen@wsgr.com>
Sent: Thursday, April 25, 2019 3:05 PM
To: Weingarten, Libby <lweingarten@wsgr.com>
Cc: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: Re: YT / Signature page

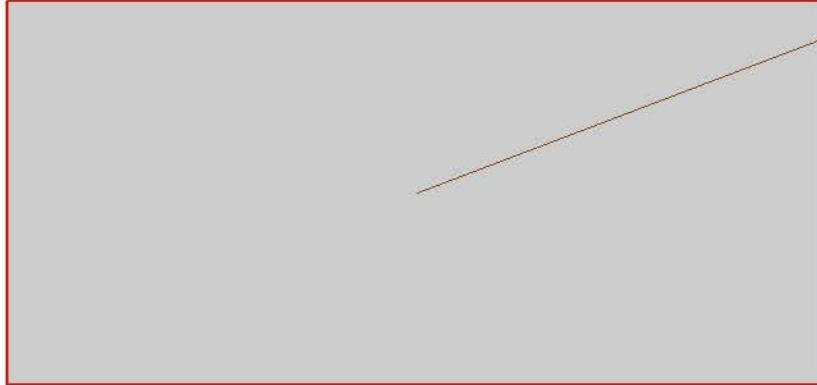
[Redacted]

Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) [Redacted]

On Apr 25, 2019, at 2:44 PM, Weingarten, Libby <lweingarten@wsgr.com> wrote:

(b)(4);
(b)(3)-6(f)

Hi Kristin, Peder,



Thanks very much!

Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich
Rosati | (202) 973-8861 | lweingarten@wsgr.com

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(b)(4);
(b)(3)-6(f)



(b)(5) **From:** Chopra, Rohit
(b)(5) **Sent:** 17 Jun 2019 08:55:17 -0400
(b)(5) **To:** Cohen, Kristin; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: RE [REDACTED]

[REDACTED]

Thanks in advance, RC

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Friday, June 14, 2019 10:05 AM
To: Chopra, Rohit <rchopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE [REDACTED]

[REDACTED]

From: Chopra, Rohit <rchopra@ftc.gov>

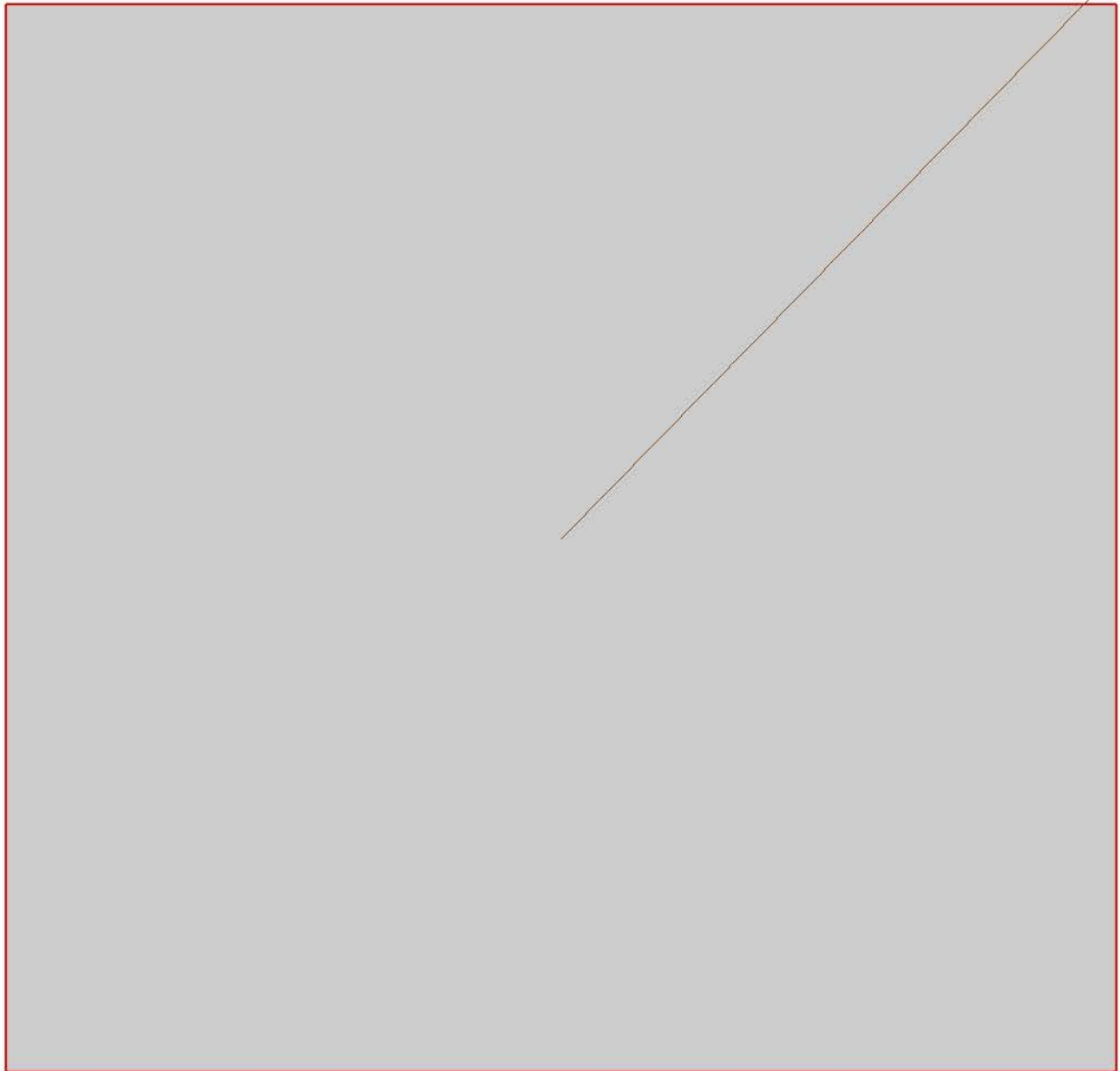
Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject

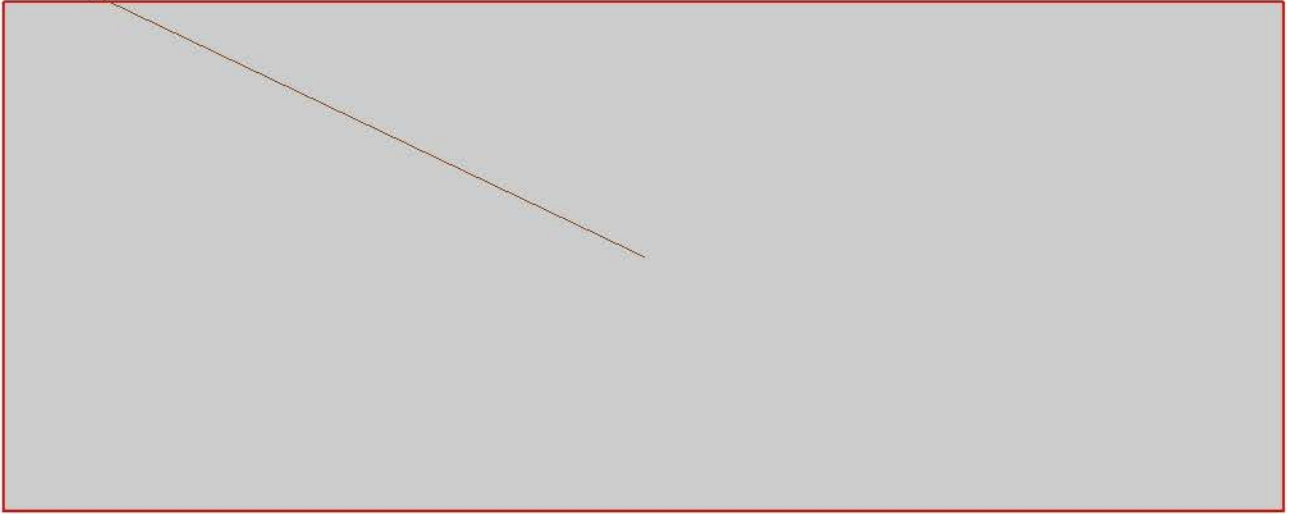
All,



(b)(5)

(b)(5)

(b)(5)



RC

(b)(5)

(b)(5)

From: Chopra, Rohit
Sent: 17 Jun 2019 11:53:05 -0400
To: Cohen, Kristin; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: RE: [REDACTED]

[REDACTED]

Thanks again.

(b)(5)

(b)(5)

From: Chopra, Rohit
Sent: Monday, June 17, 2019 8:55 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

[REDACTED]

Thanks in advance, RC

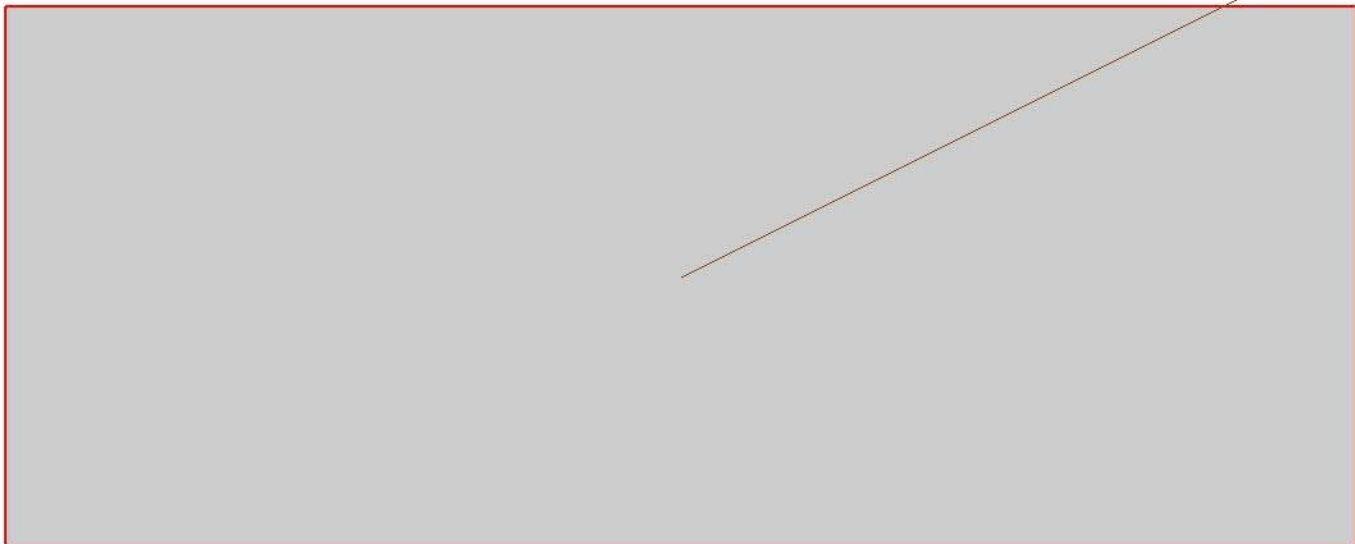
(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Friday, June 14, 2019 10:05 AM
To: Chopra, Rohit <r chopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

[REDACTED]

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

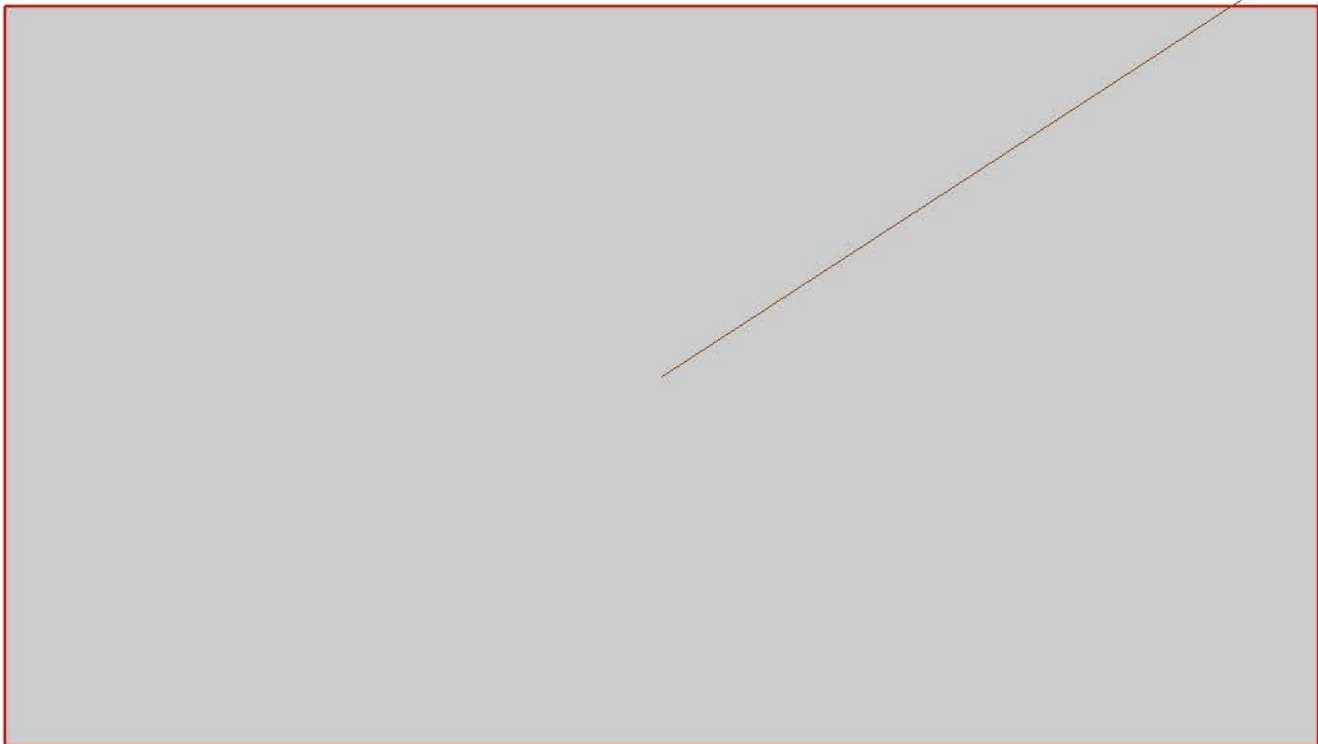
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: 

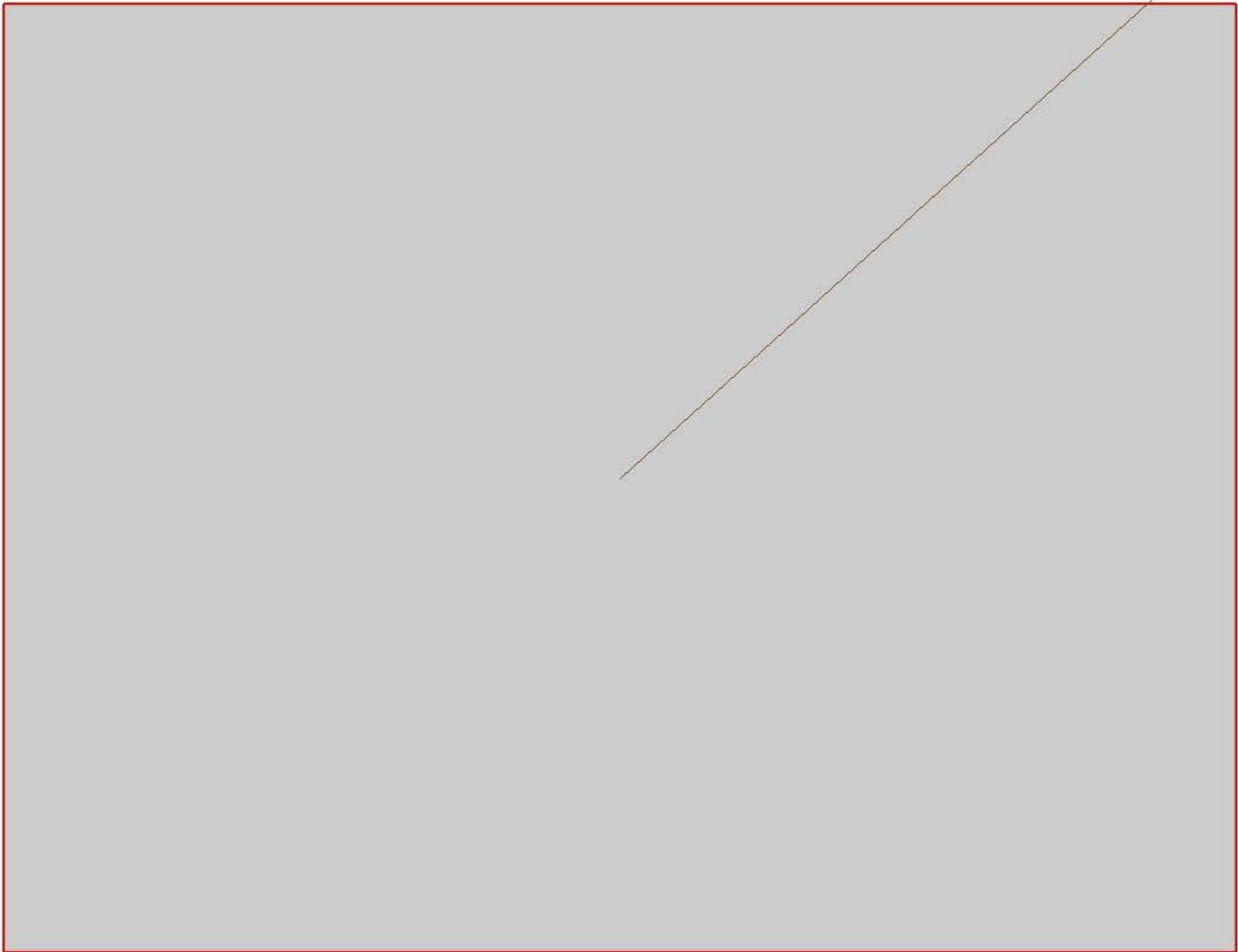
(b)(5)

All,

(b)(5)



(b)(5)



RC

(b)(5)

(b)(5)

From: Cohen, Kristin
Sent: 18 Jun 2019 13:55:35 +0000
To: Chopra, Rohit; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: RE: [REDACTED]

[REDACTED]

From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Monday, June 17, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

Thanks again.

From: Chopra, Rohit
Sent: Monday, June 17, 2019 8:55 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

Thanks in advance, RC

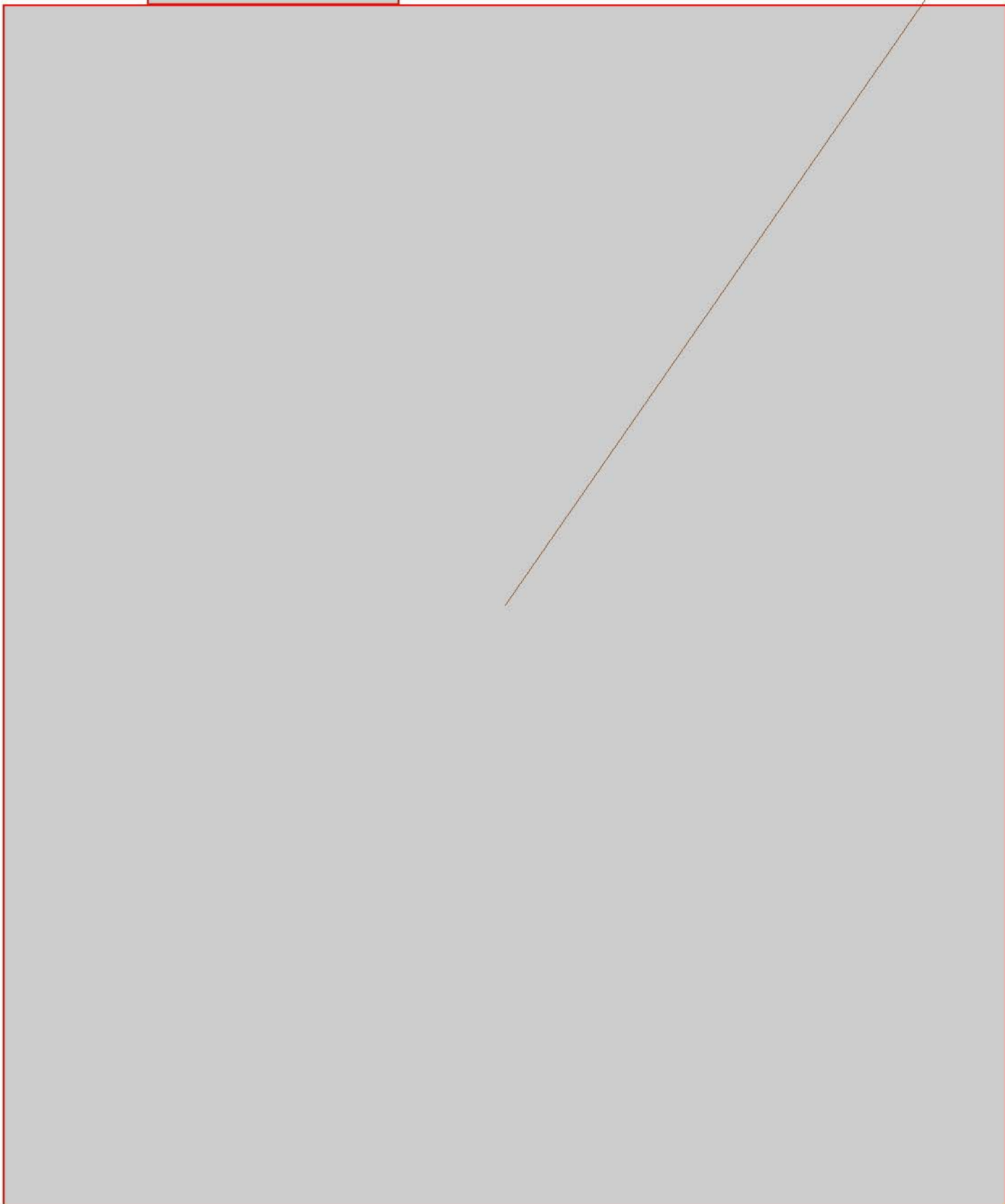
From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Friday, June 14, 2019 10:05 AM
To: Chopra, Rohit <rchopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K

(b)(5)

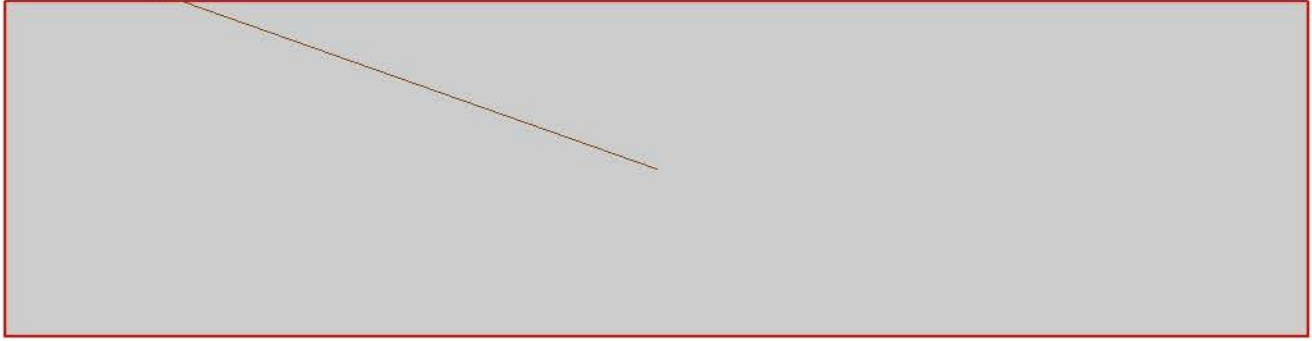
<emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: RE: [REDACTED]

(b)(5)



(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

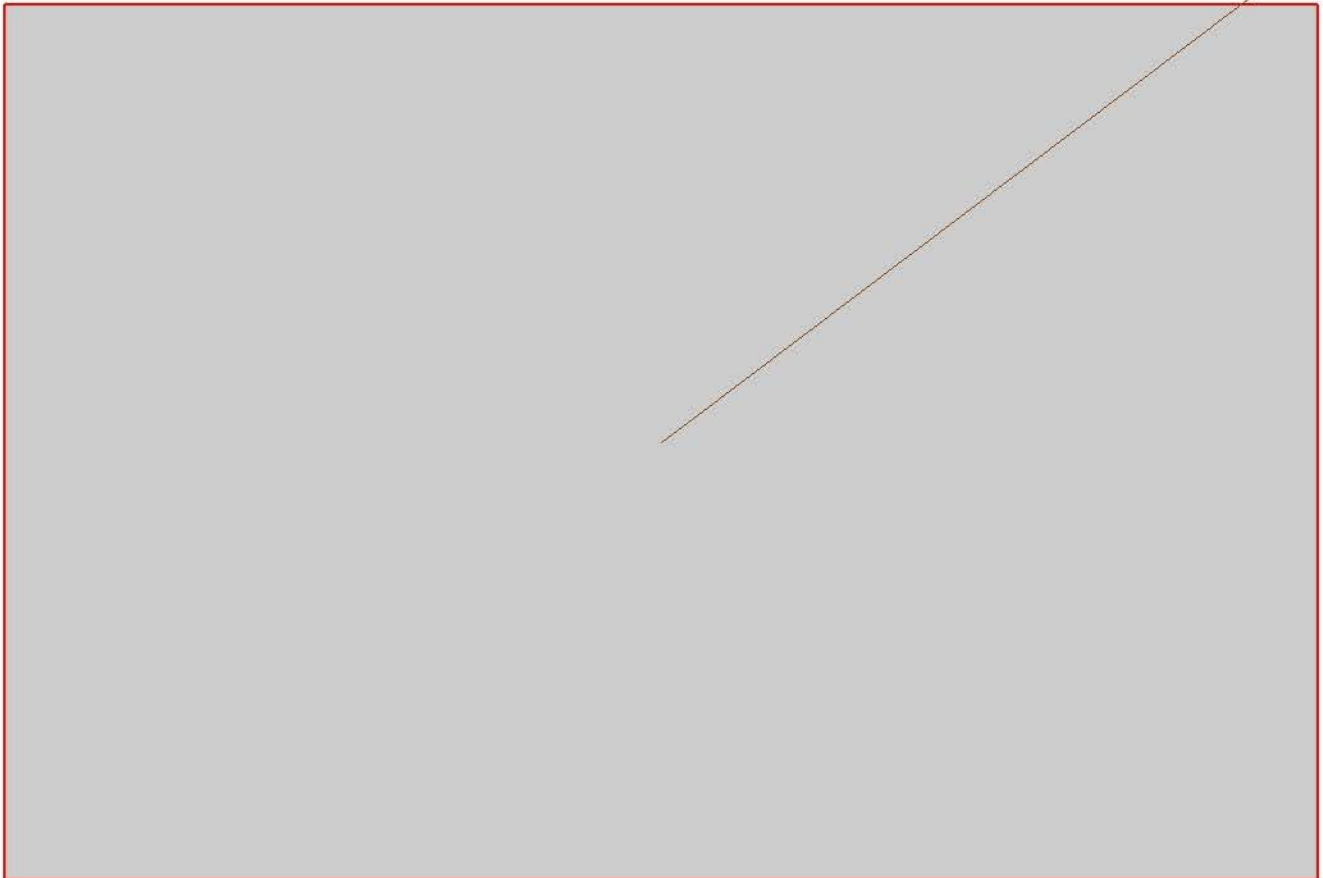
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: 

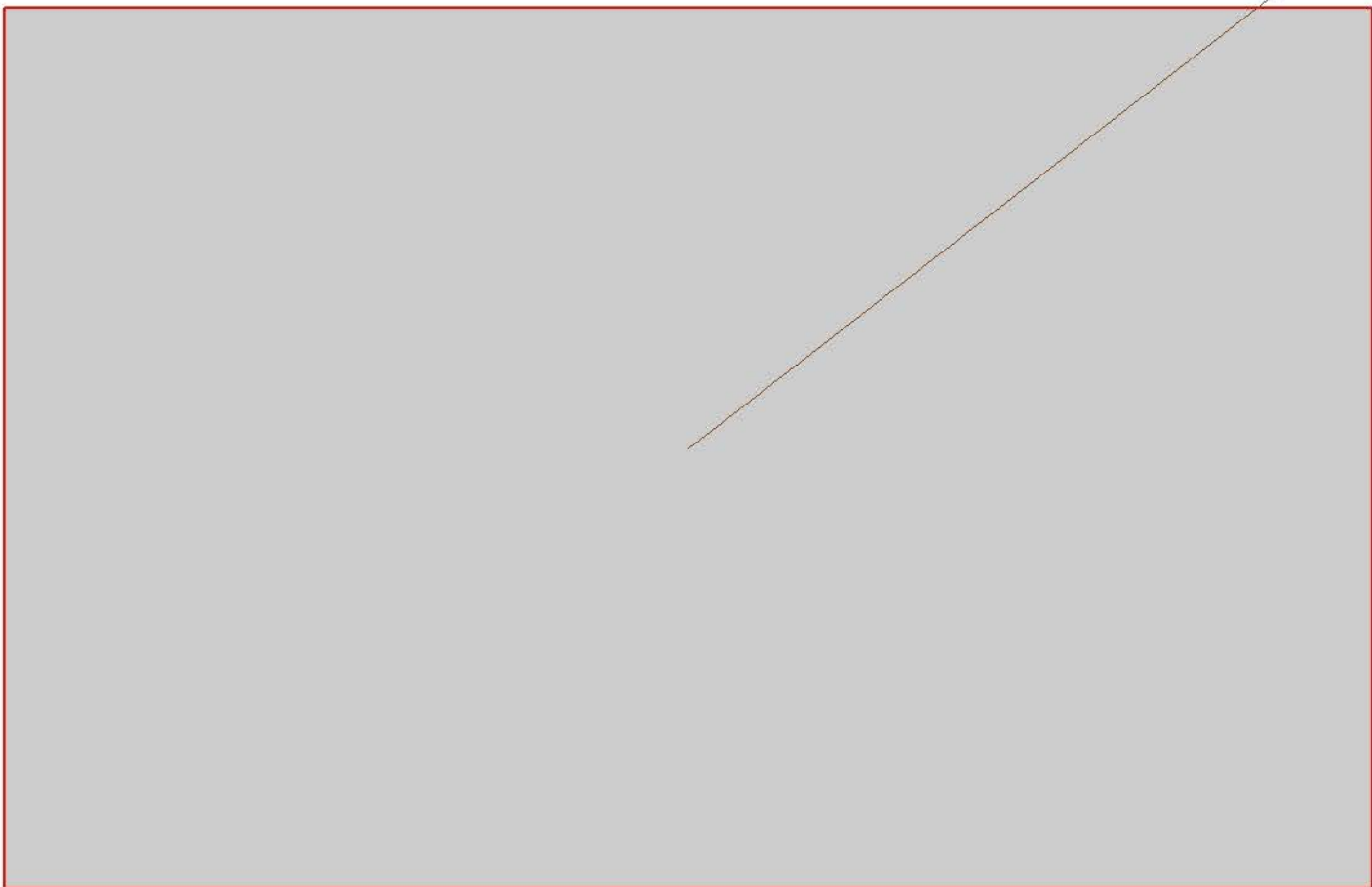
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All,



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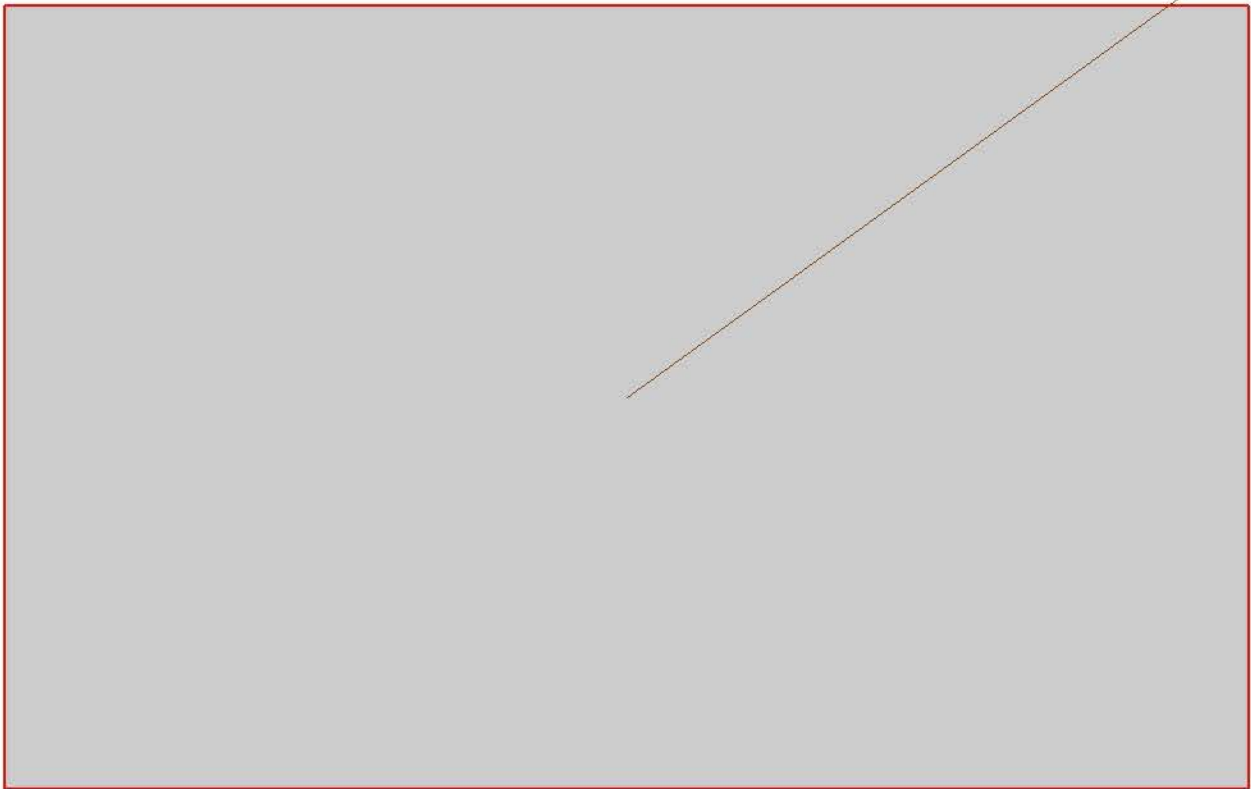


RC

From: Chopra, Rohit
Sent: 19 Jun 2019 09:57:09 -0400
To: Cohen, Kristin; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: Re: [REDACTED]

(b)(5)

(b)(5)



Thanks, RC

On: 18 June 2019 09:55,
"Cohen, Kristin" <kcohen@ftc.gov> wrote:

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Monday, June 17, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer,

(b)(5)

Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

[REDACTED]

Thanks again.

From: Chopra, Rohit
Sent: Monday, June 17, 2019 8:55 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

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(b)(5)

[REDACTED]

Thanks in advance, RC

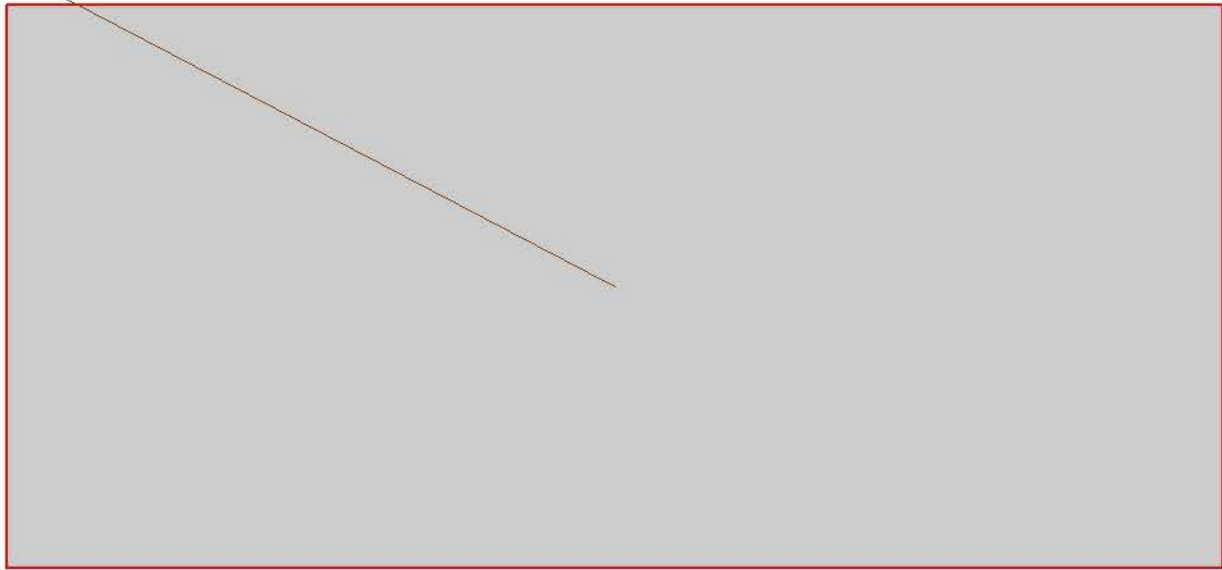
From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Friday, June 14, 2019 10:05 AM
To: Chopra, Rohit <r Chopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Thursday, June 13, 2019 9:21 AM

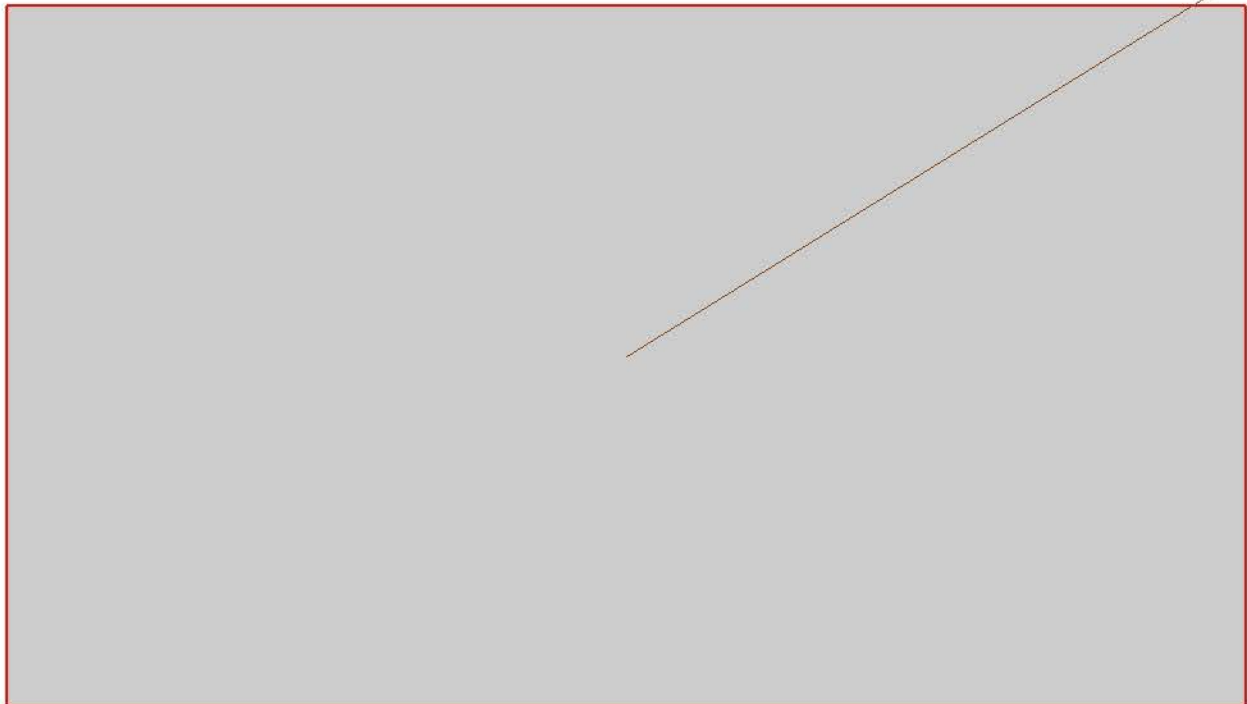
To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: 

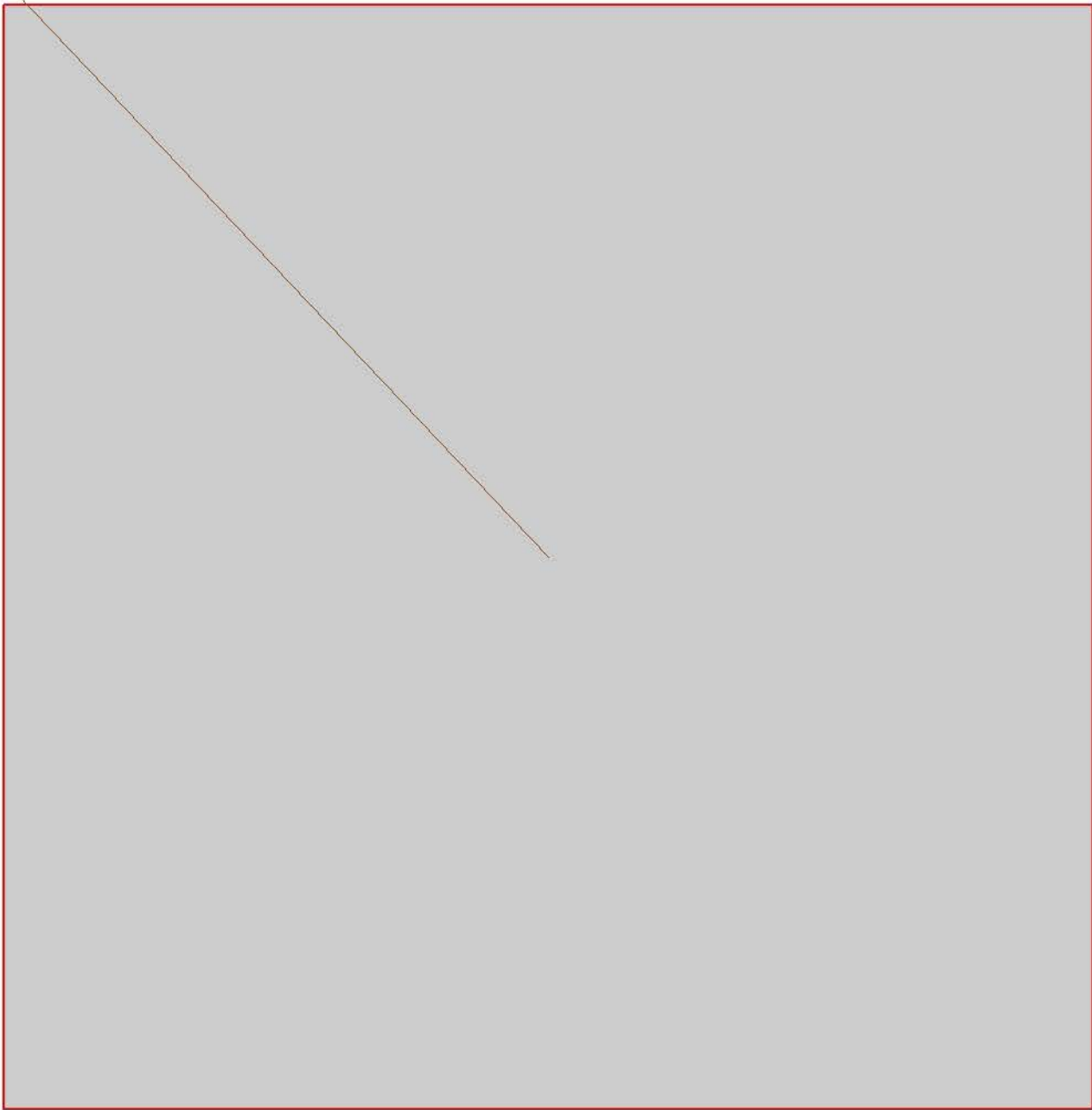
(b)(5)

All,



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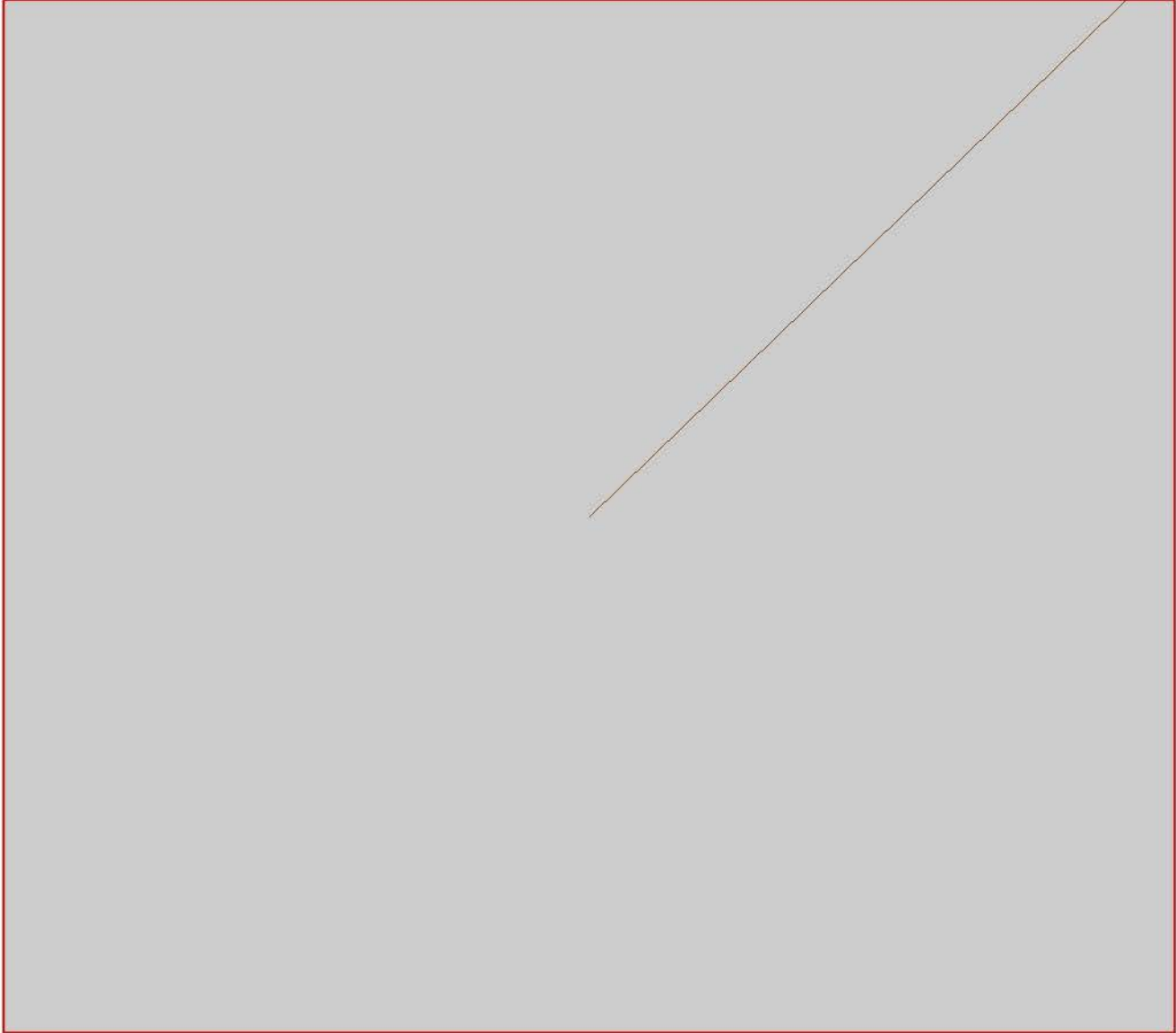


RC

(b)(5)

From: Cohen, Kristin
Sent: 19 Jun 2019 17:19:08 +0000
To: Chopra, Rohit; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: RE: [REDACTED]

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Wednesday, June 19, 2019 9:57 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: Re: [REDACTED]

(b)(5)

(b)(5)



Thanks, RC

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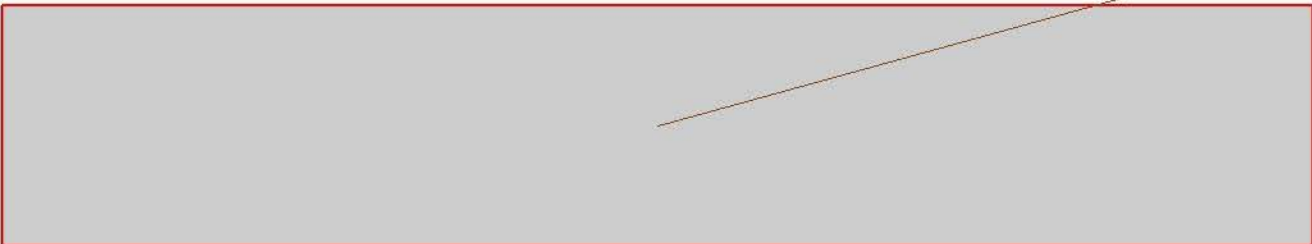
On: 18 June 2019 09:55,
"Cohen, Kristin" <kcohen@ftc.gov> wrote:



From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Monday, June 17, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: 

(b)(5)

(b)(5)



Thanks again.

From: Chopra, Rohit

Sent: Monday, June 17, 2019 8:55 AM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: RE: [REDACTED]

[REDACTED]

Thanks in advance, RC

From: Cohen, Kristin <kcohen@ftc.gov>

Sent: Friday, June 14, 2019 10:05 AM

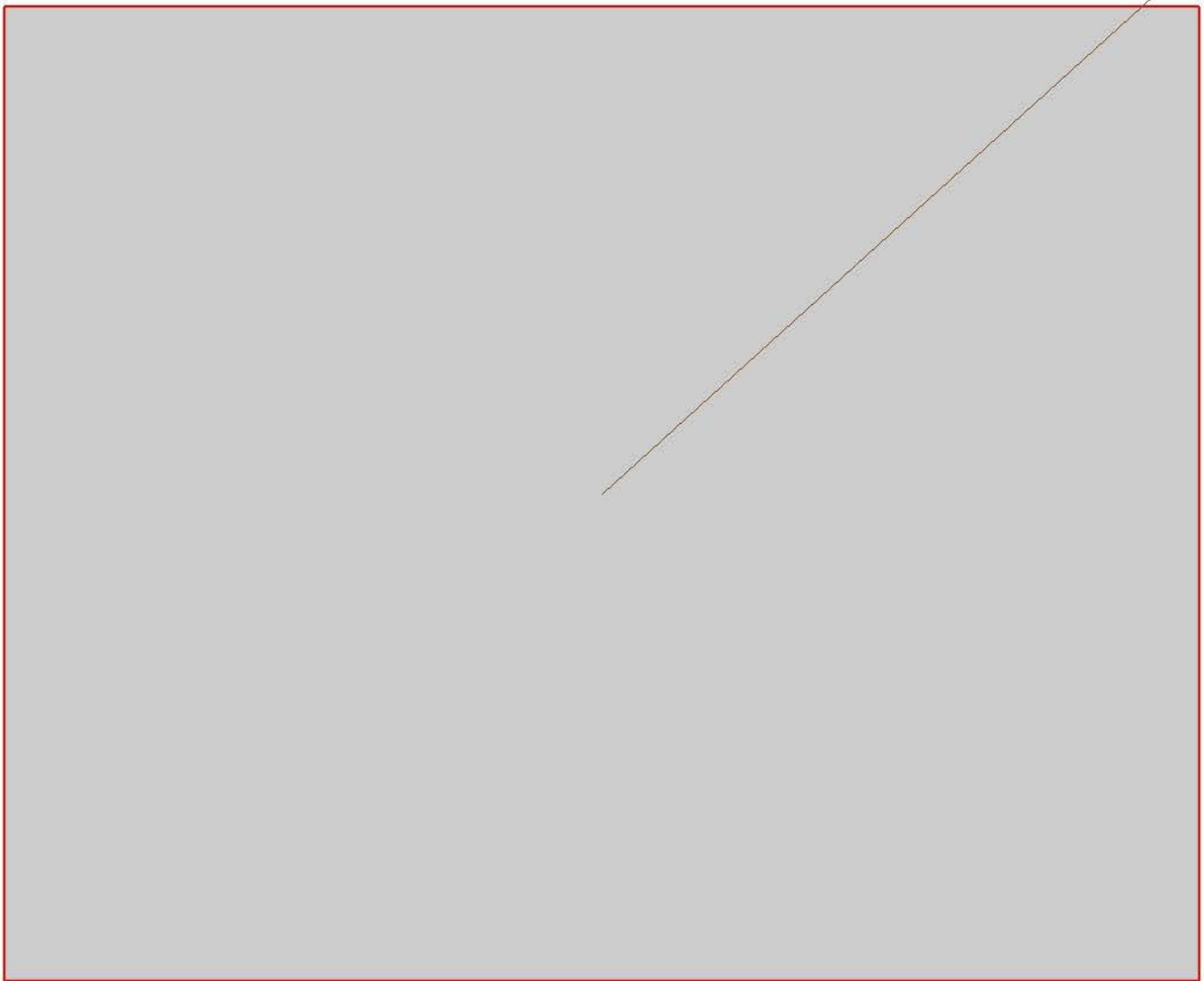
To: Chopra, Rohit <rchopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: RE: [REDACTED]

[REDACTED]

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

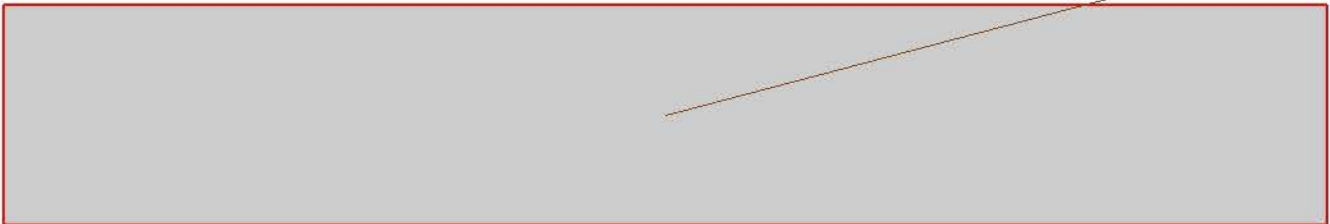
Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject 

All,



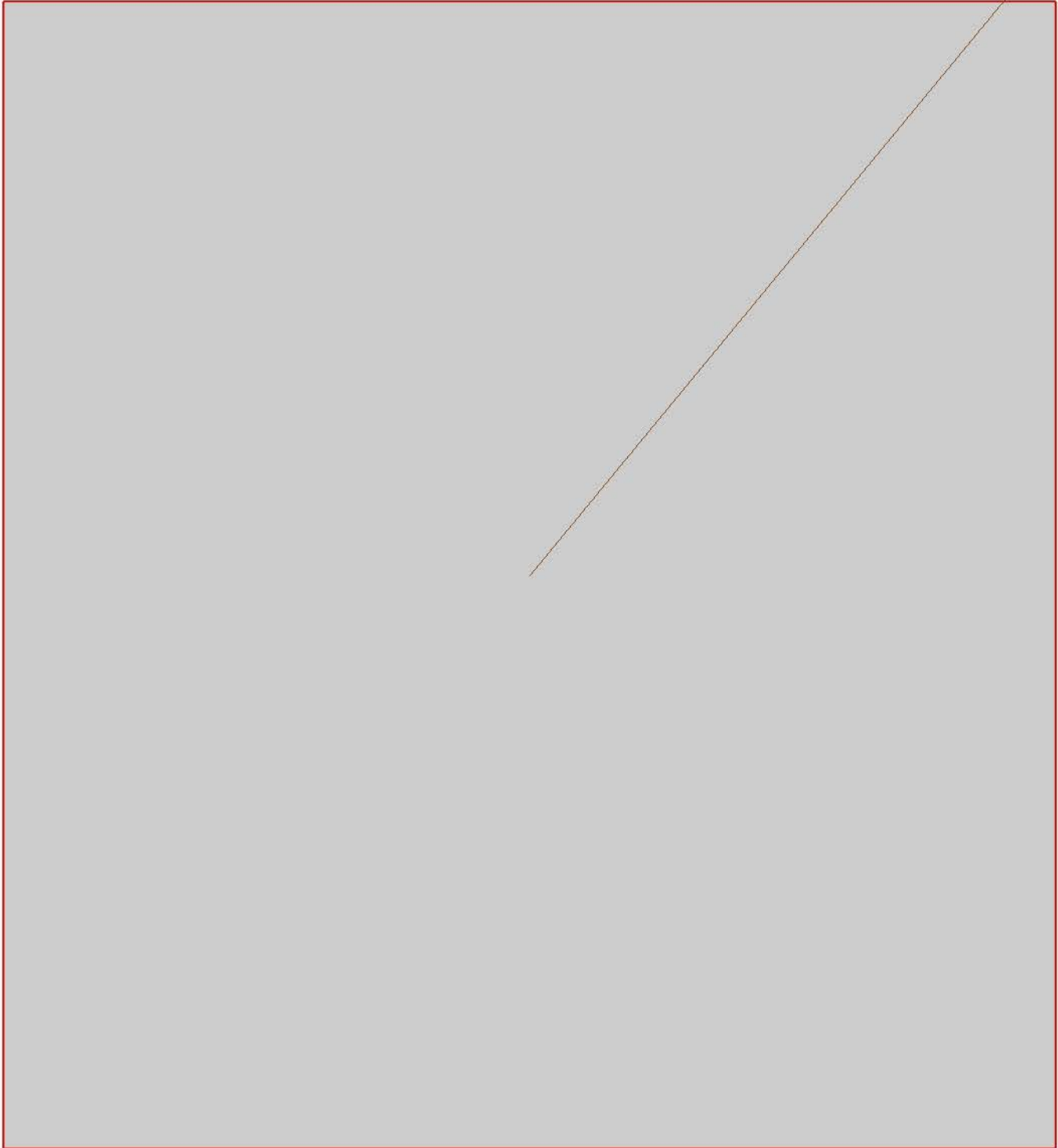
(b)(5)

(b)(5)

(b)(5)

From: Magee, Peder
Sent: 3 Jul 2019 11:13:19 -0400
To: Chopra, Rohit;Cohen, Kristin;George, Tiffany;Mithal, Maneesha;Eichorn, Mark
Cc: Estrada, Danielle;Kaufman, Daniel;Meyer, Erie K;Levine, Samuel
Subject: RE: [REDACTED]

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Tuesday, July 02, 2019 7:36 PM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: Re: [REDACTED]

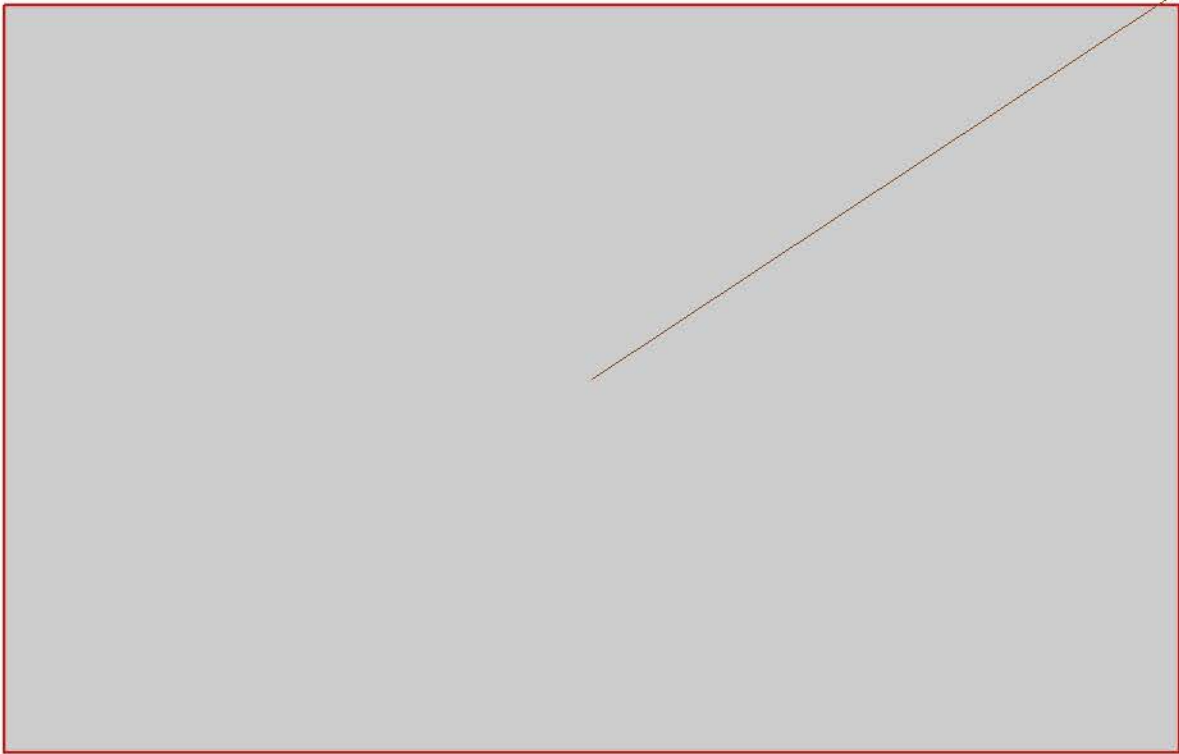
[REDACTED]

RC

On: 19 June 2019 13:19, "Cohen, Kristin" <kcohen@ftc.gov> wrote:

[REDACTED]

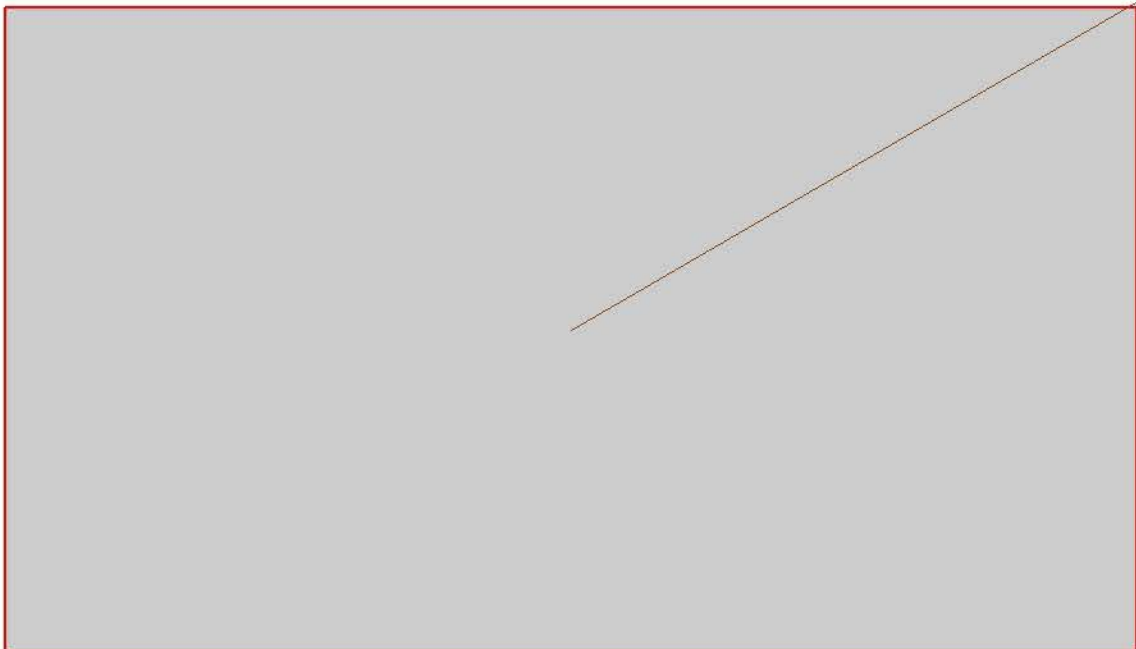
(b)(5)



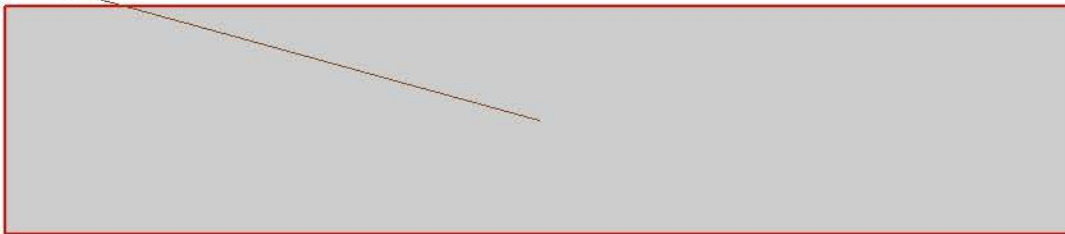
From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Wednesday, June 19, 2019 9:57 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Eric K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: Re: [REDACTED]

(b)(5)

(b)(5)



(b)(5)



Thanks, RC

(b)(5)

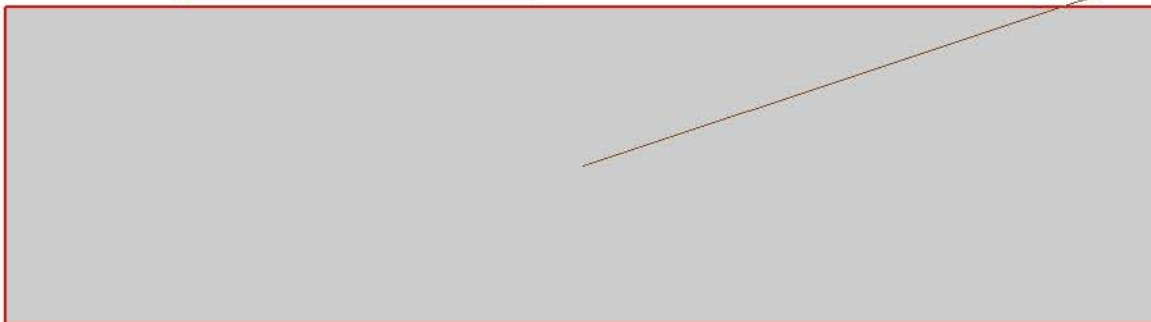
On: 18 June 2019 09:55,
"Cohen, Kristin" <kcohen@ftc.gov> wrote:



From: Chopra, Rohit <r Chopra@ftc.gov>
Sent: Monday, June 17, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE 

(b)(5)

(b)(5)



Thanks again.

From: Chopra, Rohit
Sent: Monday, June 17, 2019 8:55 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE 

(b)(5)

(b)(5)



Thanks in advance, RC

From: Cohen, Kristin <kcohen@ftc.gov>

Sent: Friday, June 14, 2019 10:05 AM

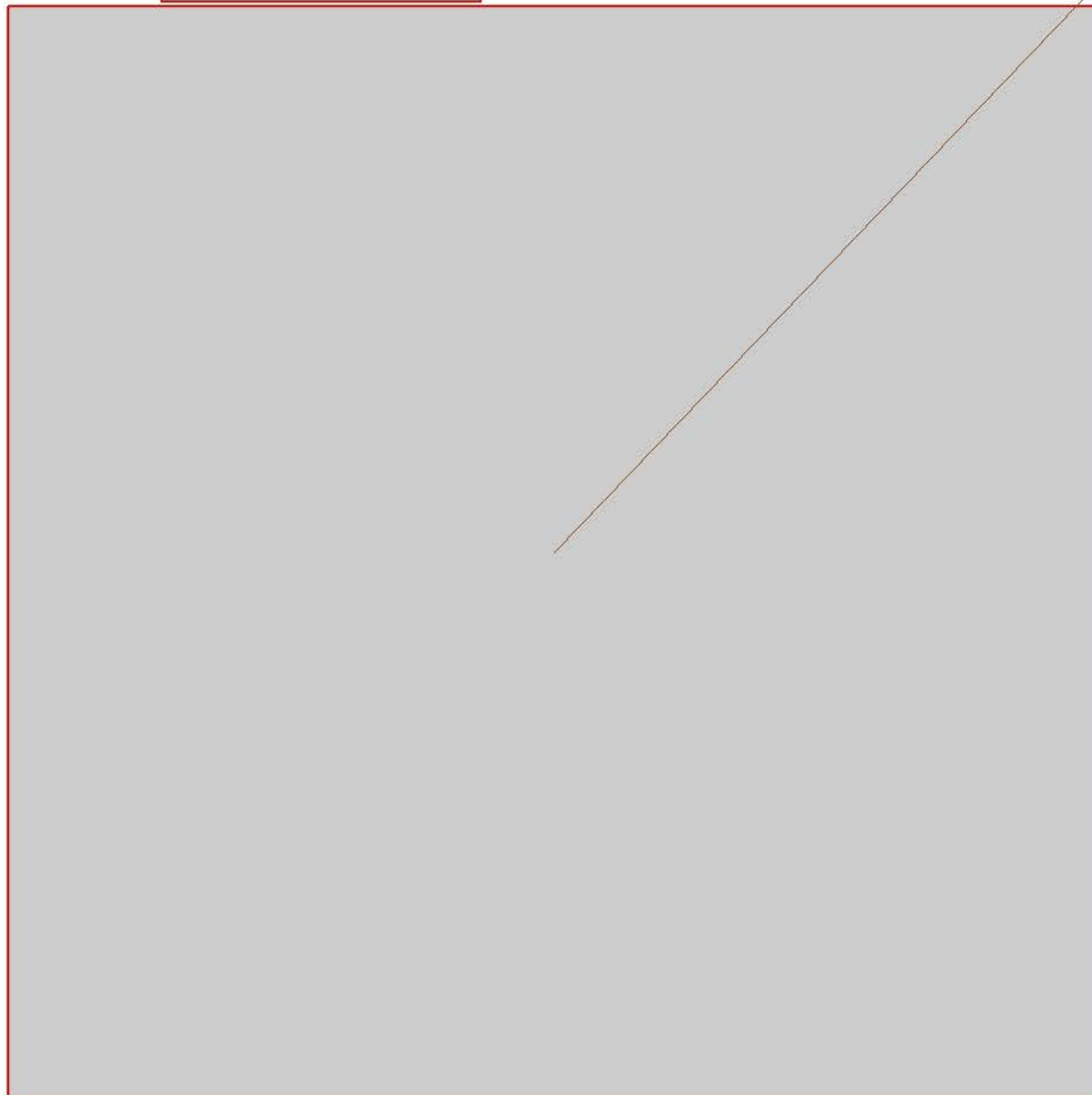
To: Chopra, Rohit <rchopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: RE

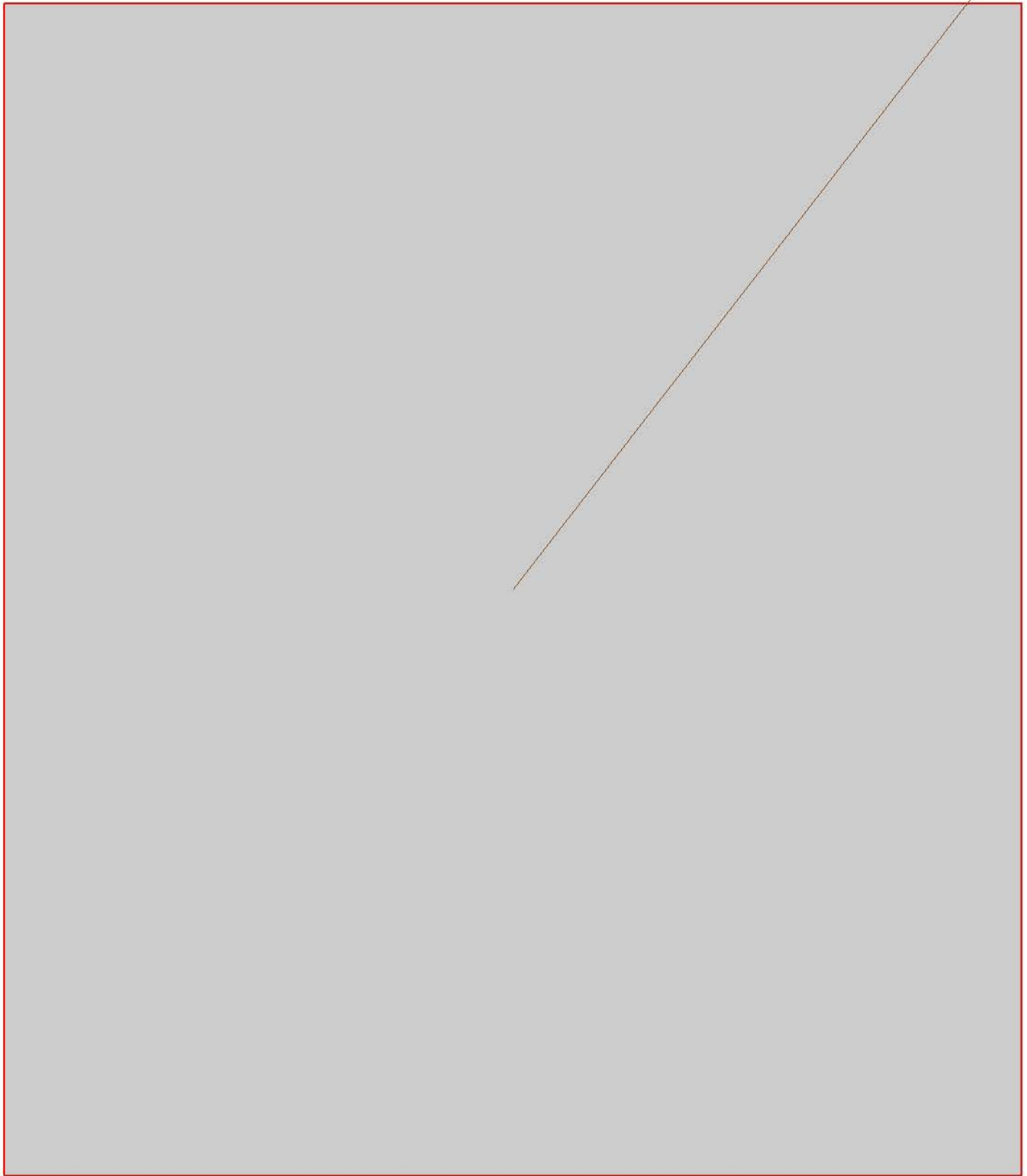


(b)(5)



(b)(5)

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Thursday, June 13, 2019 9:21 AM

(b)(5)

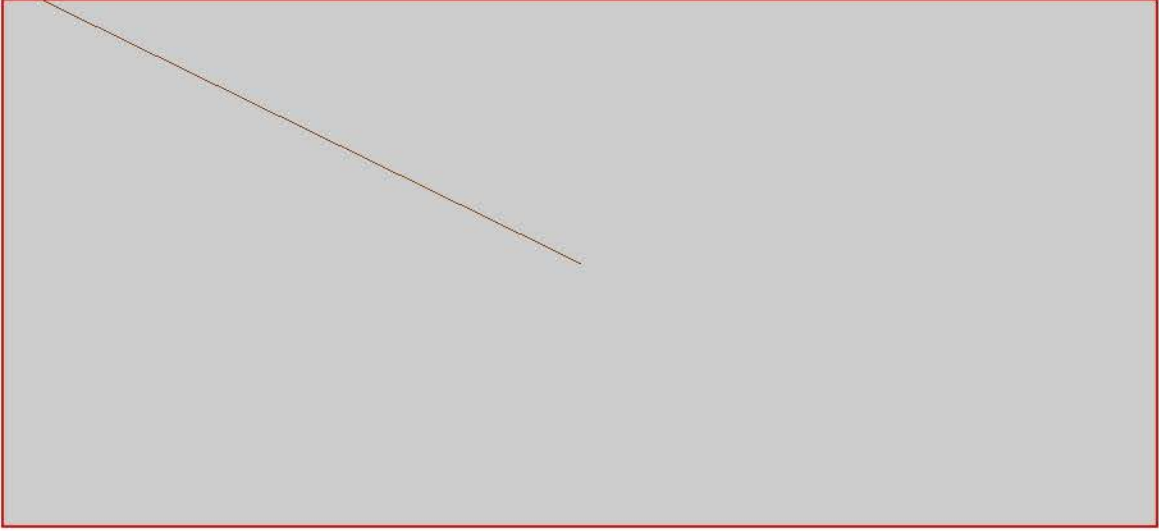
To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject [REDACTED]

All,

[REDACTED]

(b)(5)

(b)(5)



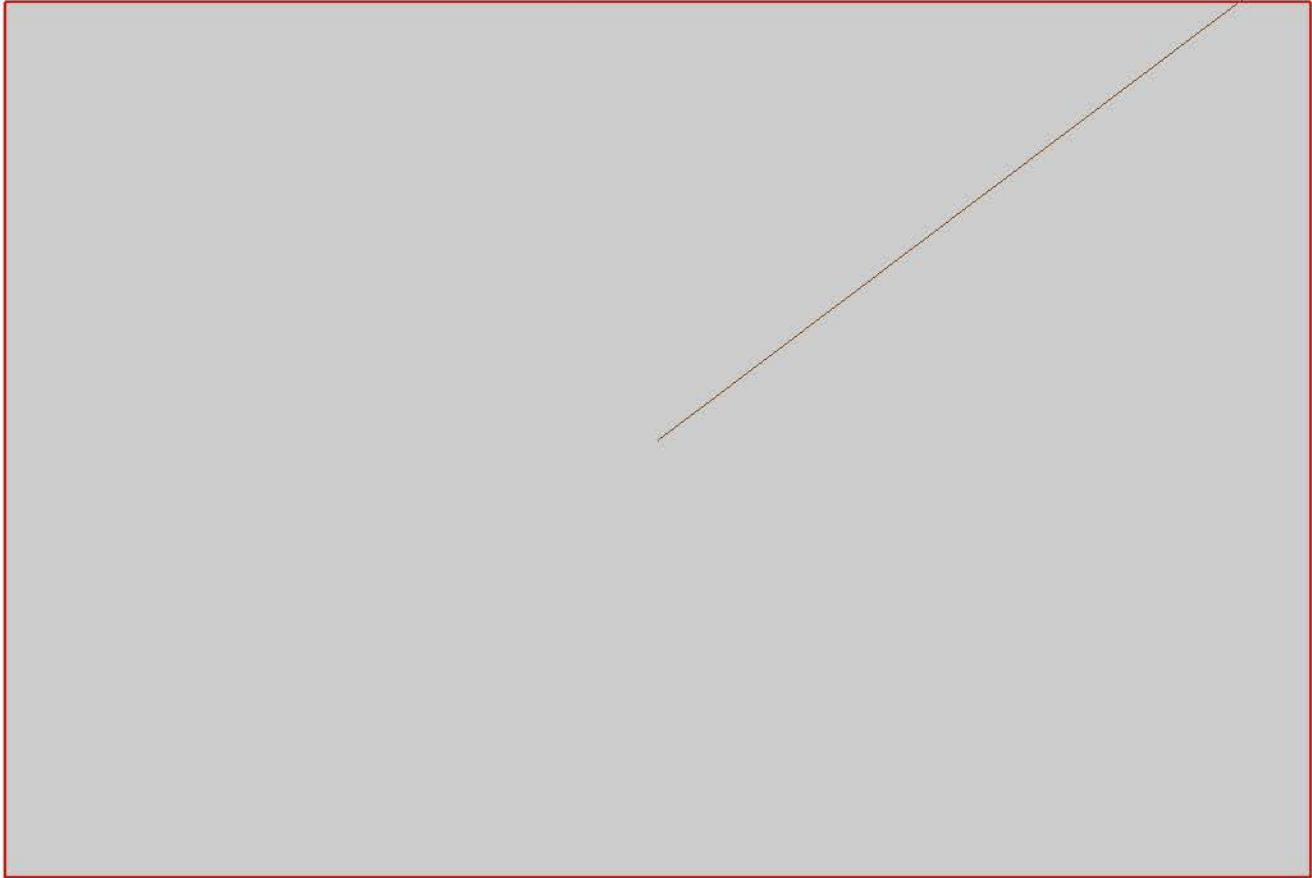
RC

(b)(5)

From: Cohen, Kristin
Sent: 19 Jun 2019 16:32:37 +0000
To: King, Austin; Magee, Peder; George, Tiffany
Cc: Mithal, Maneesha; Eichorn, Mark; Estrada, Danielle; Kaufman, Daniel
Subject: RE: YouTube [REDACTED]

(b)(5)

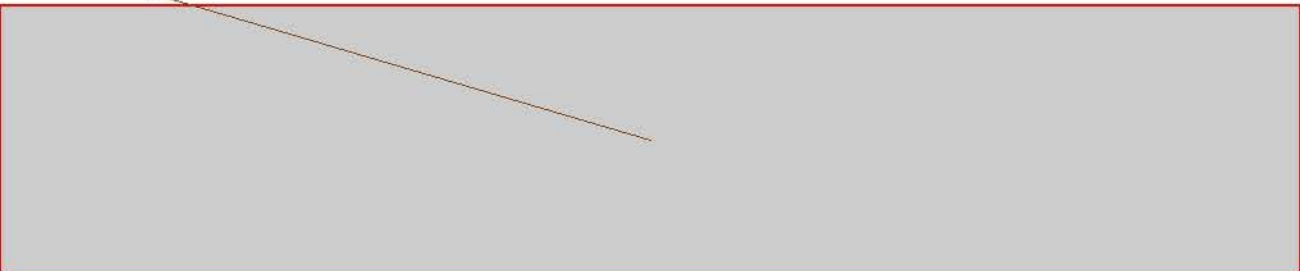
(b)(5)



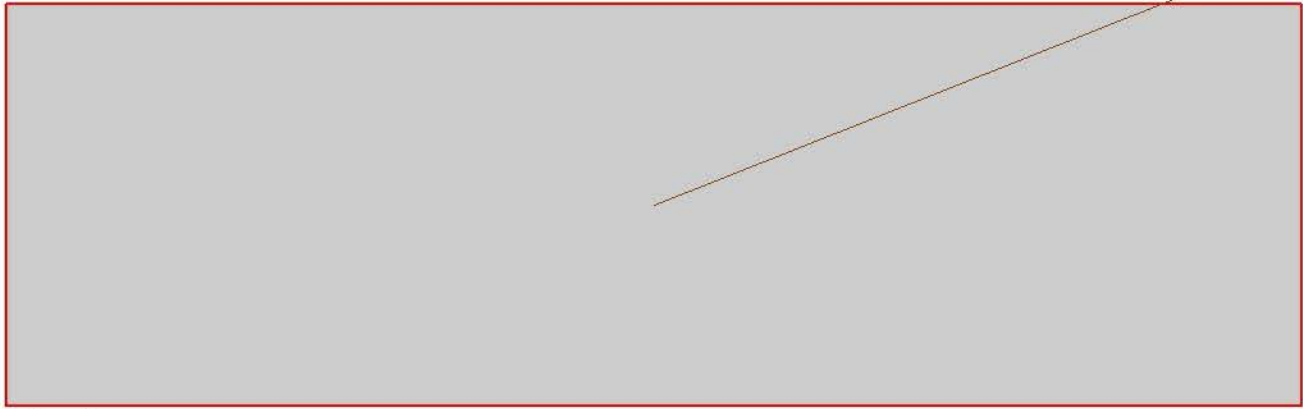
From: King, Austin <aking3@ftc.gov>
Sent: Wednesday, June 19, 2019 11:04 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>
Subject: RE: YouTube [REDACTED]

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(b)(5)



(b)(5)



Austin

From: King, Austin

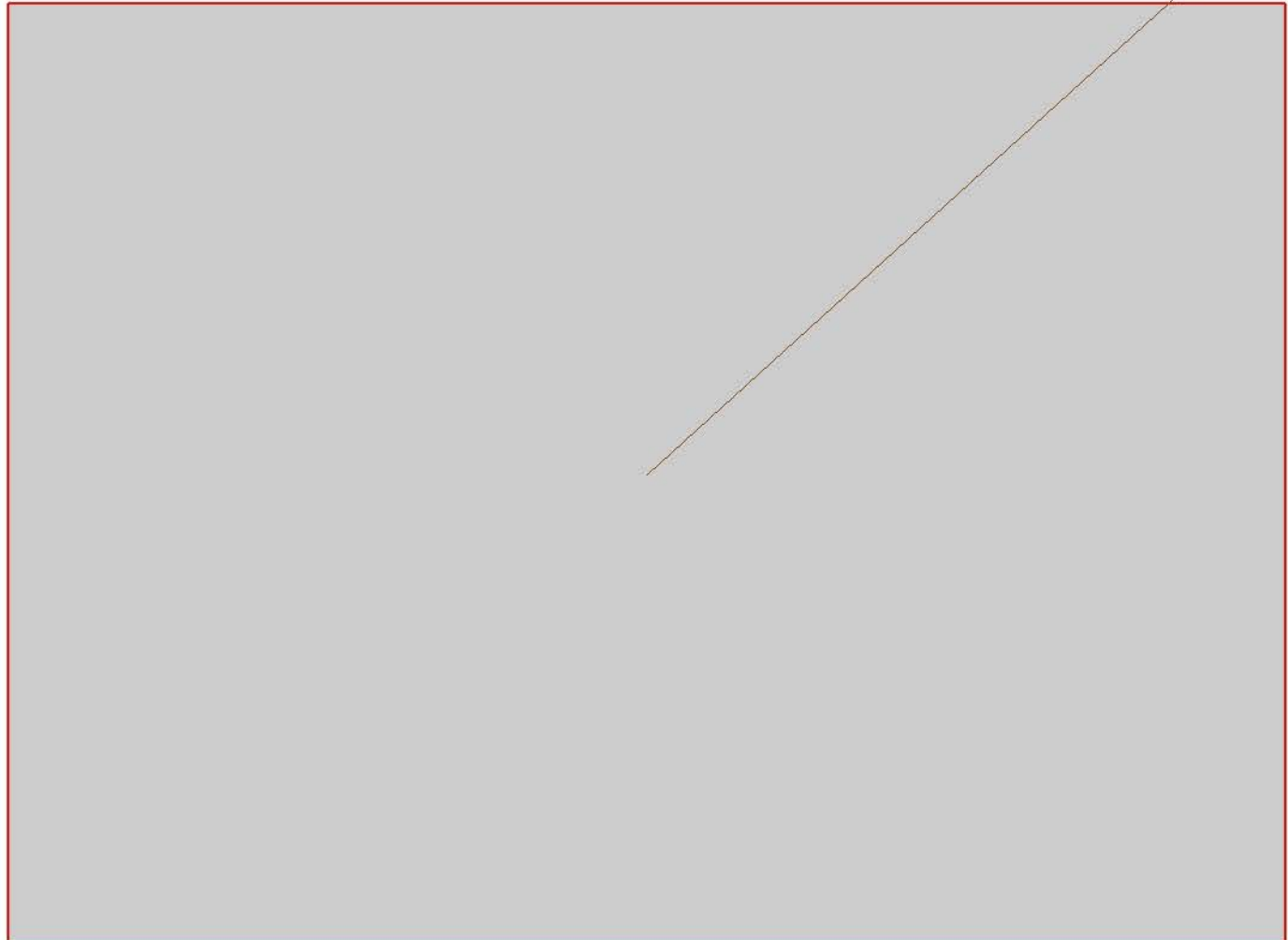
Sent: Monday, June 17, 2019 6:18 PM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: YouTube [redacted]

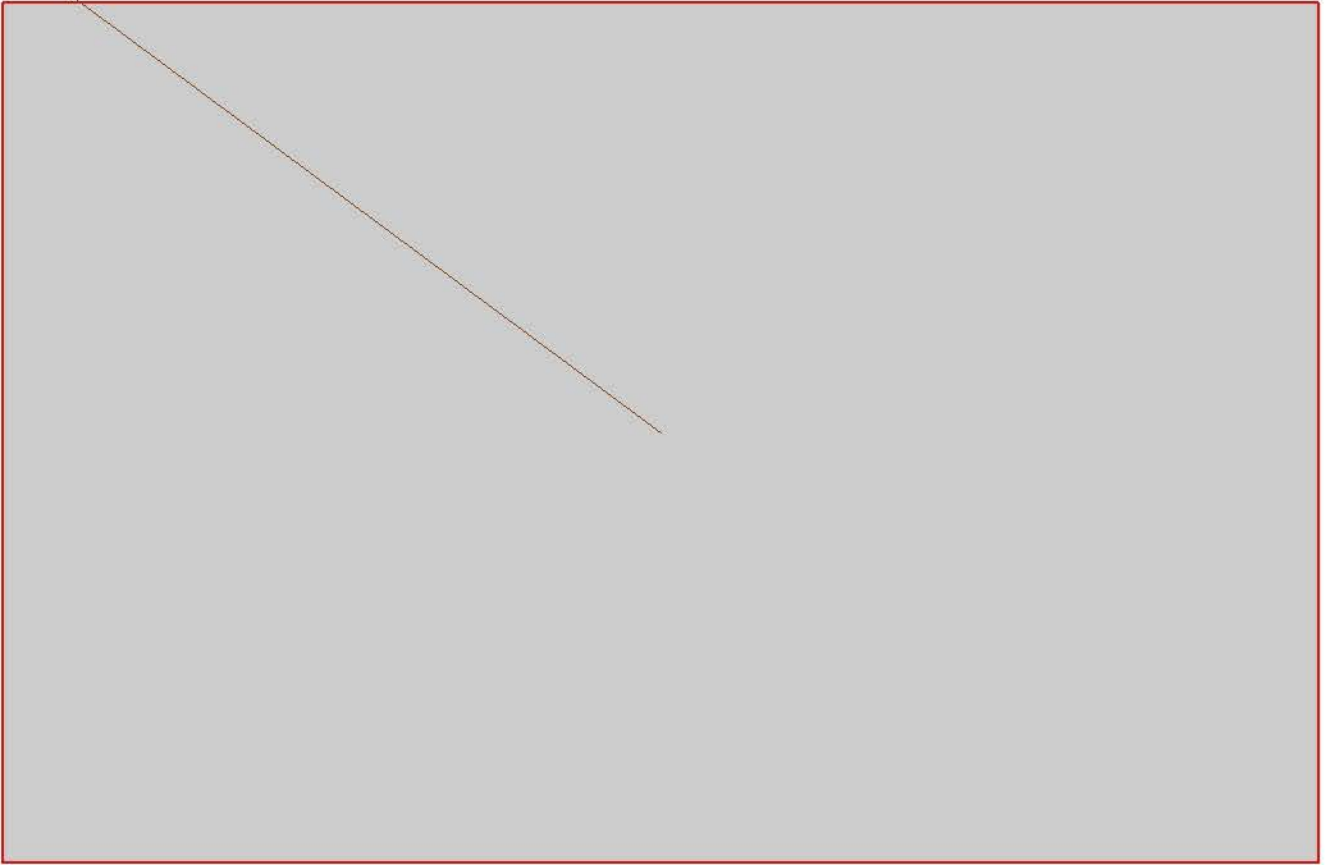
Dear YouTube team,



(b)(5)

(b)(5)

(b)(5)



Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

(b)(5)

From: Cohen, Kristin
Sent: 19 Jun 2019 18:28:25 +0000
To: Delaney, Elizabeth A; Magee, Peder
Cc: Crawford, Molly
Subject: RE: YouTube [redacted]

(b)(5)

[redacted]

(b)(5)

(b)(5)

From: Delaney, Elizabeth A <EDELANEY@ftc.gov>
Sent: Wednesday, June 19, 2019 2:02 PM
To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Crawford, Molly <mcrawford@ftc.gov>
Subject: FW: YouTube [redacted]

[redacted]

(b)(5)

From: King, Austin <aking3@ftc.gov>
Sent: Wednesday, June 19, 2019 1:31 PM
To: Crawford, Molly <mcrawford@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Delaney, Elizabeth A <EDELANEY@ftc.gov>; Spector, Robin <rspector@ftc.gov>
Subject: FW: YouTube [redacted]

(b)(5)

[redacted]

Thanks!
Austin

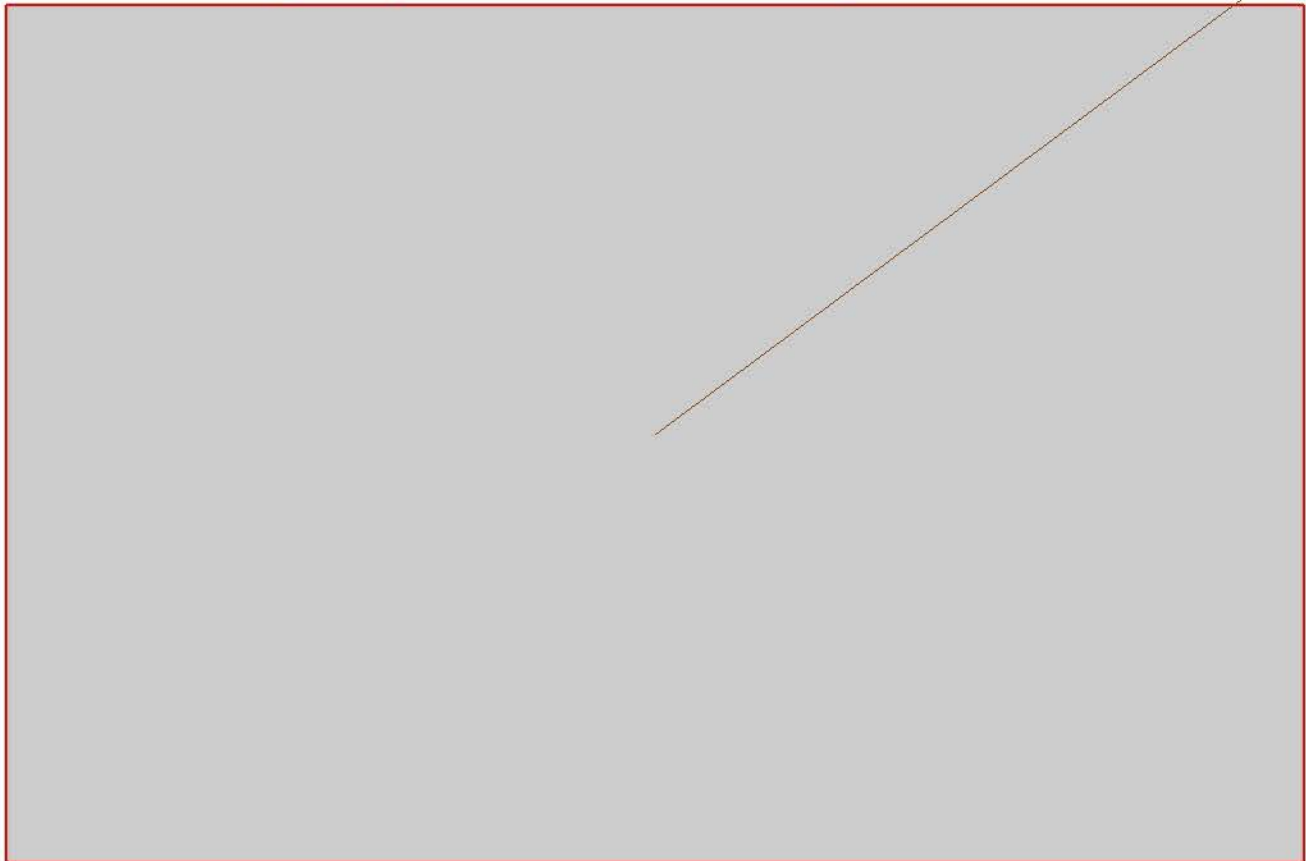
From: Cohen, Kristin <kcohen@ftc.gov>

Sent: Wednesday, June 19, 2019 12:33 PM

To: King, Austin <aking3@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: RE: YouTube [REDACTED]



From: King, Austin <aking3@ftc.gov>

Sent: Wednesday, June 19, 2019 11:04 AM

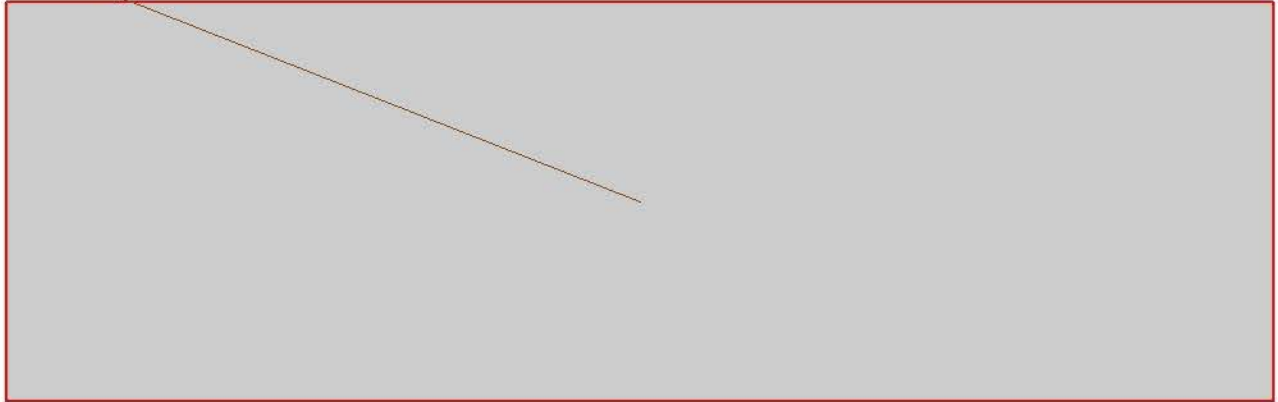
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: RE: YouTube [REDACTED]



(b)(5)



Austin

From: King, Austin

Sent: Monday, June 17, 2019 6:18 PM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: YouTube [redacted]

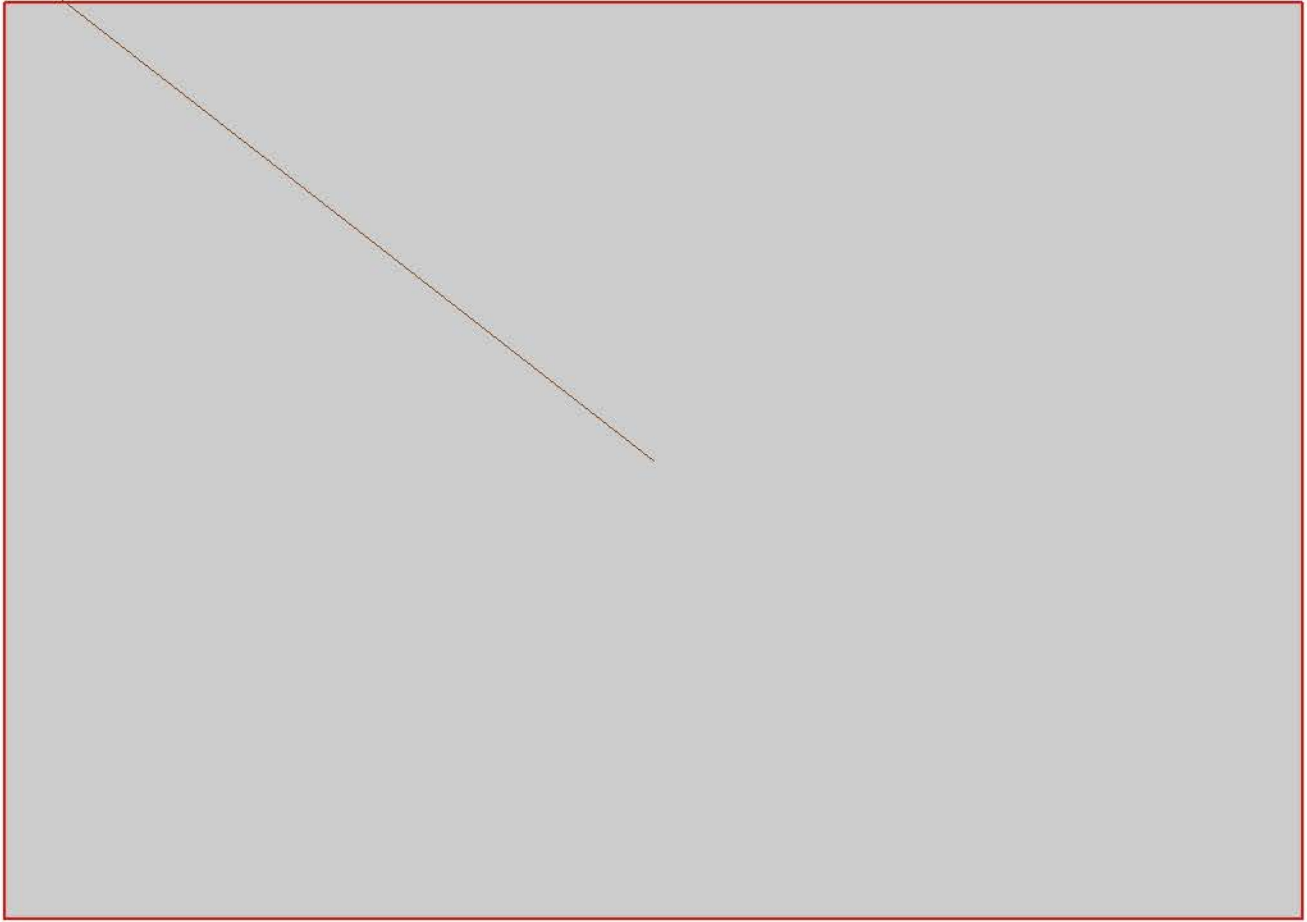
(b)(5)

(b)(5)

Dear YouTube team,



(b)(5)

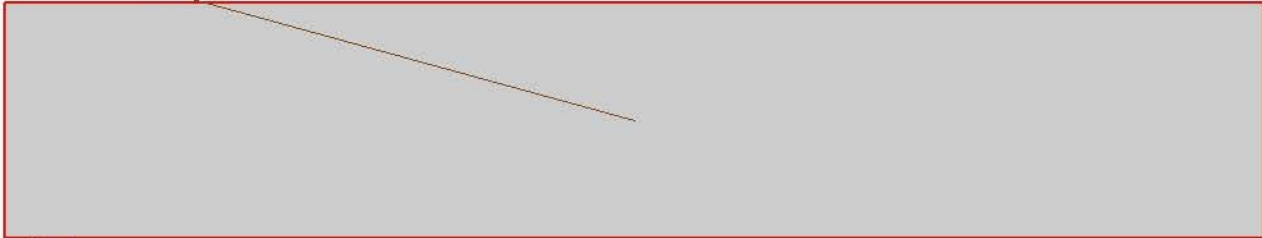


Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

From: Weingarten, Libby
Sent: 3 Sep 2019 23:23:52 +0000
To: Cohen, Kristin; Magee, Peder
Cc: Olsen, Chris
Subject: RE: YouTube

(b)(4);
(b)(3):6(f)

Hi Kristin, Peder,



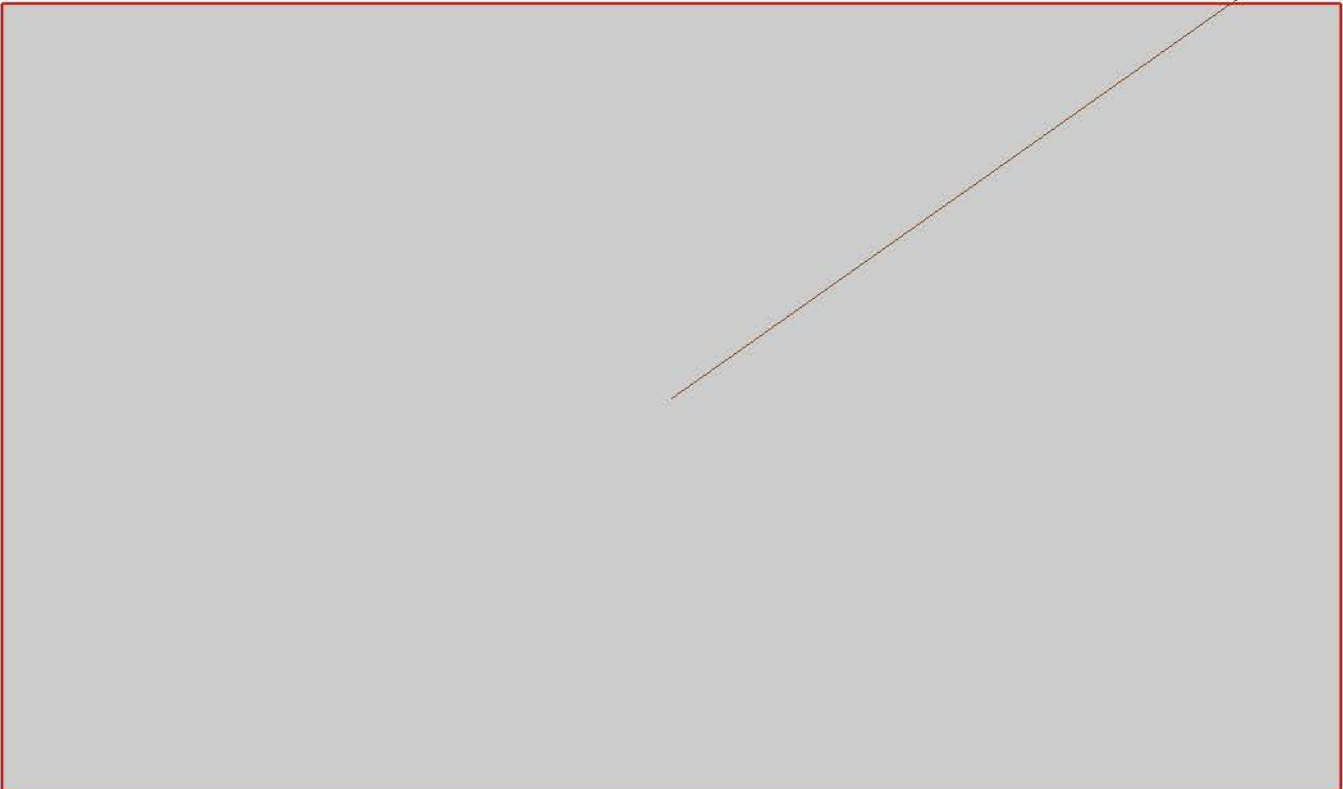
Best,
Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich Rosati | (202) 973-8861 | lweingarten@wsgr.com

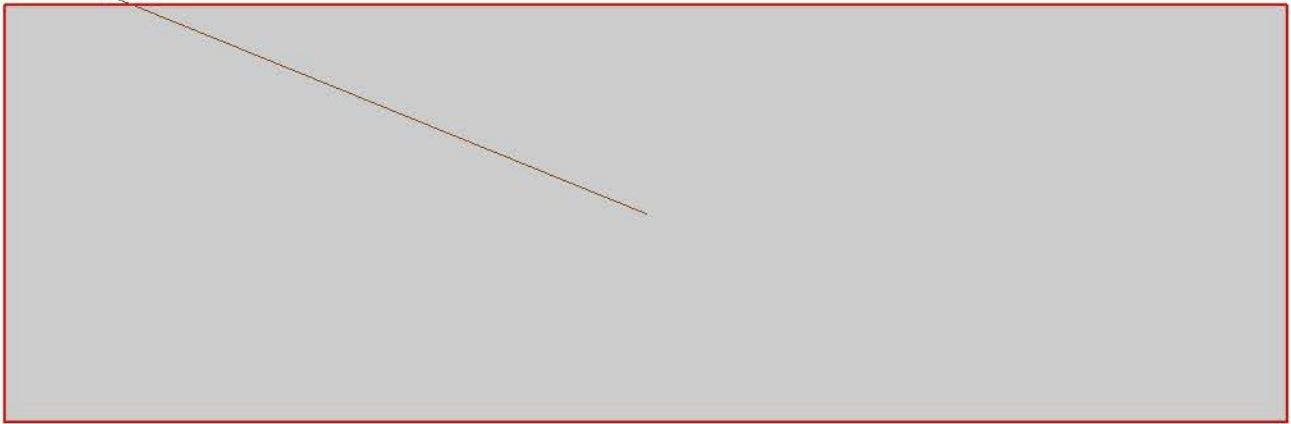
From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, September 3, 2019 5:15 PM
To: Weingarten, Libby <lweingarten@wsgr.com>
Subject: YouTube

Hi Libby,

(b)(4);
(b)(3):6(f)



(b)(4);
(b)(3):6(f)



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From: Weingarten, Libby
Sent: 25 Apr 2019 22:00:17 +0000
To: Olsen, Chris;Cohen, Kristin
Cc: Magee, Peder;George, Tiffany
Subject: RE: YT / Signature page
Attachments: YT_Signature Page_CLEAN.pdf

(b)(4);
(b)(3):6(f) Hi Kristin,

[Redacted]

Thanks,
Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich Rosati | (202) 973-8861 | lweingarten@wsgr.com

From: Olsen, Chris
Sent: Thursday, April 25, 2019 5:01 PM
To: Cohen, Kristin
Cc: Weingarten, Libby; Magee, Peder; George, Tiffany
Subject: Re: YT / Signature page

(b)(4);
(b)(3):6(f)

[Redacted]

(b)(6) Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) [Redacted]

(b)(4);
(b)(3):6(f) On Apr 25, 2019, at 4:54 PM, Cohen, Kristin <kcohen@ftc.gov> wrote:

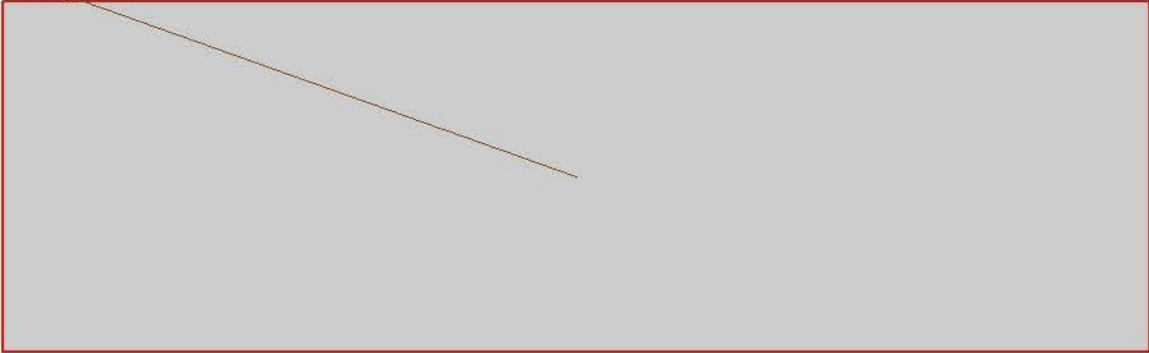
Hi Chris,

[Redacted]

From: Cohen, Kristin
Sent: Thursday, April 25, 2019 4:18 PM

To: 'Olsen, Chris' <colsen@wsgr.com>
Cc: Weingarten, Libby <lweingarten@wsgr.com>; Magee, Peder <PMAGEE@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: RE: YT / Signature page

Chris,



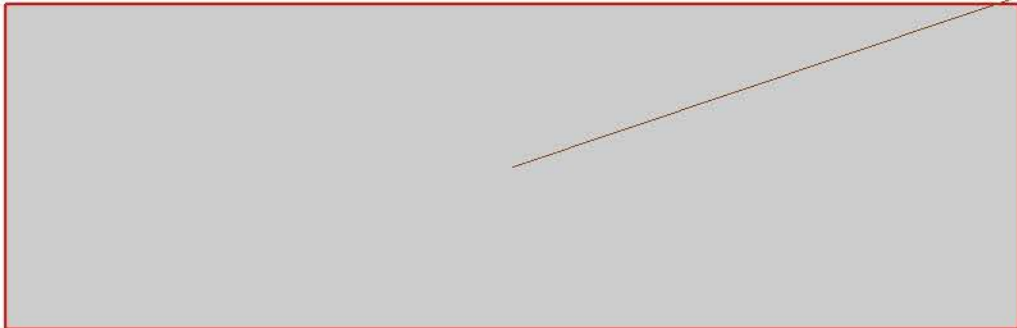
From: Olsen, Chris <colsen@wsgr.com>
Sent: Thursday, April 25, 2019 4:14 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Weingarten, Libby <lweingarten@wsgr.com>; Magee, Peder <PMAGEE@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: Re: YT / Signature page



Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) 

On Apr 25, 2019, at 4:03 PM, Cohen, Kristin <kcohen@ftc.gov> wrote:

Hi Chris and Libby,



Thanks,
Kristin

From: Olsen, Chris <colsen@wsgr.com>

Sent: Thursday, April 25, 2019 3:05 PM

To: Weingarten, Libby <lweingarten@wsgr.com>

Cc: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: Re: YT / Signature page

(b)(4);
(b)(3):6(f)



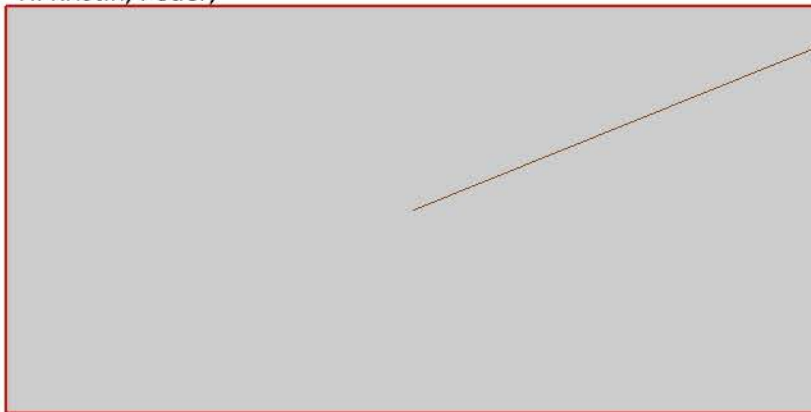
(b)(6)

Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) 

On Apr 25, 2019, at 2:44 PM, Weingarten, Libby <lweingarten@wsgr.com> wrote:

(b)(4);
(b)(3):6(f)

Hi Kristin, Peder,



Thanks very much!

Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich
Rosati | (202) 973-8861 | lweingarten@wsgr.com

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(b)(4);
(b)(3):6(f)

intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.



1 **FOR DEFENDANTS:**

2 

Date: April 25, 2019

3 _____
4 Christopher N. Olsen, Esq.
5 Libby J. Weingarten, Esq.
6 Wilson Sonsini Goodrich & Rosati
7 1700 K Street, NW
8 5th Floor
9 Washington, DC 20006
10 (202) 973-8800
11 (202) 973-8899
12 colsen@wsgr.com
13 lweingarten@wsgr.com
14 COUNSEL for GOOGLE LLC and YOUTUBE, LLC

15 **DEFENDANT: GOOGLE LLC**

16 

Date: April 25, 2019

17 _____
18 Name: Kent Walker
19 Title: Senior Vice President, Global Affairs & Chief Legal Officer

20 **DEFENDANT: YOUTUBE, LLC**
21 **By: Google LLC, its Managing Member**

22 

Date: April 25, 2019

23 _____
24 Name: Kent Walker
25 Title: Senior Vice President, Global Affairs & Chief Legal Officer

From: Olsen, Chris
Sent: 29 Mar 2019 22:03:26 +0000
To: Cohen, Kristin; Magee, Peder; George, Tiffany
Cc: Weingarten, Libby

(b)(4);
(b)(3):6(f)

Subject: [REDACTED]
Attachments: [REDACTED].docx

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

We are happy to discuss after you've had a chance to take a look.

Have a nice weekend,
Chris

(b)(6)

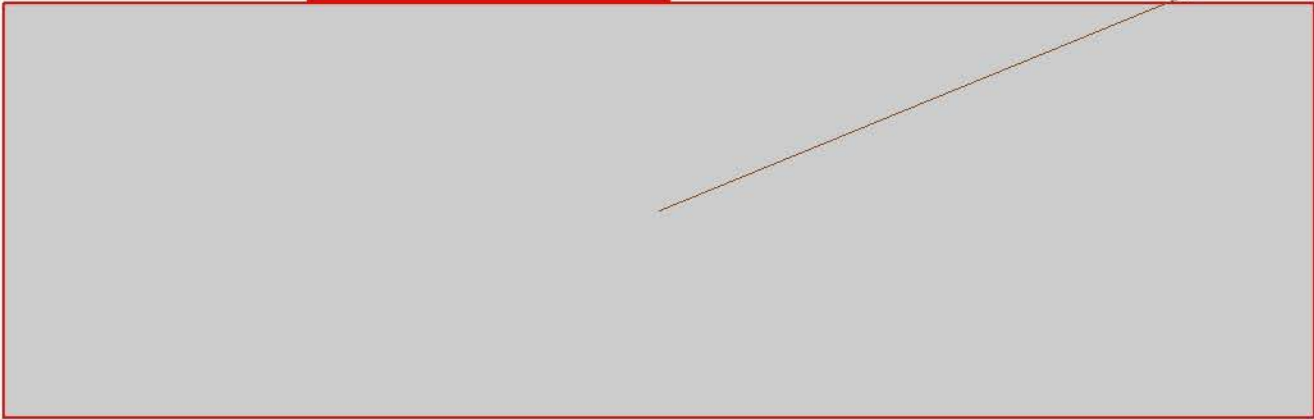
Christopher N. Olsen | Privacy and Data Protection
Wilson Sonsini Goodrich & Rosati
1700 K Street NW | Washington, DC 20006
202.973.8803 (direct [REDACTED] (mobile)
colsen@wsgr.com | www.wsgr.com

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From: Olsen, Chris
Sent: 21 Dec 2018 20:02:47 +0000
To: Magee, Peder;Cohen, Kristin;George, Tiffany
Cc: Weingarten, Libby
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)



Thanks,
Chris

(b)(6)

Christopher N. Olsen | Privacy and Data Protection
Wilson Sonsini Goodrich & Rosati
1700 K Street NW | Washington, DC 20006
202.973.8803 (direct) [REDACTED] mobile)
colsen@wsgr.com | www.wsgr.com

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(b)(5)

From: Townsend, James
Sent: 5 Jun 2019 09:29:13 -0400
To: andrew.clark@usdoj.gov
Cc: Gum, William Ashley;Cohen, Kristin
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(5)

Dear Andrew Clark,

[REDACTED]

James Townsend

Office of the General Counsel | Federal Trade Commission
600 Pennsylvania Avenue NW, Washington, D.C. 20580
(202) 326-2225 | jtownsend@ftc.gov

(b)(4);
(b)(3):6(f)

From: Olsen, Chris
Sent: 8 Feb 2019 20:33:49 +0000
To: Magee, Peder;George, Tiffany;Cohen, Kristin
Cc: Weingarten, Libby
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(4);
(b)(3):6(f)

Chris

(b)(6)

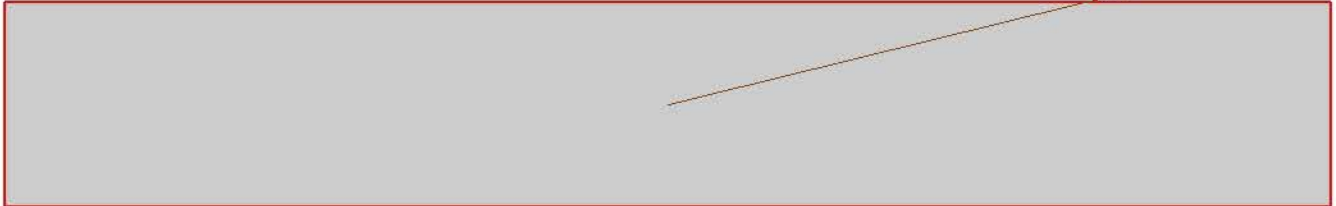
Christopher N. Olsen | Privacy and Data Protection
Wilson Sonsini Goodrich & Rosati
1700 K Street NW | Washington, DC 20006
202.973.8803 (direct) [REDACTED] (mobile)
colsen@wsgr.com | www.wsgr.com

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From: Cohen, Kristin
Sent: 28 Mar 2019 13:17:43 +0000
To: Winter, Brad
Cc: George, Tiffany; Magee, Peder
Subject: YouTube

(b)(4);
(b)(3):6(f)

Hi Brad,



It looked like 2:00 worked for everyone.

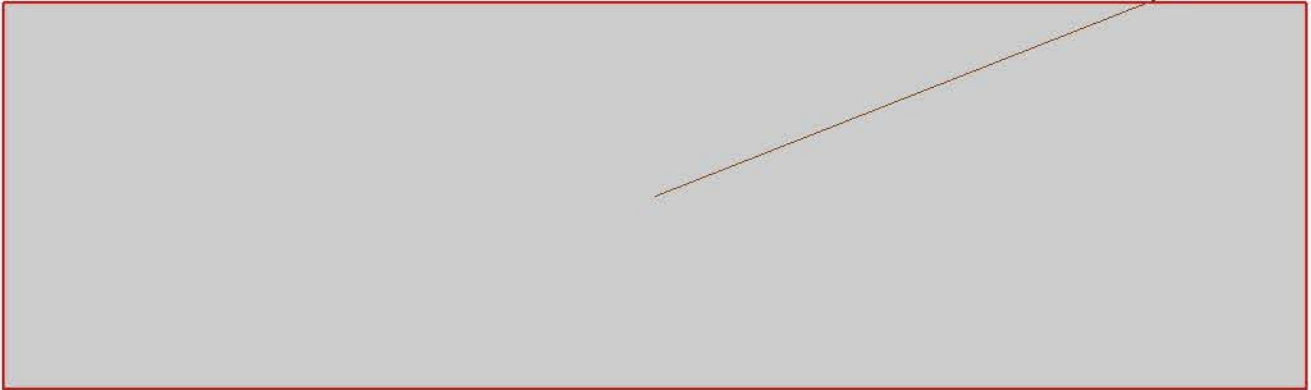
Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

From: Cohen, Kristin
Sent: 26 Mar 2019 13:50:48 +0000
To: 'Olsen, Chris';Weingarten, Libby
Cc: Magee, Peder;George, Tiffany
Subject: YouTube

(b)(4);
(b)(3):6(f)

Hi Chris,



Thanks,
Kristin

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

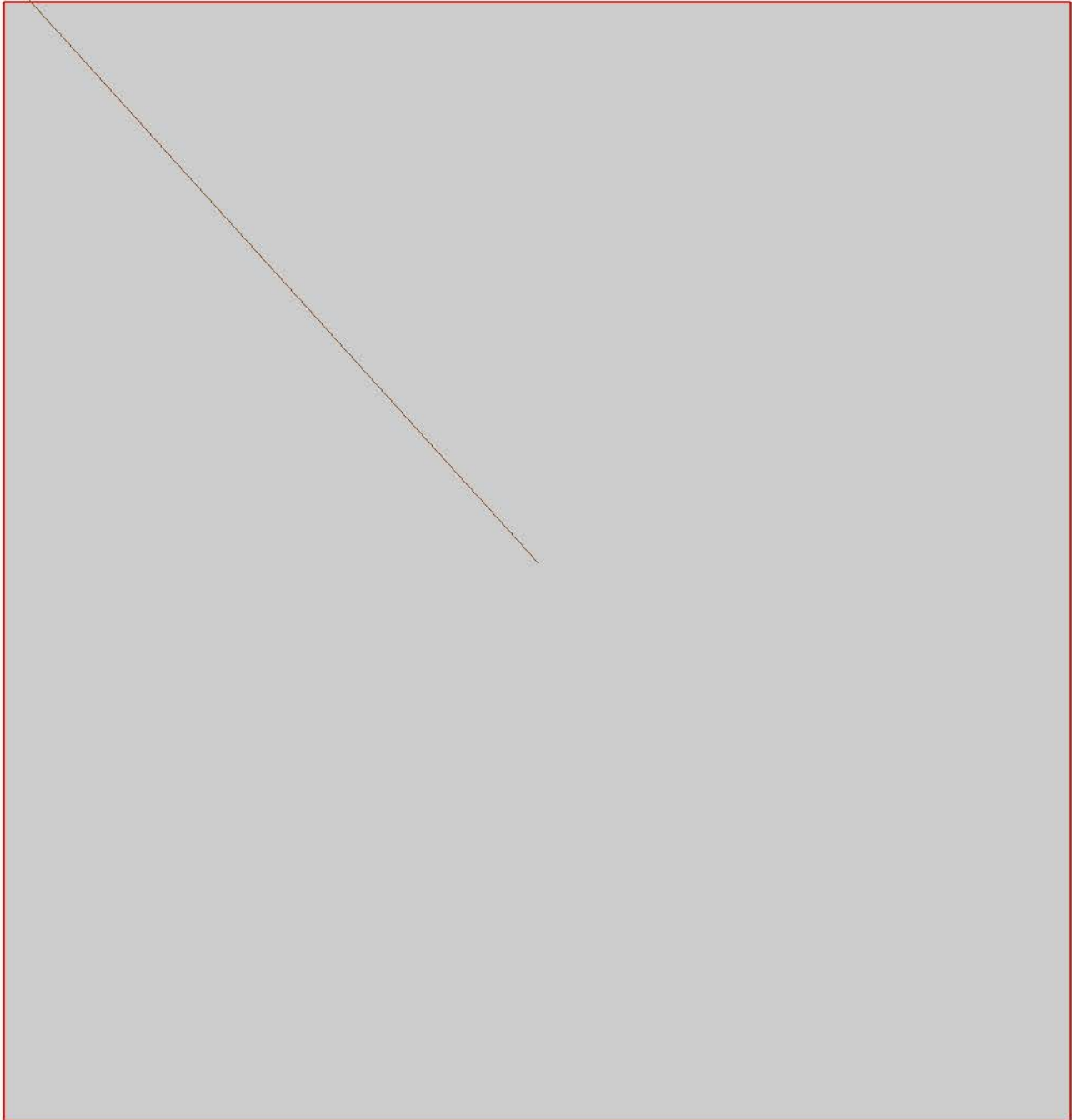
This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

(b)(4);
(b)(3):6(f)

From: Cohen, Kristin
Sent: 22 Feb 2019 21:00:45 +0000
To: 'Olsen, Chris';Weingarten, Libby
Cc: Magee, Peder;George, Tiffany
Subject: YouTube [REDACTED]

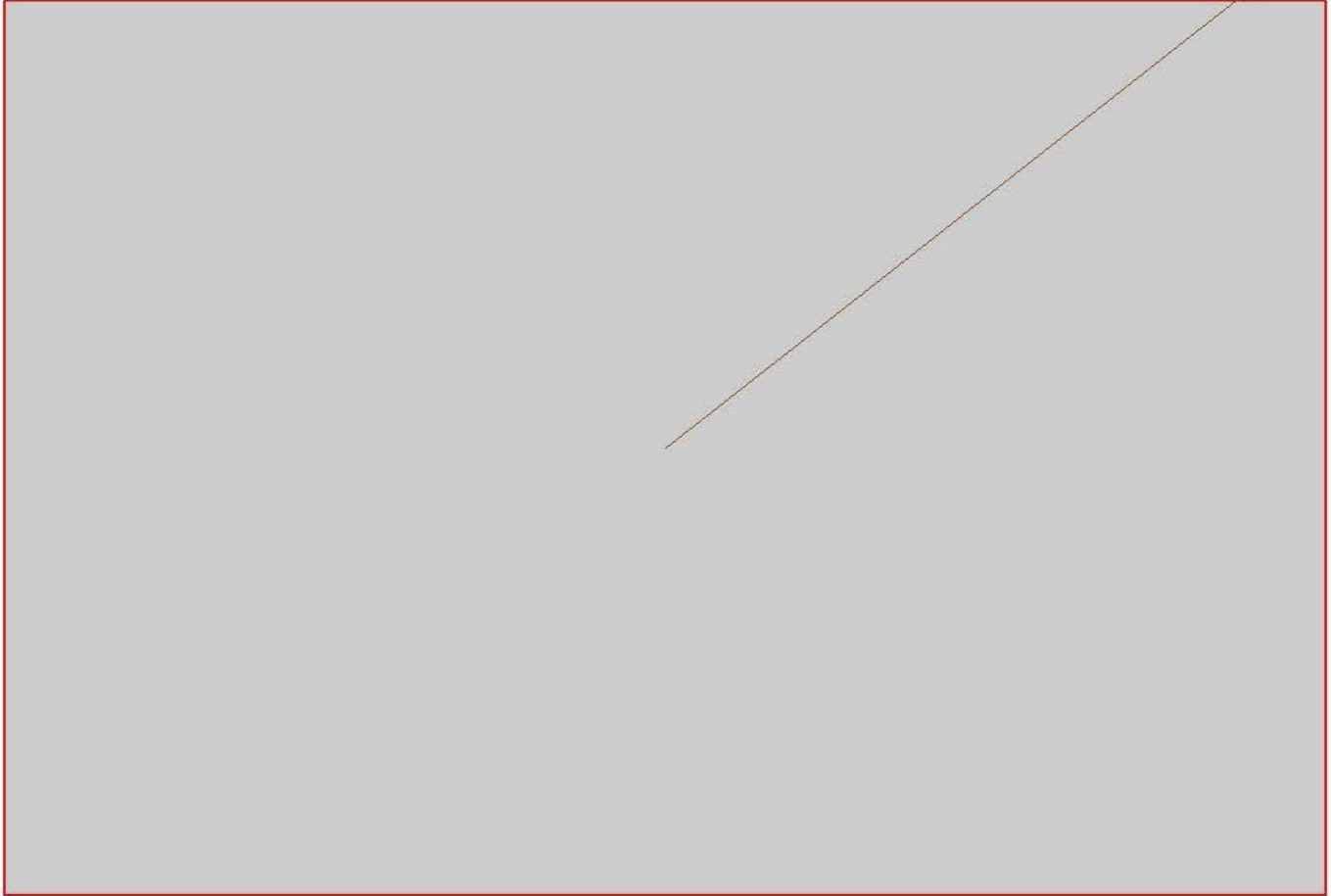
(b)(4);
(b)(3):6(f)

Hi Chris,



Thanks,
Kristin

(b)(4);
(b)(3):6(f)

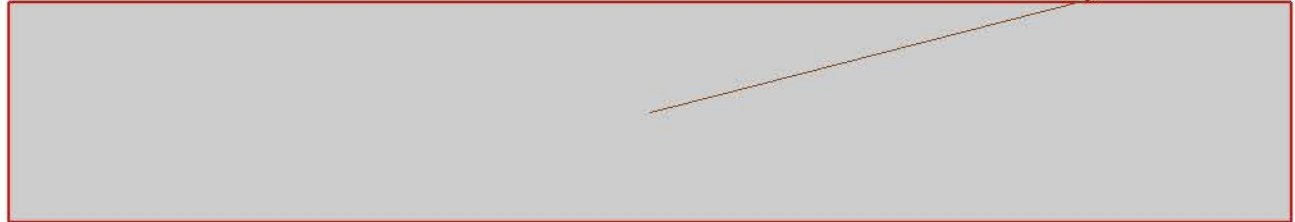


Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

From: Cohen, Kristin
Sent: 6 Sep 2019 20:12:00 +0000
To: Weingarten, Libby;'Olsen, Chris'
Cc: Magee, Peder;George, Tiffany
Subject: YouTube Complaint Errata
Attachments: Errata Civil Cover Sheet.pdf, Errata Exhibits.pdf, File Stamped Errata
Complaint.pdf, Errata ECF Notification.pdf

(b)(4);
(b)(3)-6(f)



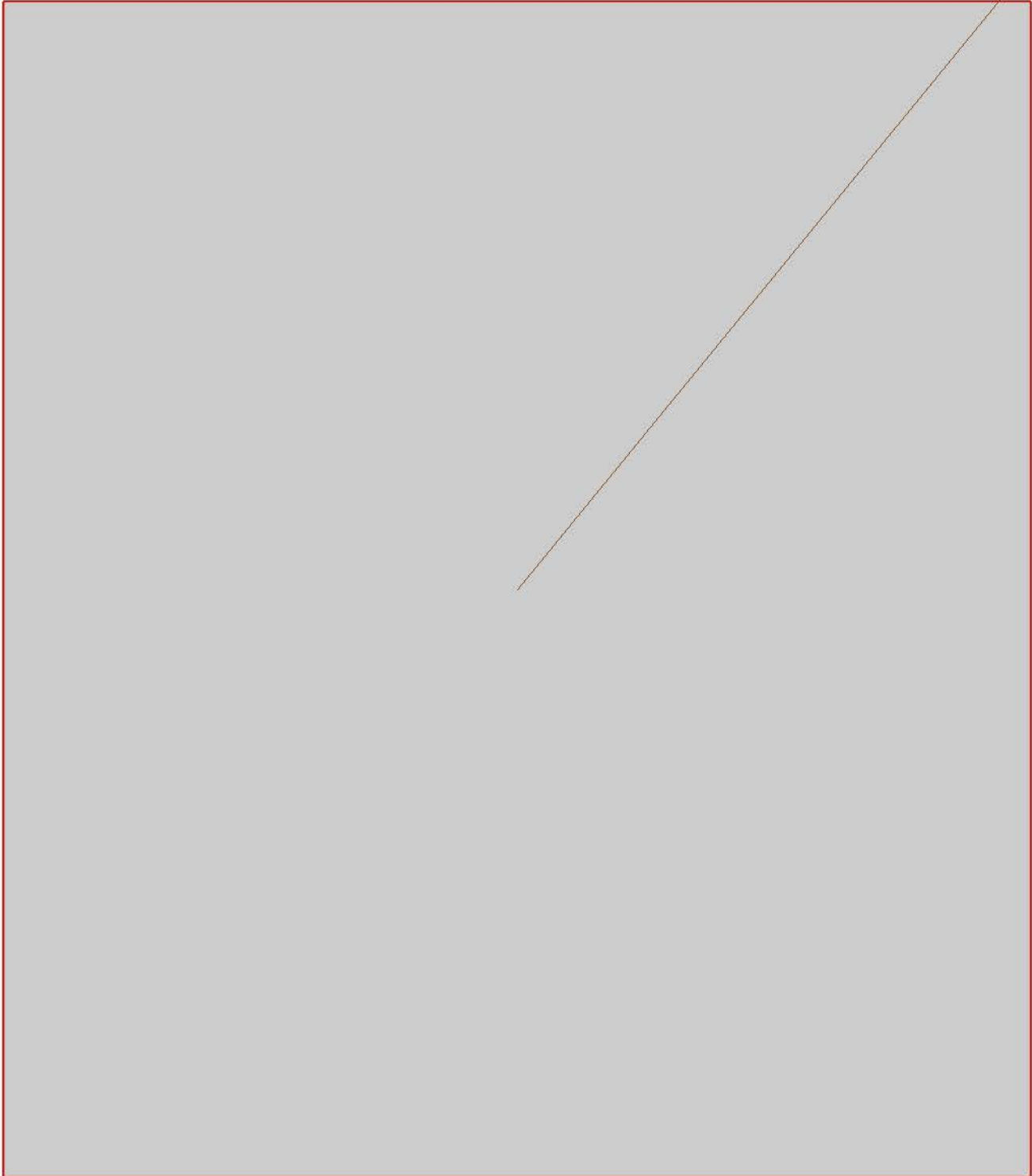
Thanks,
Kristin

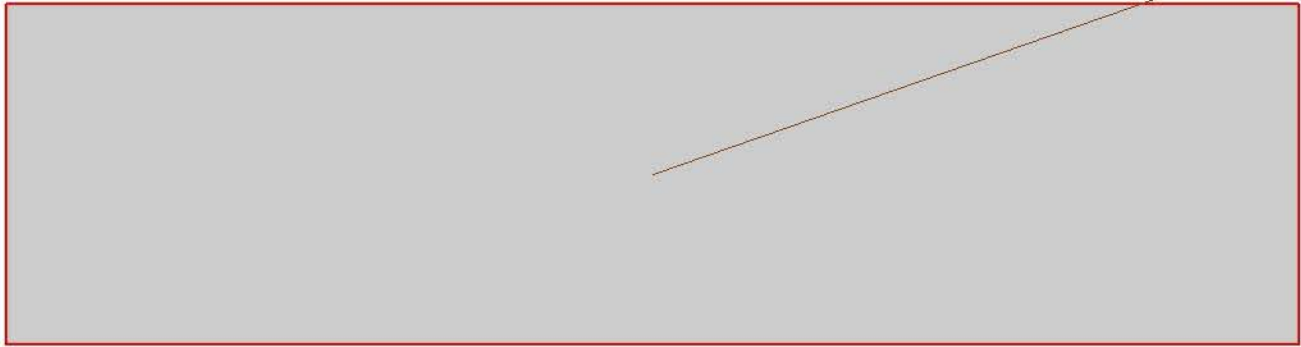
From: King, Austin
Sent: 17 Jun 2019 18:18:14 -0400
To: Cohen, Kristin; Magee, Peder; George, Tiffany
Cc: Mithal, Maneesha; Eichorn, Mark; Estrada, Danielle; Kaufman, Daniel
Subject: YouTube [REDACTED]

(b)(5)

Dear YouTube team,

(b)(5)





Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

From: Cohen, Kristin
Sent: 4 Sep 2019 12:28:54 +0000
To: 'Olsen, Chris';Weingarten, Libby
Cc: Magee, Peder;George, Tiffany
Subject: YouTube
Attachments: stamped civil cover sheet.pdf, Stamped Complaint.pdf, stamped consent order.pdf, stamped exhibits.pdf, stamped motion for entry.pdf

(b)(4);
(b)(3):6(f)

Hi Chris and Libby,



CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

<p>I. (a) PLAINTIFFS FEDERAL TRADE COMMISSION PEOPLE OF THE STATE OF NEW YORK</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Kristin Cohen, Peder Magee, Tiffany George, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326-2276; Clark Russell, Jordan Adler, New York State Attorney General, 28 Liberty St., NY, NY 10005 (212) 416 8422</p>	<p>DEFENDANTS GOOGLE LLC YOUTUBE, LLC</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>Santa Clara</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p> <p>ATTORNEYS (IF KNOWN) Christopher N. Olsen, Libby Weingarten, Wilson Sonsini Goodrich & Rosata, 1700 K Street, NW, Washington, DC 20006 (202) 973-8800</p>																								
<p>II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)</p> <p><input checked="" type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																				
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
--	---	---	---

E. General Civil (Other) OR **F. Pro Se General Civil**

<p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 27 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent – Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p>	<p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p>	<p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input checked="" type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>
--	--	---	--

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Sections 5(a), 13(b) and 16(a)(1) of FTC Act, the Children's Online Privacy Protection Act and COPPA Rule

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>September 4, 2019</u>	SIGNATURE OF ATTORNEY OF RECORD <u>Kristin Krause Cohen</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent injunction, and other equitable relief for Defendants’ violations of the Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN’S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children’s personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained. Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such

Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and
- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.

8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times

material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

25. In addition to marketing YouTube as a top destination for kids, Defendants have a content rating system that categorizes content into age groups and includes categories for children under 13 years old. In order to align with content policies for advertising, Defendants rate all videos uploaded to YouTube, as well as the channels as a whole. Defendants assign each channel and video a rating of Y (generally intended for ages 0-7); G (intended for any age); PG (generally intended for ages 10+); Teen (generally intended for ages 13+); MA (generally intended for ages 16+); and X (generally intended for ages 18+). Defendants assign these ratings through both automated and manual review. Previously, Defendants also used a classification for certain videos shown on YouTube as "Made for Kids."

26. Defendants do not treat Y rated channels or videos differently for purposes of data collection from other content on YouTube. Defendants continue to allow the channel owner to monetize Y rated content and earn revenue from behavioral advertising. Defendants also had no policy in place to treat content classified as "Made for Kids" differently for purposes of behavioral advertising on YouTube.

27. In 2015, Defendants created a separate mobile application called "YouTube Kids," aimed at children age 2-12, generally using content rated Y or G taken from YouTube on an automated basis. Defendants also specifically curate, through manual review, content that appears on the YouTube Kids home screen, which Defendants refer to as the "home canvas." Content that appears on YouTube Kids continues to be available on YouTube. Unlike Defendants' practices on YouTube, Defendants do not collect persistent identifiers from users of

YouTube Kids in order to serve behavioral advertising. Instead, Defendants monetize YouTube Kids solely through delivery of contextual advertising.

YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”) (collectively, “Plaintiffs”) filed their Complaint for Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312. Defendants have waived service of the summons and the Complaint. Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants violated the COPPA Rule and Section 5 of the FTC Act, 15 U.S.C. § 45, by failing to post a privacy policy on their online service providing clear, understandable, and complete notice of their information practices with respect to the Collection of Personal Information from Children, failing to provide direct notice to Parents of such information practices, and failing to Obtain Verifiable Parental Consent prior to Collecting, using, or Disclosing Personal Information from Children.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. “**Channel Owner**” means individuals or entities who upload videos onto the YouTube Service.
- B. “**Child**” or “**Children**” means an individual or individuals under the age of 13.

C. **“Clear and Conspicuous”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as Children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

D. “**Collects**” or “**Collection**” means the gathering of any Personal Information from a Child by any means, including but not limited to:

1. Requesting, prompting, or encouraging a Child to submit Personal Information online;
2. Enabling a Child to make Personal Information publicly available in identifiable form. An Operator shall not be considered to have Collected Personal Information if it takes reasonable measures to Delete all or virtually all Personal Information from a Child’s postings before they are made public and also to Delete such Personal Information from its records; or
3. Passive tracking of a Child online.

E. “**Compliance Date**” means four months after entry of this Order.

F. “**Content**” means any video or channel page found on the YouTube Service.

G. “**Defendants**” means Google LLC, a Delaware limited liability company, and YouTube, LLC, a Delaware limited liability company, and their successors and assigns.

H. “**Delete**” means to remove Personal Information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

I. “**Disclose**” or “**Disclosure**” means, with respect to Personal Information:

1. The Release of Personal Information Collected by an Operator from a Child in identifiable form for any purpose, except where an Operator provides such information to a Person who provides Support for the Internal Operations of the Website or Online Service; and

2. Making Personal Information Collected by an Operator from a Child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

J. **“Internet”** means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

K. **“Obtaining Verifiable Parental Consent”** means making any reasonable effort (taking into consideration available technology) to ensure that before Personal Information is Collected from a Child, a Parent of the Child:

1. Receives notice of the Operator’s Personal Information Collection, use, and Disclosure practices; and

2. Authorizes any Collection, use, and/or Disclosure of the Personal Information, using a method reasonably calculated, in light of available technology, to ensure that the Person providing consent is the Child’s Parent.

L. “**Online Contact Information**” means an email address or any other substantially similar identifier that permits direct contact with a Person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

M. “**Operator**” means any Person who operates a website located on the Internet or an online service and who Collects or maintains Personal Information from or about the users of or visitors to such website or online service, or on whose behalf such information is Collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with one or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). Personal Information *is Collected or maintained on behalf of* an Operator when:

1. It is Collected or maintained by an agent or service provider of the Operator; or
2. The Operator benefits by allowing another Person to Collect Personal Information directly from users of such website or online service.

N. “**Parent**” includes a legal guardian.

O. “**Person**” means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

P. **“Personal Information”** means individually identifiable information about an individual Collected online, including:

1. A first and last name;
2. A home or other physical address including street name and name of a city or town;
3. Online Contact Information;
4. A screen or user name where it functions in the same manner as Online Contact Information;
5. A telephone number;
6. A Social Security number;
7. A persistent identifier that can be used to recognize a user over time and across different websites or online services, where such persistent identifier is used for functions other than or in addition to Support for the Internal Operations of the Website or Online Service. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;
8. A photograph, video, or audio file where such file contains a Child’s image or voice;
9. Geolocation information sufficient to identify street name and name of a city or town; or
10. Information concerning the Child or the Parents of that Child that the Operator Collects online from the Child and combines with an identifier described in this definition.

Q. **“Release of Personal Information”** means the sharing, selling, renting, or transfer of Personal Information to any Third Party.

R. **“Support for the Internal Operations of the Website or Online Service”** means

1. Those activities necessary to:
 - a) Maintain or analyze the functioning of the website or online service;
 - b) Perform network communications;
 - c) Authenticate users of, or personalize the content on, the website or online service;
 - d) Serve contextual advertising on the website or online service or cap the frequency of advertising;
 - e) Protect the security or integrity of the user, website, or online service;
 - f) Ensure legal or regulatory compliance; or
 - g) Fulfill a request of a Child as permitted by Section 312.5(c)(3) and (4) of the COPPA Rule (attached as Appendix A);
2. So long as the information Collected for these activities listed in 1(a) – (g) is not used or Disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

S. **“Third Party”** means any Person who is not:

1. An Operator with respect to the Collection or maintenance of Personal Information on the website or online service; or
2. A Person who provides Support for the Internal Operations of the Website or Online Service and who does not use or Disclose information protected under the COPPA Rule (attached as Appendix A).

T. **“Website or Online Service Directed to Children”** means a commercial website or online service, or portion thereof, that is targeted to Children.

1. In determining whether a website or online service, or a portion thereof, is directed to Children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to Children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to Children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.
2. A website or online service shall be deemed directed to Children when it has actual knowledge that it is Collecting Personal Information directly from users of another Website or Online Service Directed to Children.
3. A website or online service that is directed to Children under the criteria set forth in paragraph (1) of this definition, but that does not target Children as its primary audience, shall not be deemed directed to Children if it:

- a) Does not Collect Personal Information from any visitor prior to Collecting age information; and
- b) Prevents the Collection, use, or Disclosure of Personal Information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of the COPPA Rule (attached as Appendix A).

4. A website or online service shall not be deemed directed to Children solely because it refers or links to a commercial Website or Online Service Directed to Children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

U. “YouTube Service” means the general audience YouTube user-generated video-sharing platform(s), currently at www.youtube.com and on YouTube mobile application(s), on which, among other things, consumers can view videos or upload videos to share.

ORDER

I. INJUNCTION CONCERNING DESIGNATING CONTENT ON THE YOUTUBE SERVICE AS DIRECTED TO CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating the YouTube Service, are permanently restrained and enjoined from:

A. Failing to develop, implement, and maintain a system for Channel Owners to designate whether their Content on the YouTube Service is directed to Children. Such system

shall include a Clear and Conspicuous notice that Content made available on the YouTube Service that is directed to Children may be subject to the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A) and that Channel Owners are obligated to designate such Content as directed to Children; and

B. Failing to provide annual training regarding complying with the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), for each Person responsible for managing Defendants' relationships with Channel Owners on the YouTube Service.

**II. INJUNCTION CONCERNING COLLECTION OF PERSONAL INFORMATION
FROM CHILDREN**

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating a Website or Online Service Directed to Children on the YouTube Service are hereby permanently restrained and enjoined from:

A. Failing to make reasonable efforts, taking into account available technology, to ensure that a Parent of a Child receives direct notice of Defendants' practices with regard to the Collection, use, or Disclosure of Personal Information from Children, including notice of any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

B. Failing to post a prominent and clearly labeled link to an online notice of its information practices with regard to Children on the home or landing page or screen of its

website or online service, and at each area of the website or online service where Personal Information is Collected from Children, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

C. Failing to Obtain Verifiable Parental Consent before any Collection, use, or Disclosure of Personal Information from Children, including consent to any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to Obtaining Verifiable Parental Consent; and

D. Violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A).

III. INJUNCTION CONCERNING USE OF PREVIOUSLY

COLLECTED PERSONAL INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, are ordered to refrain, within ninety (90) days of the Compliance Date, from Disclosing, using, or benefitting from Personal Information previously Collected from users of Content that is designated as directed to Children by a Channel Owner under the system required under Section I.A. above, as long as such designation occurs within sixty (60) days of the Compliance Date. Provided, however, that such Personal Information may be Disclosed to the extent requested by a government agency or required by law, regulation, or court order.

IV. CIVIL PENALTY AND OTHER MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of one hundred and thirty six million dollars (\$136,000,000) is entered in favor of Plaintiff FTC against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff FTC one hundred thirty six million dollars (\$136,000,000), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within thirty (30) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

C. Judgment in the amount of thirty four million dollars (\$34,000,000) is entered in favor of Plaintiff State of New York against Defendants, jointly and severally, as damages, restitution, or other compensation to its residents.

D. Defendants are ordered to pay to Plaintiff State of New York, by making payment to State of New York Department of Law, thirty four million dollars (\$34,000,000). Such payment must be made within thirty (30) days of entry of this Order by wire transfer in accordance with instructions provided by a representative of Plaintiff State of New York.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission or the State of New York in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission or the State of New York pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers, which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission and the State of New York an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, each Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who have supervisory responsibilities relating to the subject matter of Sections I and II of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission and the State of New York:

A. One year after the Compliance Date, each Defendant must submit a compliance report, sworn under penalty of perjury. In such report, each Defendant must:

1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and the State of New York may use to communicate with that Defendant;
2. Identify all of Defendant's businesses involved in operating the YouTube Service or in Collecting, using, or Disclosing Personal Information from Children on or from the YouTube Service by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. Describe the activities of each such business directly involved with operating the YouTube Service, including the goods and services offered and the means of advertising, marketing, and sales;
4. Describe in detail whether and how Defendants are in compliance with each Section of this Order;
5. Provide a copy of each materially different version of any privacy notice posted on or otherwise applicable to the YouTube Service or sent to users of the YouTube Service;

6. Describe in detail the methods used, if any, to track Child users of the YouTube Service (including methods used for passive tracking and means for users to control or opt out of tracking), and the measures taken to avoid tracking Children;

7. Describe in detail the methods used to Obtain Verifiable Parental Consent prior to any Collection, use, and/or Disclosure of Personal Information from Children through the YouTube Service;

8. Describe in detail the means provided for Parents to review the Personal Information Collected from their Children through the YouTube Service and to refuse to permit its further use or maintenance; and

9. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in: (1) any designated point of contact; or (2) the structure of that Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Each Defendant must submit to the Commission and the State of New York notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission and the State of New York required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

F. Unless otherwise directed by a State of New York representative in writing, all submissions to the State of New York pursuant to this Order must be emailed to ifraud@ag.ny.gov and sent by overnight courier (not the U.S. Postal Service) to: Bureau Chief, Bureau of Internet and Technology, New York State Attorney General’s Office, 28 Liberty Street, New York, New York 10005. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, each Defendant in connection with operating the YouTube Service must create and retain the following records:

A. Accounting records showing the revenues of all goods and services sold;

B. Personnel records showing, for each Person providing services, whether as an employee or otherwise, that Person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission and the State of New York;

D. Records of all consumer complaints relating to the unauthorized Collection, use or Disclosure of Personal Information of Children interacting with the YouTube Service, and any response;

E. A copy of each materially different form, page, or screen created, maintained, or otherwise provided by each Defendant through which Personal Information of Children is Collected through the YouTube Service, and a copy of each materially different document containing any representation regarding Collection, use, and Disclosure practices pertaining to Personal Information from Children Collected through the YouTube Service. Each webpage copy shall be accompanied by the URL of the webpage where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting information on the Internet; and

F. A copy of each unique advertisement, other marketing material, telemarketing script, or other representation related to the Collection of Personal Information of Children that is made in connection with promoting or offering for sale the YouTube Service.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or the State of New York, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and the State of New York are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and the State of New York are authorized to communicate directly with each Defendant. Each Defendant must permit representatives of the Commission and the State of New York to interview any employee or other Person affiliated with Defendant who has agreed to such an interview. The Person interviewed may have counsel present.

C. The Commission and the State of New York may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.


SO ORDERED this ___ day of _____, 2019.

UNITED STATES DISTRICT JUDGE


SO STIPULATED AND AGREED:

FOR PLAINTIFFS

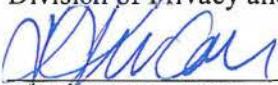
FEDERAL TRADE COMMISSION:




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FOR THE PEOPLE OF THE STATE OF NEW YORK:

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By:  _____

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FOR DEFENDANTS:



Date: April 25, 2019

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DEFENDANT: GOOGLE LLC



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

DEFENDANT: YOUTUBE, LLC
By: Google LLC, its Managing Member



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

APPENDIX A

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, Email, Internet, Online service, Privacy, Record retention, Safety, science and technology, Trade practices, Web site, Youth.

■ Accordingly, for the reasons stated above, the Federal Trade Commission revises part 312 of Title 16 of the Code of Federal Regulations to read as follows:

**PART 312—CHILDREN'S ONLINE
PRIVACY PROTECTION RULE**

Sec.

- 312.1 Scope of regulations in this part.
- 312.2 Definitions.
- 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
- 312.4 Notice.
- 312.5 Parental consent.
- 312.6 Right of parent to review personal information provided by a child.
- 312.7 Prohibition against conditioning a child's participation on collection of personal information.

312.8 Confidentiality, security, and integrity of personal information collected from children.

312.9 Enforcement.

312.10 Data retention and deletion requirements.

312.11 Safe harbor programs.

312.12 Voluntary Commission Approval Processes.

312.13 Severability.

Authority: 15 U.S.C. 6501–6508.

§ 312.1 Scope of regulations in this part.

This part implements the Children's Online Privacy Protection Act of 1998, (15 U.S.C. 6501, *et seq.*) which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information from a child by any means, including but not limited to:

(1) Requesting, prompting, or encouraging a child to submit personal information online;

(2) Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child's postings before they are made public and also to delete such information from its records; or

(3) Passive tracking of a child online.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclose or disclosure means, with respect to personal information:

(1) The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the Web site or online service; and

(2) Making personal information collected by an operator from a child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a Web site or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(1) Receives notice of the operator's personal information collection, use, and disclosure practices; and

(2) Authorizes any collection, use, and/or disclosure of the personal information.

Online contact information means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

Operator means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information is *collected or maintained on behalf of* an operator when:

(1) It is collected or maintained by an agent or service provider of the operator; or

(2) The operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(1) A first and last name;

(2) A home or other physical address including street name and name of a city or town;

(3) Online contact information as defined in this section;

(4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;

(5) A telephone number;

(6) A Social Security number;

(7) A persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;

(8) A photograph, video, or audio file where such file contains a child's image or voice;

(9) Geolocation information sufficient to identify street name and name of a city or town; or

(10) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Release of personal information means the sharing, selling, renting, or transfer of personal information to any third party.

Support for the internal operations of the Web site or online service means:

(1) Those activities necessary to:

(i) Maintain or analyze the functioning of the Web site or online service;

(ii) Perform network communications;

(iii) Authenticate users of, or personalize the content on, the Web site or online service;

(iv) Serve contextual advertising on the Web site or online service or cap the frequency of advertising;

(v) Protect the security or integrity of the user, Web site, or online service;

(vi) Ensure legal or regulatory compliance; or

(vii) Fulfill a request of a child as permitted by § 312.5(c)(3) and (4);

(2) So long as The information collected for the activities listed in paragraphs (1)(i)–(vii) of this definition is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a

profile on a specific individual, or for any other purpose.

Third party means any person who is not:

(1) An operator with respect to the collection or maintenance of personal information on the Web site or online service; or

(2) A person who provides support for the internal operations of the Web site or online service and who does not use or disclose information protected under this part for any other purpose.

Web site or online service directed to children means a commercial Web site or online service, or portion thereof, that is targeted to children.

(1) In determining whether a Web site or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising promoting or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.

(2) A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.

(3) A Web site or online service that is directed to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it:

(i) Does not collect personal information from any visitor prior to collecting age information; and

(ii) Prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.

(4) A Web site or online service shall not be deemed directed to children solely because it refers or links to a commercial Web site or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

(a) Provide notice on the Web site or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));

(b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§ 312.5);

(c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);

(d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and

(e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Direct notice to the parent.* An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(c) *Content of the direct notice to the parent—(1) Content of the direct notice to the parent under § 312.5(c)(1) (Notice*

to Obtain Parent's Affirmative Consent to the Collection, Use, or Disclosure of a Child's Personal Information). This direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child, and, if such is the case, the name of the child or the parent, in order to obtain the parent's consent;

(ii) That the parent's consent is required for the collection, use, or disclosure of such information, and that the operator will not collect, use, or disclose any personal information from the child if the parent does not provide such consent;

(iii) The additional items of personal information the operator intends to collect from the child, or the potential opportunities for the disclosure of personal information, should the parent provide consent;

(iv) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section;

(v) The means by which the parent can provide verifiable consent to the collection, use, and disclosure of the information; and

(vi) That if the parent does not provide consent within a reasonable time from the date the direct notice was sent, the operator will delete the parent's online contact information from its records.

(2) *Content of the direct notice to the parent under § 312.5(c)(2) (Voluntary Notice to Parent of a Child's Online Activities Not Involving the Collection, Use or Disclosure of Personal Information).* Where an operator chooses to notify a parent of a child's participation in a Web site or online service, and where such site or service does not collect any personal information other than the parent's online contact information, the direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child in order to provide notice to, and subsequently update the parent about, a child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information;

(ii) That the parent's online contact information will not be used or disclosed for any other purpose;

(iii) That the parent may refuse to permit the child's participation in the Web site or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and

(iv) A hyperlink to the operator's online notice of its information

practices required under paragraph (d) of this section.

(3) *Content of the direct notice to the parent under § 312.5(c)(4) (Notice to a Parent of Operator's Intent to Communicate with the Child Multiple Times)*. This direct notice shall set forth:

(i) That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;

(ii) That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;

(iii) That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;

(iv) That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;

(v) That if the parent fails to respond to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and

(vi) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(4) *Content of the direct notice to the parent required under § 312.5(c)(5) (Notice to a Parent In Order to Protect a Child's Safety)*. This direct notice shall set forth:

(i) That the operator has collected the name and the online contact information of the child and the parent in order to protect the safety of a child;

(ii) That the information will not be used or disclosed for any purpose unrelated to the child's safety;

(iii) That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;

(iv) That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) *Notice on the Web site or online service*. In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page or screen of its Web site or online service, and, at each area of the Web site or online service

where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience Web site or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the Web site or online service's information practices must state the following:

(1) The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online service. *Provided that:* The operators of a Web site or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice;

(2) A description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information; and

(3) That the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§ 312.5 Parental consent.

(a) *General requirements*. (1) An operator is required to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

(b) *Methods for verifiable parental consent*. (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated,

in light of available technology, to ensure that the person providing consent is the child's parent. (2) Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:

(i) Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;

(ii) Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

(iii) Having a parent call a toll-free telephone number staffed by trained personnel;

(iv) Having a parent connect to trained personnel via video-conference;

(v) Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete; or

(vi) *Provided that*, an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory email to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier email.

(3) *Safe harbor approval of parental consent methods*. A safe harbor program approved by the Commission under § 312.11 may approve its member operators' use of a parental consent method not currently enumerated in paragraph (b)(2) of this section where the safe harbor program determines that such parental consent method meets the requirements of paragraph (b)(1) of this section.

(c) *Exceptions to prior parental consent*. Verifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child *except* as set forth in this paragraph:

(1) Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1). If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the

operator must delete such information from its records;

(2) Where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(2);

(3) Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;

(4) Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(3). An operator will not be deemed to have made reasonable efforts to ensure that a parent receives notice where the notice to the parent was unable to be delivered;

(5) Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of a child, and where such information is not used or disclosed for any purpose unrelated to the child's safety. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to provide a parent with notice as described in § 312.4(c)(4);

(6) Where the purpose of collecting a child's name and online contact information is to:

- (i) Protect the security or integrity of its Web site or online service;
- (ii) Take precautions against liability;
- (iii) Respond to judicial process; or
- (iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety; and where such information is not be used for any other purpose;

(7) Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the Web site or online service. In such case, there also shall be no obligation to provide notice under § 312.4; or

(8) Where an operator covered under paragraph (2) of the definition of *Web site or online service directed to children* in § 312.2 collects a persistent identifier and no other personal information from a user who affirmatively interacts with the operator and whose previous registration with that operator indicates that such user is not a child. In such case, there also shall be no obligation to provide notice under § 312.4.

§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a Web site or online service, the operator of that Web site or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children. The operator must also take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintaining the confidentiality, security and integrity of such information, and who provide assurances that they will maintain the information in such a manner.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502 (a) of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Data retention and deletion requirements.

An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.

§ 312.11 Safe harbor programs.

(a) *In general.* Industry groups or other persons may apply to the Commission for approval of self-regulatory program guidelines ("safe harbor programs"). The application shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the application. The Commission shall issue a written determination within 180 days of the filing of the application.

(b) *Criteria for approval of self-regulatory program guidelines.* Proposed safe harbor programs must demonstrate

that they meet the following performance standards:

(1) Program requirements that ensure operators subject to the self-regulatory program guidelines (“subject operators”) provide substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8, and 312.10.

(2) An effective, mandatory mechanism for the independent assessment of subject operators’ compliance with the self-regulatory program guidelines. At a minimum, this mechanism must include a comprehensive review by the safe harbor program, to be conducted not less than annually, of each subject operator’s information policies, practices, and representations. The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.

(3) Disciplinary actions for subject operators’ non-compliance with self-regulatory program guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of any action taken against subject operators by the industry group issuing the self-regulatory guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the self-regulatory guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the self-regulatory guidelines; or

(v) Any other equally effective action.

(c) *Request for Commission approval of self-regulatory program guidelines.* A proposed safe harbor program’s request for approval shall be accompanied by the following:

(1) A detailed explanation of the applicant’s business model, and the technological capabilities and mechanisms that will be used for initial and continuing assessment of subject operators’ fitness for membership in the safe harbor program;

(2) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(3) A comparison of each provision of §§ 312.2 through 312.8, and 312.10 with the corresponding provisions of the guidelines; and

(4) A statement explaining:

(i) How the self-regulatory program guidelines, including the applicable assessment mechanisms, meet the requirements of this part; and

(ii) How the assessment mechanisms and compliance consequences required

under paragraphs (b)(2) and (b)(3) provide effective enforcement of the requirements of this part.

(d) *Reporting and recordkeeping requirements.* Approved safe harbor programs shall:

(1) By July 1, 2014, and annually thereafter, submit a report to the Commission containing, at a minimum, an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section, a description of any disciplinary action taken against any subject operator under paragraph (b)(3) of this section, and a description of any approvals of member operators’ use of a parental consent mechanism, pursuant to § 312.5(b)(4);

(2) Promptly respond to Commission requests for additional information; and

(3) Maintain for a period not less than three years, and upon request make available to the Commission for inspection and copying:

(i) Consumer complaints alleging violations of the guidelines by subject operators;

(ii) Records of disciplinary actions taken against subject operators; and

(iii) Results of the independent assessments of subject operators’ compliance required under paragraph (b)(2) of this section.

(e) *Post-approval modifications to self-regulatory program guidelines.* Approved safe harbor programs must submit proposed changes to their guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(2) of this section. The statement required under paragraph (c)(4) of this section must describe how the proposed changes affect existing provisions of the guidelines.

(f) *Revocation of approval of self-regulatory program guidelines.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory program guidelines or their implementation do not meet the requirements of this part. Safe harbor programs that were approved prior to the publication of the Final Rule amendments must, by March 1, 2013, submit proposed modifications to their guidelines that would bring them into compliance with such amendments, or their approval shall be revoked.

(g) *Operators’ participation in a safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§ 312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or

bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator’s participation in the safe harbor program, whether the subject operator has taken action to remedy such non-compliance, and whether the operator’s non-compliance resulted in any one of the disciplinary actions set forth in paragraph (b)(3).

§ 312.12 Voluntary Commission Approval Processes.

(a) *Parental consent methods.* An interested party may file a written request for Commission approval of parental consent methods not currently enumerated in § 312.5(b). To be considered for approval, a party must provide a detailed description of the proposed parental consent methods, together with an analysis of how the methods meet § 312.5(b)(1). The request shall be filed with the Commission’s Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request; and

(b) *Support for internal operations of the Web site or online service.* An interested party may file a written request for Commission approval of additional activities to be included within the definition of support for internal operations. To be considered for approval, a party must provide a detailed justification why such activities should be deemed support for internal operations, and an analysis of their potential effects on children’s online privacy. The request shall be filed with the Commission’s Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

§ 312.13 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.

By direction of the Commission, Commissioner Rosch abstaining, and Commissioner Ohlhausen dissenting.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Maureen K. Ohlhausen

I voted against adopting the amendments to the Children's Online Privacy Protection Act (COPPA) Rule because I believe a core provision of the amendments exceeds the scope of the authority granted us by Congress in COPPA, the statute that underlies and authorizes the Rule.⁴⁰¹ Before I explain my concerns, I wish to commend the Commission staff for their careful consideration of the multitude of issues raised by the numerous comments in this proceeding. Much of the language of the amendments is designed to preserve flexibility for the industry while striving to protect children's privacy, a goal I support strongly. The final proposed amendments largely strike the right balance between protecting children's privacy online and avoiding undue burdens on providers of children's online content and services. The staff's great expertise in the area of children's privacy and deep understanding of the values at stake in this matter have been invaluable in my consideration of these important issues.

In COPPA Congress defined who is an operator and thereby set the outer boundary for the statute's and the COPPA Rule's reach.⁴⁰² It is undisputed that COPPA places obligations on operators of Web sites or online services directed to children or operators with actual knowledge that they are collecting personal information from

children. The statute provides, "It is unlawful for an operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed [by the FTC]." ⁴⁰³

The Statement of Basis and Purpose for the amendments (SBP) discusses concerns that the current COPPA Rule may not cover child-directed Web sites or services that do not themselves collect children's personal information but may incorporate third-party plug-ins that collect such information ⁴⁰⁴ for the plug-ins' use but do not collect or maintain the information for, or share it with, the child-directed site or service. To address these concerns, the amendments add a new proviso to the definition of operator in the COPPA Rule: "Personal information is collected or maintained on behalf of an operator when: (a) it is collected or maintained by an agent or service provider of the operator; or (b) the operator benefits by allowing another person to collect personal information directly from users of such Web site or online service." ⁴⁰⁵

The proposed amendments construe the term "on whose behalf such information is collected and maintained" to reach child-directed Web sites or services that merely derive from a third-party plug-in some kind of benefit, which may well be unrelated to the collection and use of children's

information (e.g., content, functionality, or advertising revenue). I find that this proviso—which would extend COPPA obligations to entities that do not collect personal information from children or have access to or control of such information collected by a third-party does not comport with the plain meaning of the statutory definition of an operator in COPPA, which covers only entities "on whose behalf such information is collected and maintained." ⁴⁰⁶ In other words, I do not believe that the fact that a child-directed site or online service receives any kind of benefit from using a plug-in is equivalent to the collection of personal information by the third-party plug-in on behalf of the child-directed site or online service.

As the Supreme Court has directed, an agency "must give effect to the unambiguously expressed intent of Congress." ⁴⁰⁷ Thus, regardless of the policy justifications offered, I cannot support expanding the definition of the term "operator" beyond the statutory parameters set by Congress in COPPA.

I therefore respectfully dissent.

[FR Doc. 2012–31341 Filed 1–16–13; 8:45 am]

BILLING CODE 6750–01–P

⁴⁰⁶ This expanded definition of operator reverses the Commission's previous conclusion that the appropriate test for determining an entity's status as an operator is to "look at the entity's relationship to the data collected," using factors such as "who owns and/or controls the information, who pays for its collection and maintenance, the pre-existing contractual relationships regarding collection and maintenance of the information, and the role of the Web site or online service in collecting and/or maintaining the information (i.e., whether the site participates in collection or is merely a conduit through which the information flows to another entity)." Children's Online Privacy Protection Rule 64 FR 59888, 59893, 59891 (Nov. 3, 1999) (final rule).

⁴⁰⁷ *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.").

⁴⁰¹ 15 U.S.C. 6501–6506.

⁴⁰² COPPA, 15 U.S.C. 6501(2), defines the term "operator" as "any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about users of or visitors to such Web site or online service, or on whose behalf such information is collected and maintained * * *" As stated in the Statement of Basis and Purpose for the original COPPA Rule, "The definition of 'operator' is of central importance because it determines who is covered by the Act and the Rule." Children's Online Privacy Protection Rule 64 FR 59888, 59891 (Nov. 3, 1999) (final rule).

⁴⁰³ 15 U.S.C. 6502(a)(1).

⁴⁰⁴ If the third-party plug-ins are child-directed or have actual knowledge that they are collecting children's personal information they are already expressly covered by the COPPA statute. Thus, as the SBP notes, a behavioral advertising network that targets children under the age of 13 is already deemed an operator. The amendment must therefore be aimed at reaching third-party plug-ins that are either not child-directed or do not have actual knowledge that they are collecting children's personal information, which raises a question about what harm this amendment will address. For example, it appears that this same type of harm could occur through general audience Web sites and online services collecting and using visitors' personal information without knowing whether some of the data is children's personal information, which is a practice that COPPA and the amendments do not prohibit.

⁴⁰⁵ 16 CFR 312.2 (Definitions).

EXHIBIT A

Google Presentation to Mattel
Insights on Families Online (partial)



INSIGHTS on FAMILIES online



Confidential • Proprietary

Google

YouTube is today's leader in reaching children age 6-11 against top TV channels

63%



YouTube.com

63%



TV Properties

57%



TV Properties

49%



TV Properties

Google

Source: Nielsen MRI 2015 Kids Study
YouTube Reach in the last 30 days, Desktop Only
Mobile not available

Google

EXHIBIT B

Google Presentation to Hasbro,
Stat Pack: Additional insight into mobile usage among parents +
children (partial)

Google

Stat Pack: Additional insight into mobile usage among parents + children

#1

YouTube is unanimously
voted as the favorite
website of kids 2 - 12



Age 2



Age 3



Age 4



Age 5

Age 6

Age 7

Age 8

Age 9

Age 10

Google

Source: The Marketing Store/KidSay, "Global Kids Study", 2014

93%

of tweens visit YouTube
to watch videos

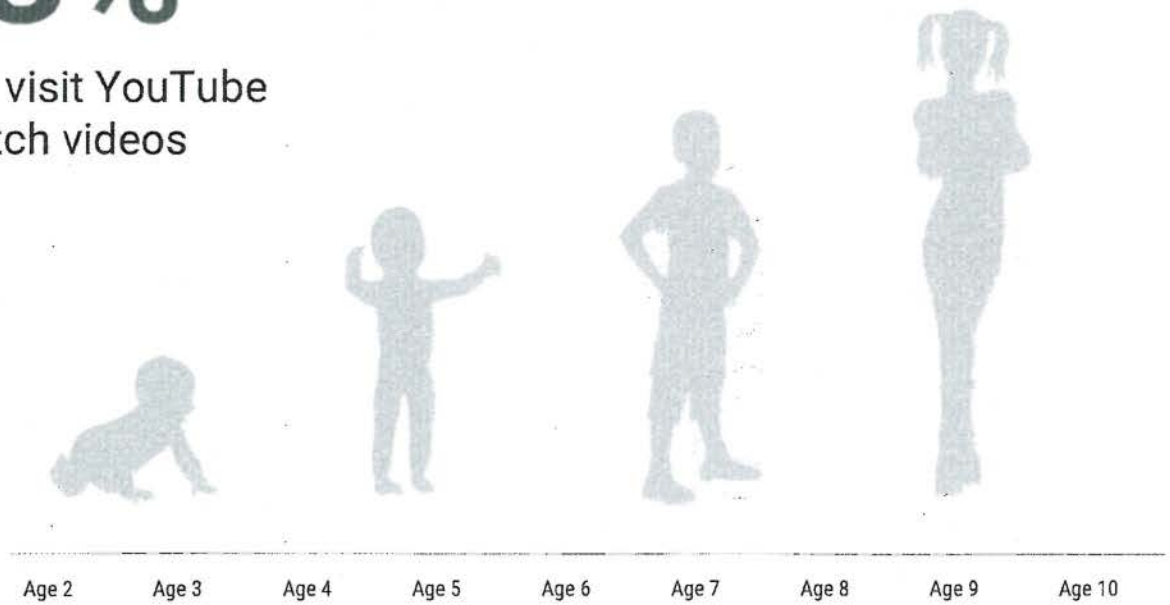


EXHIBIT C

Google Presentation to Hasbro,
2016 Kids + Family Digital Trends (partial)

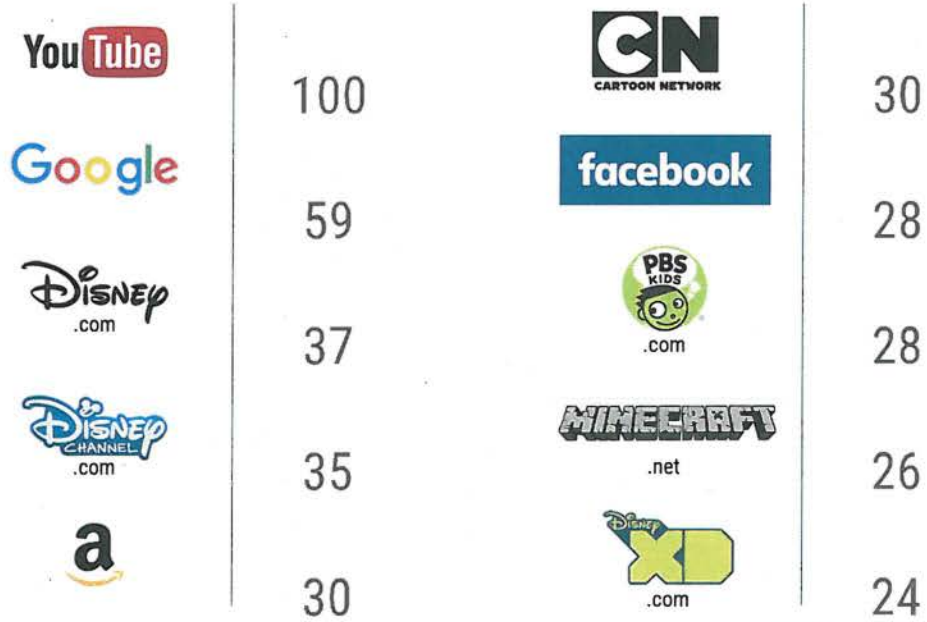


2016 Kids + Family Digital Trends



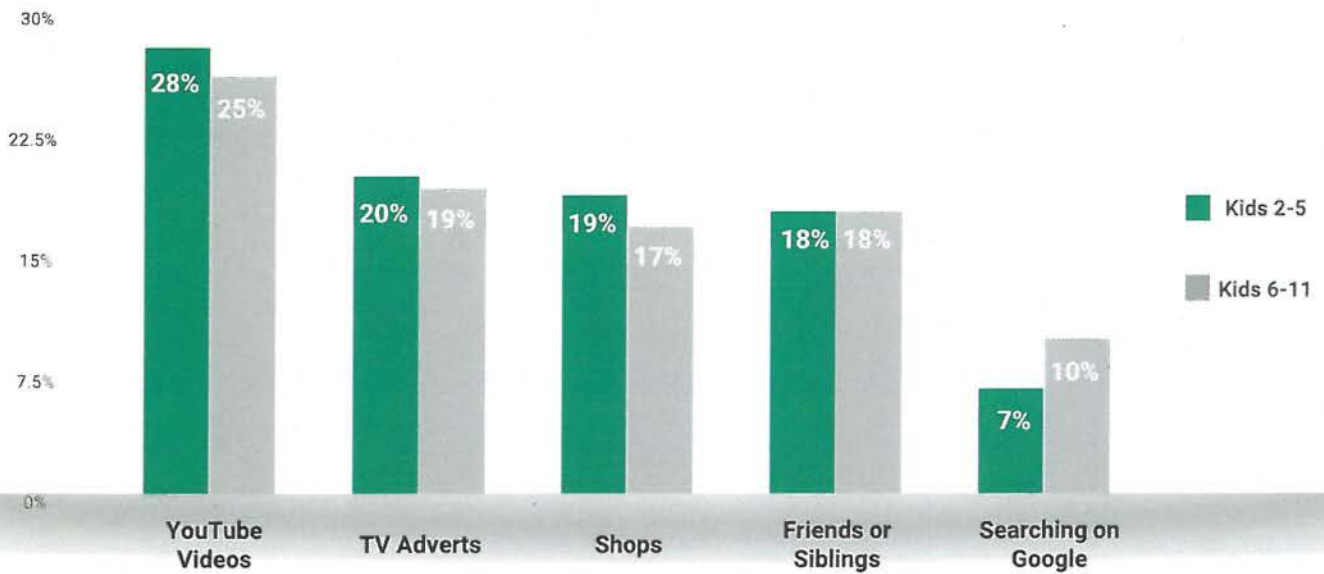
In fact, it's the #1 website regularly visited by kids

INDEXED TO
YOUTUBE REACH



According to parents...

YouTube is the #1 source where children discover new toys + games



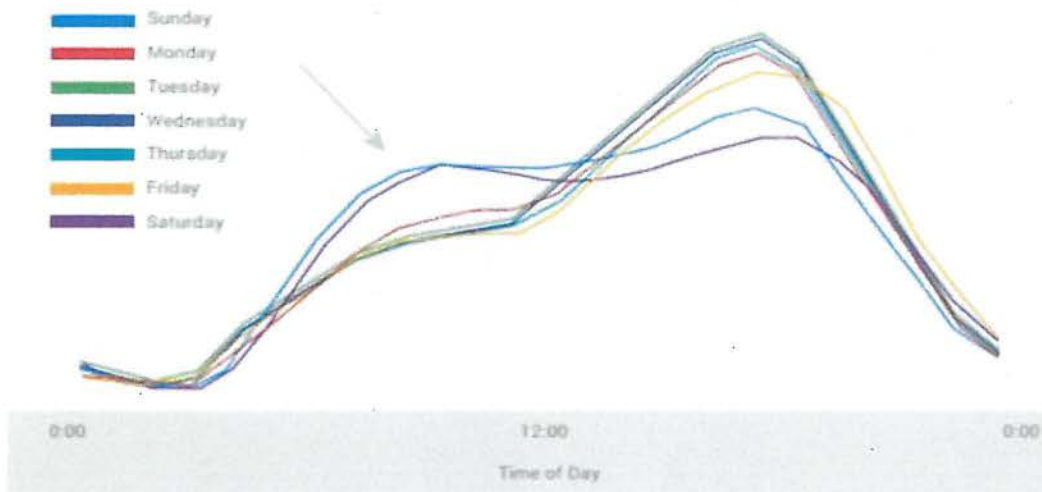
Google

Source: Google Consumer Surveys July 2016, Parents of Children 2-14, 1683 responses

YouTube: The new "Saturday Morning Cartoons"

41% of parents watch family content on YouTube together with their children

W25-49 Watching "Cartoons" on YouTube



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**PLAINTIFFS' UNOPPOSED MOTION
TO ENTER STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”), by and through its undersigned counsel, and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), respectfully move for entry of the attached proposed Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Stipulated Order”) that accompanies this motion. All parties have agreed to the terms of the Stipulated Order, as evidenced by their signatures thereon, to resolve this action. The Commission and the State of New York believe that entry of this Order would most efficiently further the ends of justice in this case. Pursuant to Local Civil Rule 7(m), undersigned counsel conferred with counsel for Google LLC and YouTube, LLC, who indicated that the motion was unopposed prior to filing.

WHEREFORE, Plaintiffs respectfully request that the Court enter the Stipulated Order for Permanent Injunction and Civil Penalty Judgment.

Dated: September 4, 2019

Respectfully Submitted,

LETITIA JAMES
Attorney General of the State of New York

ALDEN F. ABBOTT
General Counsel

Clark P. Russell

CLARK P. RUSSELL
New York Bar No. 2848323
Deputy Bureau Chief
JORDAN S. ADLER
New York Bar No. 4605556
Assistant Attorney General
Bureau of Internet and Technology
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(212) 416-8433 (voice)
(212) 416-8369 (fax)
Email: clark.russell@ag.ny.gov
Email: jordan.adler@ag.ny.gov

Attorneys for Plaintiff State of New York

/s/ Kristin Krause Cohen

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D.C. Bar No. 485946
PEDER MAGEE
D.C. Bar No. 444750
TIFFANY GEORGE
New York Bar No. 4023248
Federal Trade Commission
600 Pennsylvania Ave., NW
Mailstop CC-8232
Washington, DC 20580
(202) 326-2276 (voice)
(202) 326-3062 (fax)
Email: kcohen@ftc.gov
Email: pmagee@ftc.gov
Email: tgeorge@ftc.gov

*Attorneys for Plaintiff Federal Trade
Commission*

LOCAL RULE 7(k) CERTIFICATION
Names of Persons to Be Served with Proposed Order

Pursuant to Local Rule 7(k), the following attorneys are entitled to be notified of the entry of the foregoing Stipulated Order:

CHRISTOPHER N. OLSEN
LIBBY J. WEINGARTEN
Wilson Sonsini Goodrich & Rosati
1700 K Street, NW
5th Floor
Washington, DC 20006
(202) 973-8800
(202) 973-8899 (fax)
Email: colsen@wsgr.com
Email: lweingarten@wsgr.com

From: Cohen, Kristin
Sent: 4 Apr 2019 12:54:15 +0000
To: 'Olsen, Chris'; Weingarten, Libby
Cc: Magee, Peder; George, Tiffany
Subject: YouTube

Attachments:

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

Hi Chris,

(b)(4);
(b)(3):6(f)

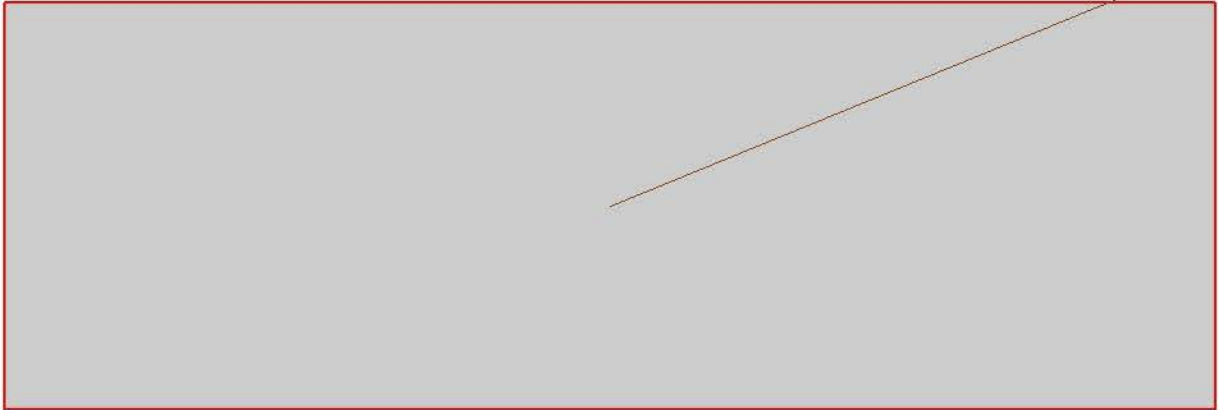
Best,
Kristin

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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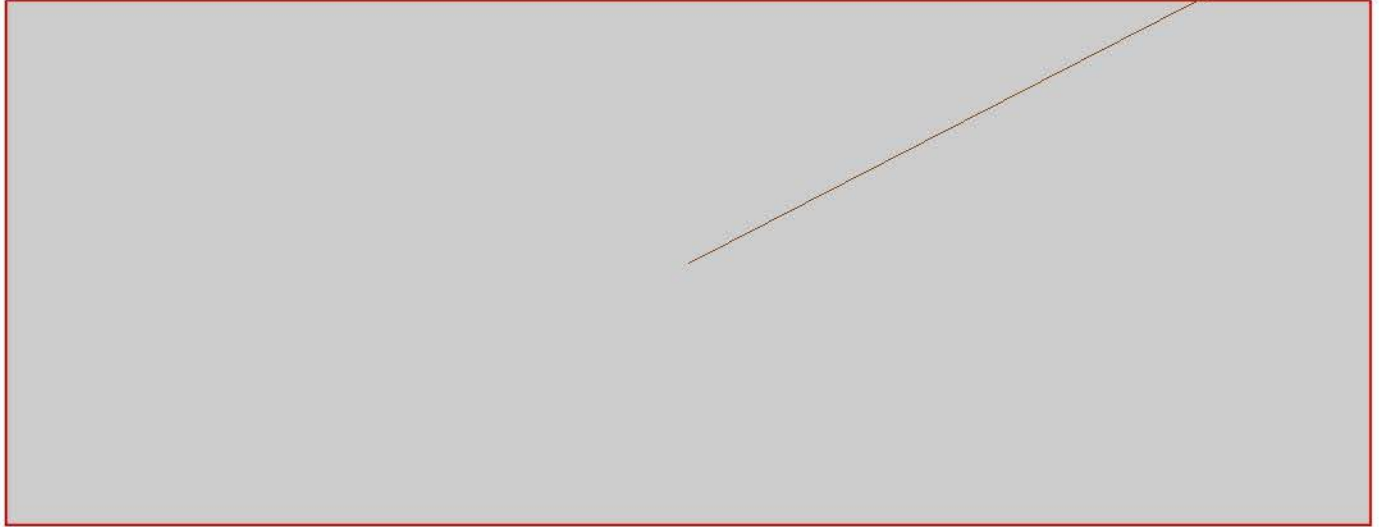
From: Spector, Robin
Sent: 19 Jun 2019 14:55:06 -0400
To: Cohen, Kristin; Magee, Peder
Subject: YouTube

(b)(5)



From: Kaufman, Daniel
Sent: 3 Sep 2019 12:40:51 -0400
To: Crawford, Molly;Meyer, Erie K;King, Austin;Frant, Nina;Delaney, Elizabeth A
Cc: Estrada, Danielle;Cohen, Kristin
Subject: YouTube

(b)(5)

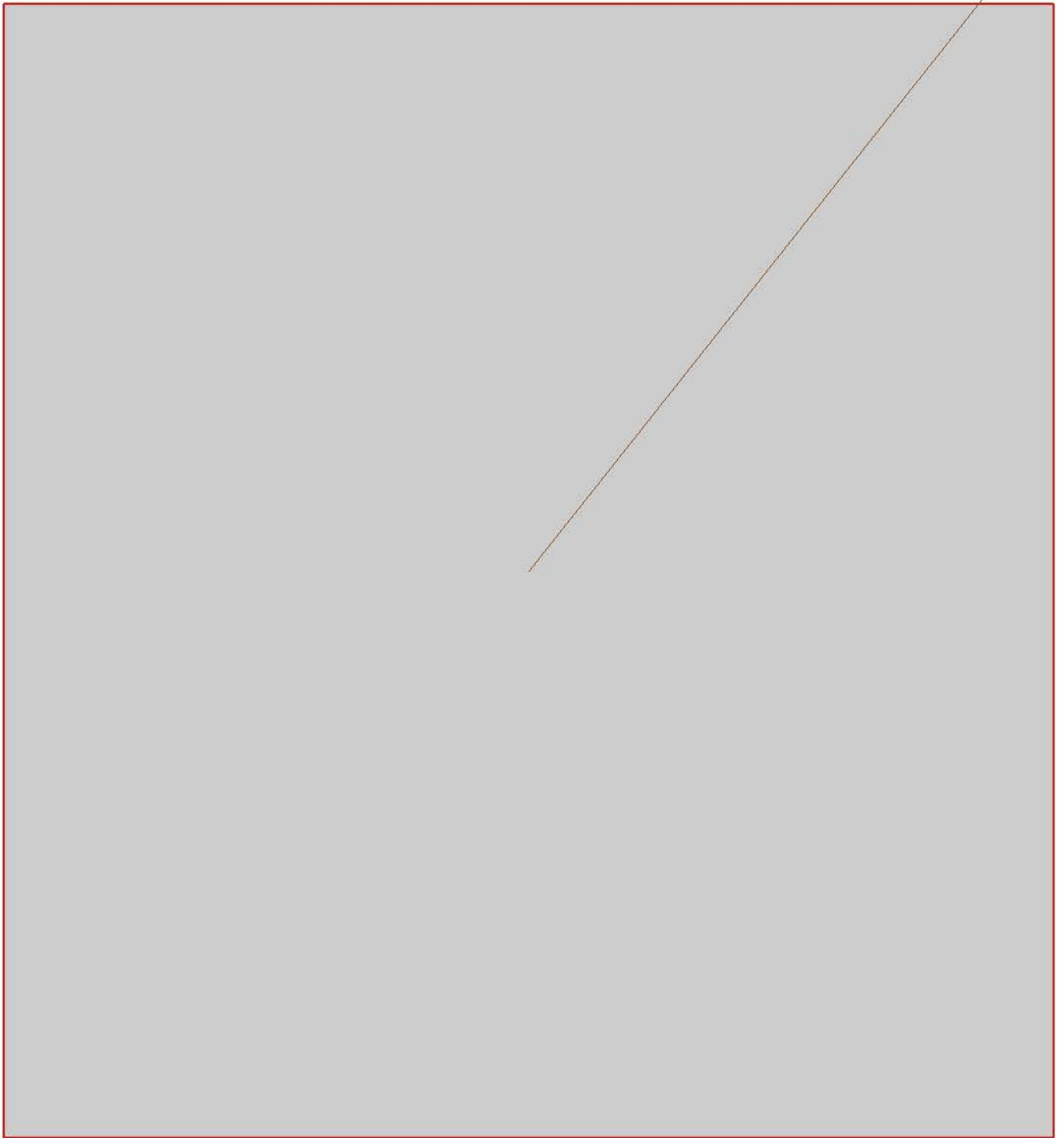


Thanks
Daniel

From: Mithal, Maneesha
Sent: 20 Jun 2019 15:37:17 -0400
To: Slaughter, Rebecca
Cc: King, Austin; Magee, Peder; Cohen, Kristin; Eichorn, Mark
Subject: YouTube

Becca,

(b)(5)



(b)(5)

From: Crawford, Molly
Sent: 25 Jun 2019 11:52:38 -0400
To: Cohen, Kristin; Magee, Peder; Kaufman, Daniel; Mithal, Maneesha
Subject: [REDACTED]

(b)(5)

[REDACTED]

Molly Crawford | Attorney Advisor | Office of Chairman Joseph Simons
Federal Trade Commission | 600 Pennsylvania Avenue, NW, H-448 | Washington, D.C. 20580
Phone: 202.326.3076 | Fax: 202.326.3393 | Email: mcrawford@ftc.gov

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

From: Cohen, Kristin
Sent: 19 Mar 2019 21:53:07 +0000
To: 'Olsen, Chris'; Weingarten, Libby
Cc: Magee, Peder; George, Tiffany
Subject: [REDACTED]
Attachments: [REDACTED]

Hi Chris,

[REDACTED]

We look forward to hearing from you this week.

Thanks,
Kristin

(b)(5)

From: Cohen, Kristin
Sent: 19 Jun 2019 13:38:24 +0000
To: Crawford, Molly
Cc: Pesin, Michael; Estrada, Danielle; Magee, Peder
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(5)

Hi Molly,

[REDACTED]

From: LLEWIS@hq1-web-s2.ftc.gov
Sent: 11 Sep 2019 12:48:05 +0000
To: Frisby, Robert M.
Subject: Case Google, LLC and YouTube, LLC - X190037 is assigned to RFRISBY@ftc.gov

Case X190037-Google, LLC and YouTube, LLC has been assigned to RFRISBY@ftc.gov.

The Assistant Director for the case is LKOSS@ftc.gov.

From: LLEWIS@hq1-web-s2.ftc.gov
Sent: 11 Sep 2019 12:46:52 +0000
To: Chaudhry, Sana
Subject: Case Google, LLC and YouTube, LLC - X190037 is assigned to
SCHAUDHRY@ftc.gov

Case X190037-Google, LLC and YouTube, LLC has been assigned to
SCHAUDHRY@ftc.gov.

The Assistant Director for the case is DWOLFE@ftc.gov.

From: LLEWIS@hq1-web-s2.ftc.gov
Sent: 11 Sep 2019 12:48:04 +0000
To: Chaudhry, Sana
Subject: Case Google, LLC and YouTube, LLC - X190037 is revoked from
SCHAUDHRY@ftc.gov

Case X190037-Google, LLC and YouTube, LLC that was previously assigned to you has been assigned to RFRISBY@ftc.gov.

From: Cohen, Kristin
Sent: 10 Jul 2019 12:52:49 +0000
To: Crawford, Molly
Cc: Magee, Peder; Eichorn, Mark; Mithal, Maneesha; Smith, Andrew; Kaufman, Daniel; Estrada, Danielle
Subject: [REDACTED]
Attachments: [REDACTED]

Hi Molly,

[REDACTED]

(b)(5)

(b)(5)

(b)(5)

From: Hawkins, LaQuisha N.
Sent: 2 Mar 2017 15:37:22 -0500
To: Cohen, Kristin
Subject: [REDACTED]
Attachments: [REDACTED]

From: BCP Records
Sent: 3 Mar 2017 09:59:48 -0500
To: Cohen, Kristin
Subject: RE: YouTube Matter

YouTube COPPA Investigation has matter number 1723083.
Julia

From: Cohen, Kristin
Sent: Thursday, March 02, 2017 4:19 PM
To: BCP Records
Subject: YouTube Matter

Hi,

Attached please find a matter initiation notice.

Thanks,
Kristin

Kristin Krause Cohen | **Division of Privacy and Identity Protection** | **Federal Trade Commission**
202.326.2276

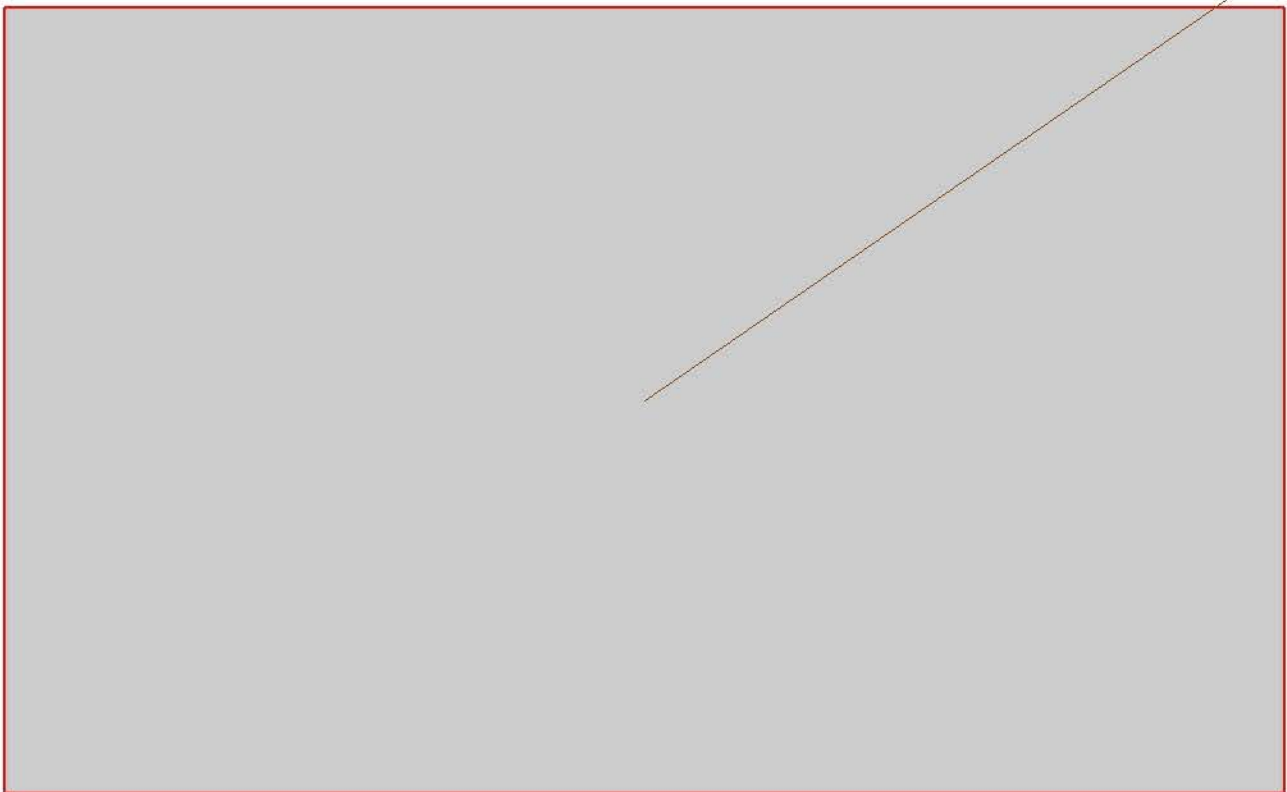
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(b)(5)
From: Clark Russell
Sent: 12 Oct 2016 20:35:44 +0000
To: Cohen, Kristin
Subject: RE: [REDACTED]

thanks

From: Cohen, Kristin [mailto:kcohen@ftc.gov]
Sent: Wednesday, October 12, 2016 4:31 PM
To: Clark Russell
Subject: FTC Information Sharing

Dear Mr. Russell:



Sincerely,
Kristin Cohen

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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disseminate, copy or otherwise use this e-mail or its attachments. Please notify the sender immediately by reply e-mail and delete the e-mail from your system.

(b)(5)
From: Golden, William P.
Sent: 12 Oct 2016 11:54:33 -0400
To: Cohen, Kristin
Subject: RE: [REDACTED]

That's good enough for me.

(b)(5)
From: Cohen, Kristin
Sent: Wednesday, October 12, 2016 11:54 AM
To: Golden, William P.
Subject: RE: [REDACTED]

Hi Bill,

[REDACTED]

From: Golden, William P.
Sent: Friday, September 30, 2016 12:25 PM
To: Cohen, Kristin
Subject: RE:

[REDACTED]

From: Cohen, Kristin
Sent: Thursday, September 29, 2016 10:02 AM
To: Golden, William P.
Subject: FW:

Hi Bill,

[REDACTED]

Thank you for helping me navigate this.

Best,
Kristin

From: Clark Russell
Sent: Tuesday, September 27, 2016 5:02 PM
To: Cohen, Kristin
Cc: Kathleen McGee; Jordan Adler
Subject:

(b)(5)
Kristin:

I hope all is well. [REDACTED] Thanks.

Clark P. Russell, CIPP/US | Deputy Bureau Chief, Bureau of Internet and Technology
Division of Economic Justice
Office of the New York State Attorney General
120 Broadway, New York, NY 10271-0332
T 212-416-6494 | F 212-416-8369
<http://www.ag.ny.gov/bureau/internet-bureau>



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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the General Counsel

March 14, 2018

Edith Ramirez, Esq.
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004

RE: Participation in FTC Matter No. 172-3083 (the "YouTube matter")

Dear Ms. Ramirez,

This responds to your letter dated March 13, 2018, in which you requested authorization to participate behind-the-scenes in the above matter. Significantly, you are not requesting to "appear before, or communicate with, the Commission or Commission staff in connection with this matter." After considering your representations and other information provided by the Commission's staff, I have determined, pursuant to Commission Rule 4.1(b), 16 C.F.R. § 4.1(b), to grant your request, subject to the conditions discussed below.

For two years after her Government service terminates, no former employee shall knowingly, with the intent to influence, make any communication to or appearance before an employee of the United States on behalf of any other person in connection with a particular matter involving a specific party or parties, in which the United States is a party or has a direct and substantial interest, and which such person knows or reasonably should know was actually pending under her official responsibility within the one-year period prior to the termination of his Government service. 18 U.S.C. § 207(a)(2); 5 C.F.R. § 2641.202(a).

You had "official responsibility" over the YouTube matter within your last year at the FTC because you were the Commission's Chair while the YouTube matter was pending at the Commission. See 5 C.F.R. § 2641.202(j). Therefore, you are prohibited from communicating with, or appearing before, the Government (**including the FTC and any other federal agency**), on behalf of your firm, client(s), or anyone else, with the intent to influence the Government in connection with the YouTube matter. 18 U.S.C. § 207(a)(2). This prohibition will continue for two years from your FTC termination date, *i.e.*, February 10, 2017 – February 10, 2019.

Further, as a former senior employee (*i.e.*, the FTC Chair), you are prohibited from knowingly, with the intent to influence, communicating to or appearing before an FTC employee on behalf of any other person in connection with any matter on which you seek official action by any FTC employee. 18 U.S.C. § 207(c); 5 C.F.R. § 2641.204(a). The prohibition under this criminal statute applies for one year from the date you ceased to serve in a senior employee position. However, since you signed the Obama Ethics Pledge, this one-year cooling-off period

was expanded to two years. Therefore, this prohibition will also apply to you from February 10, 2017 – February 10, 2019.

Based on guidance from the U.S. Department of Justice and the U.S. Office of Government Ethics, the above prohibitions reach seemingly benign requests such as asking, on behalf of your firm or a client, to schedule a meeting with a federal employee. Significantly, however, you are permitted to provide behind-the-scenes assistance on the YouTube matter. 5 C.F.R. § 2641.201(d)(3); 16 C.F.R. § 4.1(b)(1). For example, you may advise a client, conduct legal research, and draft legal memoranda and other documents, provided you do not sign your name on any document that will be submitted to the Government.

If you have any questions regarding this matter, I encourage you to contact Craig Bannon at (202) 326-2067 or cbannon@ftc.gov.

Sincerely,



Christian S. White
Designated Agency Ethics Official

cc: Kristin Cohen, Esq.

(b)(5)

From: Magee, Peder
Sent: 4 Sep 2019 13:42:22 -0400
To: BCP Records
Cc: Cohen, Kristin
Subject: [REDACTED]
Attachments: Stamped Complaint.pdf, ftc-077.pdf

(b)(5)

Google YouTube [REDACTED]

Thank you

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent injunction, and other equitable relief for Defendants’ violations of the Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN’S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children’s personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained. Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such

Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and
- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.

8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times

material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

25. In addition to marketing YouTube as a top destination for kids, Defendants have a content rating system that categorizes content into age groups and includes categories for children under 13 years old. In order to align with content policies for advertising, Defendants rate all videos uploaded to YouTube, as well as the channels as a whole. Defendants assign each channel and video a rating of Y (generally intended for ages 0-7); G (intended for any age); PG (generally intended for ages 10+); Teen (generally intended for ages 13+); MA (generally intended for ages 16+); and X (generally intended for ages 18+). Defendants assign these ratings through both automated and manual review. Previously, Defendants also used a classification for certain videos shown on YouTube as "Made for Kids."

26. Defendants do not treat Y rated channels or videos differently for purposes of data collection from other content on YouTube. Defendants continue to allow the channel owner to monetize Y rated content and earn revenue from behavioral advertising. Defendants also had no policy in place to treat content classified as "Made for Kids" differently for purposes of behavioral advertising on YouTube.

27. In 2015, Defendants created a separate mobile application called "YouTube Kids," aimed at children age 2-12, generally using content rated Y or G taken from YouTube on an automated basis. Defendants also specifically curate, through manual review, content that appears on the YouTube Kids home screen, which Defendants refer to as the "home canvas." Content that appears on YouTube Kids continues to be available on YouTube. Unlike Defendants' practices on YouTube, Defendants do not collect persistent identifiers from users of

YouTube Kids in order to serve behavioral advertising. Instead, Defendants monetize YouTube Kids solely through delivery of contextual advertising.

YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

From: Cohen, Kristin
Sent: 19 Jun 2019 17:39:05 +0000
To: Crawford, Molly
Subject: [REDACTED]

(b)(4);
(b)(3):6(f)

Fyi

From: Cohen, Kristin
Sent: Wednesday, June 19, 2019 1:03 PM
To: Estrada, Danielle <destrada@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: [REDACTED]

(b)(5)

(b)(5)

Fyi

[REDACTED]

From: Hosken, Laura L. <LHosken@ftc.gov>
Sent: Wednesday, June 19, 2019 12:58 PM
To: Cohen, Kristin <keohen@ftc.gov>
Subject: [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

From: Hosken, Laura L.
Sent: Wednesday, June 19, 2019 9:38 AM
To: Kobayashi, Bruce <bkobayashi@ftc.gov>; Daniel, Timothy <tdaniel@ftc.gov>; Pappalardo, Janis K. <JPAPPALARDO@ftc.gov>
Subject: [REDACTED]

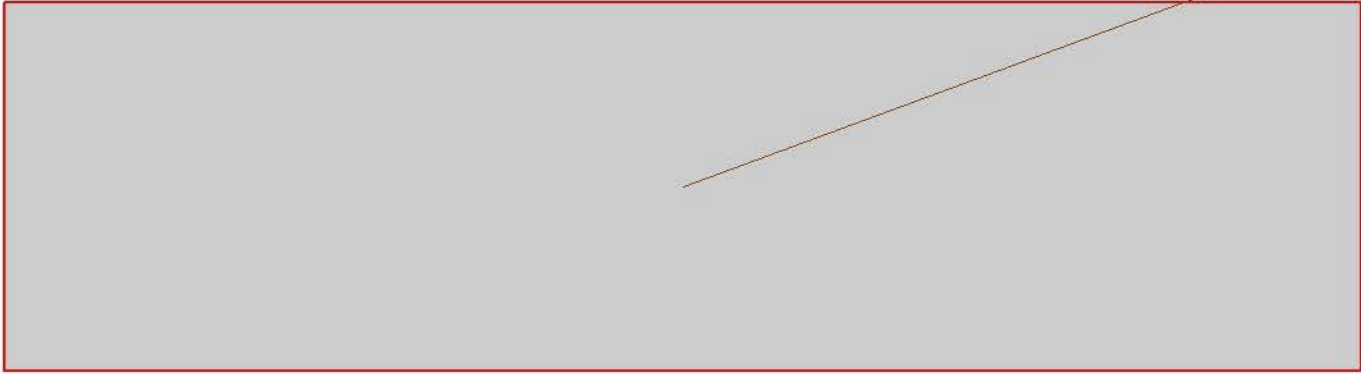
(b)(5)

(b)(5)

Hi Bruce,

[REDACTED]

(b)(5)



Let me know if you have any questions.

Laura

From: Delaney, Elizabeth A
Sent: 19 Jun 2019 14:01:56 -0400
To: Magee, Peder;Cohen, Kristin
Cc: Crawford, Molly
Subject: [REDACTED]

(b)(5)

[REDACTED]

From: King, Austin <aking3@ftc.gov>
Sent: Wednesday, June 19, 2019 1:31 PM
To: Crawford, Molly <mcrawford@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Delaney, Elizabeth A <EDELANEY@ftc.gov>; Spector, Robin <rspector@ftc.gov>
Subject: [REDACTED]

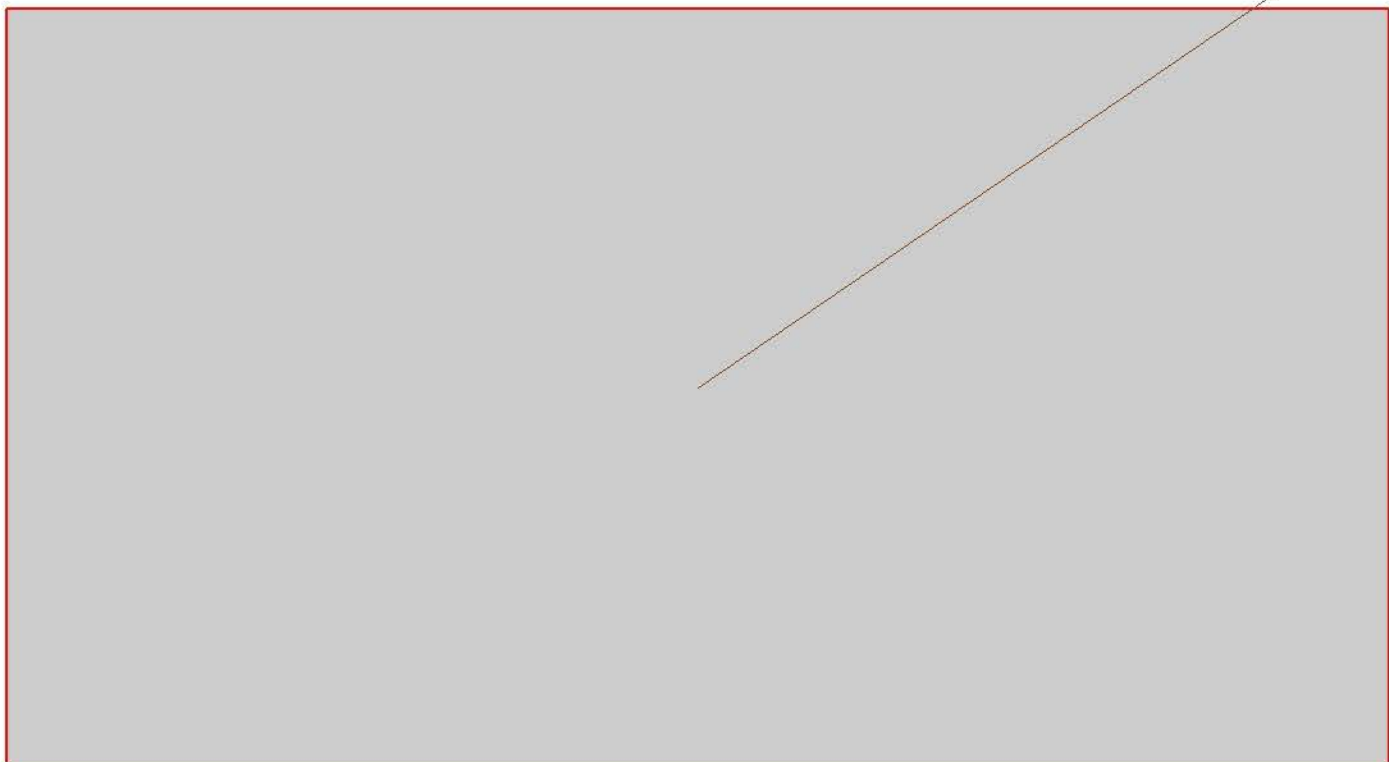
[REDACTED]

Thanks!
Austin

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Wednesday, June 19, 2019 12:33 PM
To: King, Austin <aking3@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>
Subject: [REDACTED]

[REDACTED]

(b)(5)



From: King, Austin <aking3@ftc.gov>

Sent: Wednesday, June 19, 2019 11:04 AM

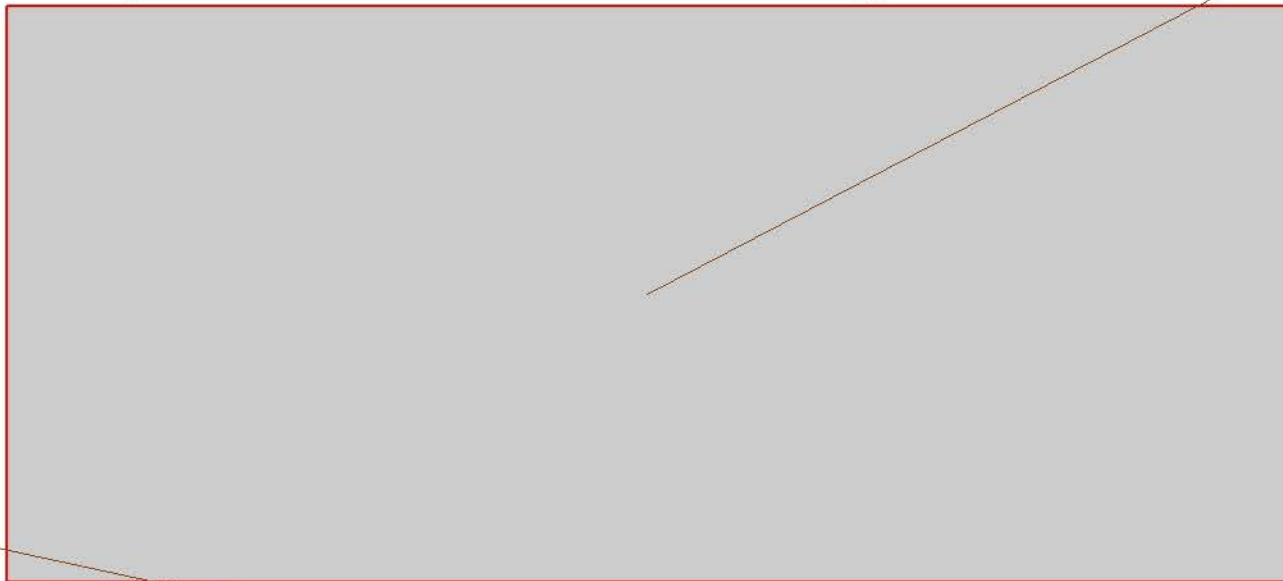
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: [REDACTED]

(b)(5)

(b)(5)



(b)(5)

Many thanks [REDACTED]



Austin

From: King, Austin

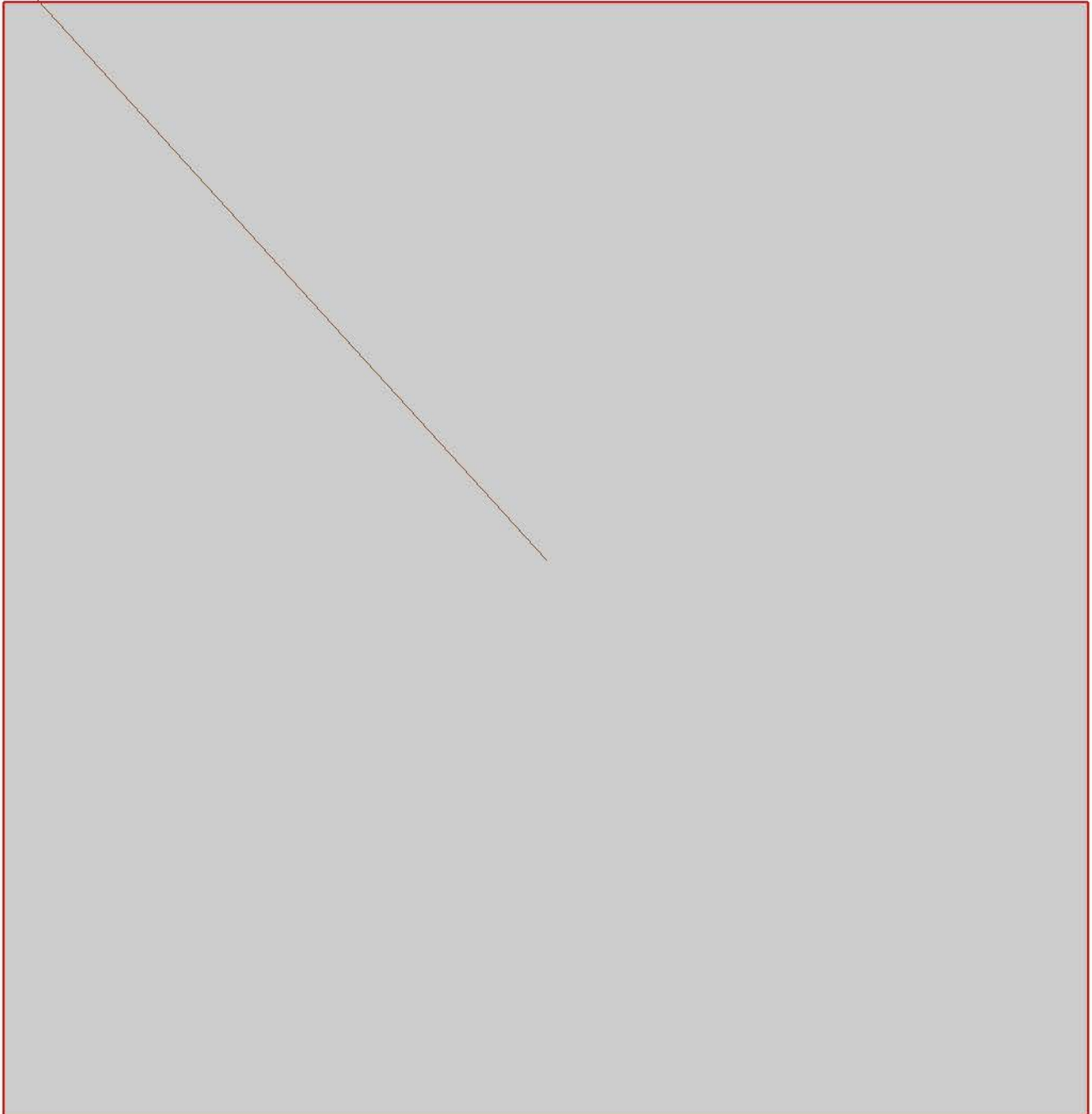
Sent: Monday, June 17, 2019 6:18 PM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

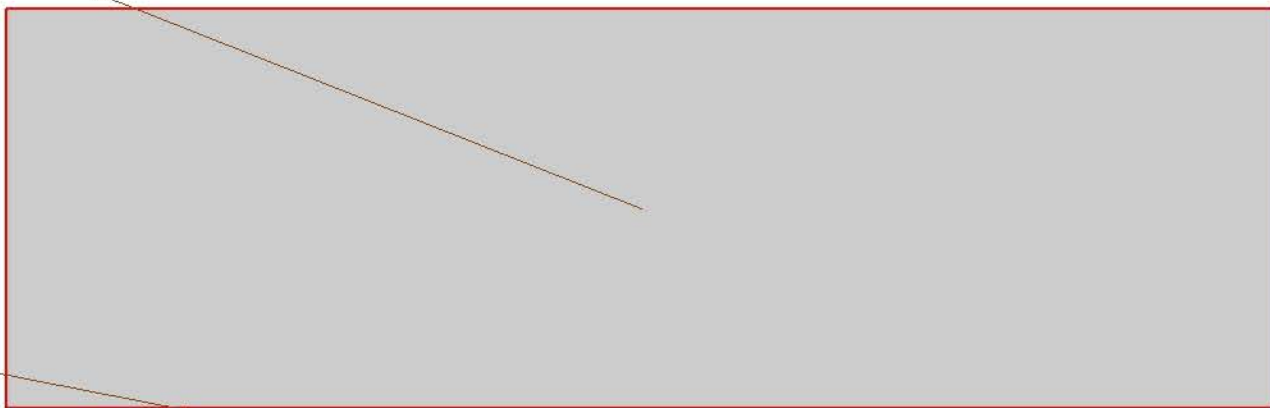
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: [REDACTED]

Dear YouTube team,



(b)(5)



(b)(5)

Many thanks —and for all your work on this case!

Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

From: Russell, Clark
Sent: 4 Sep 2019 13:00:36 +0000
To: Cohen, Kristin
Cc: Jordan Adler
Subject: Google [REDACTED]
Attachments: Google [REDACTED]

(b)(5)

(b)(5)

(b)(5)

(b)(5)

Thanks Kristin! [REDACTED]

Great working with you. [REDACTED]

Get [Outlook for Android](#)

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From: Delaney, Elizabeth A
Sent: 17 Jun 2019 11:01:34 -0400
To: Magee, Peder;Cohen, Kristin;Mithal, Maneesha
Cc: Kaufman, Daniel;Smith, Andrew;Crawford, Molly
Subject: Google YouTube

(b)(5)
Hi all,



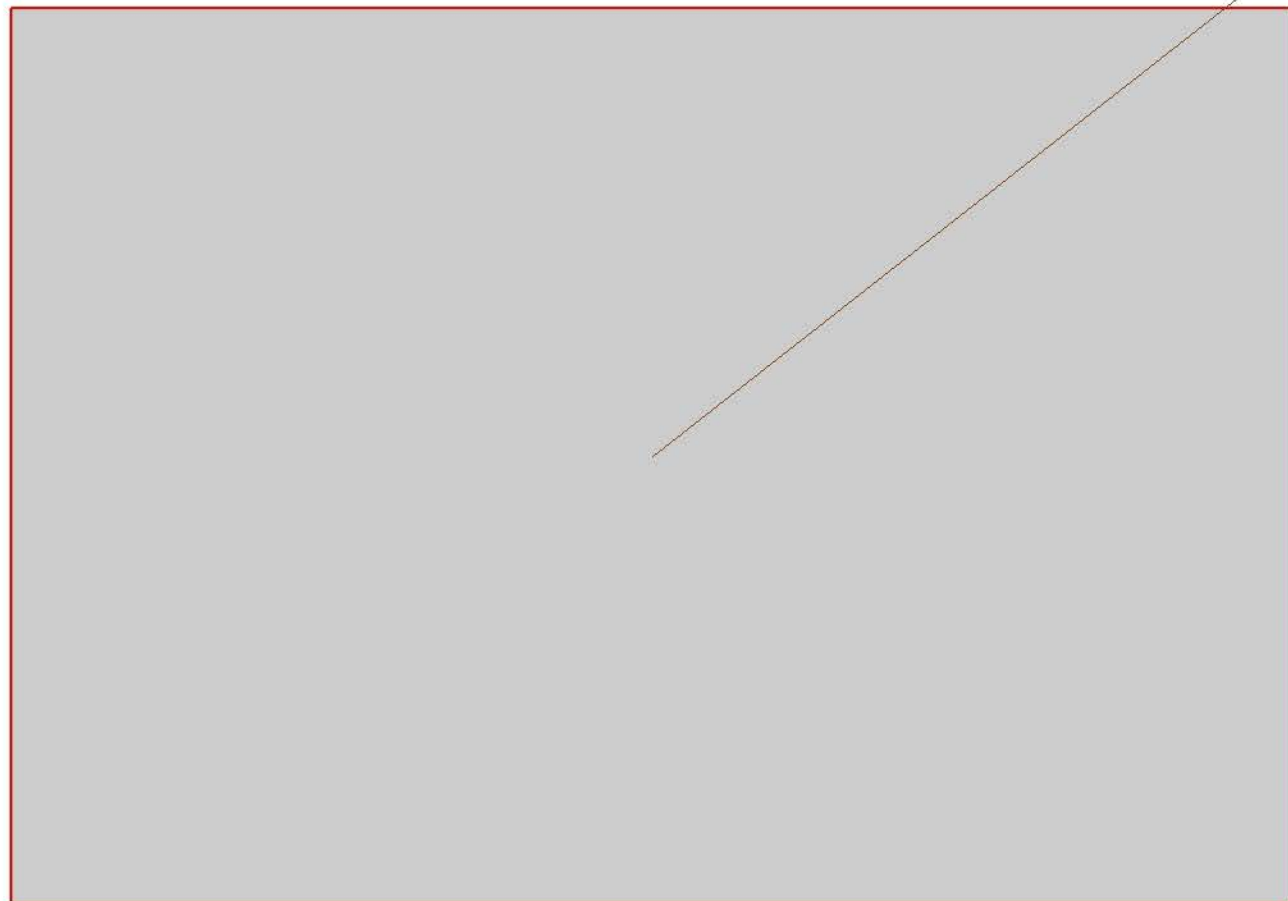
Thanks,

Beth

(b)(5)

From: Cohen, Kristin
Sent: 18 Jun 2019 20:45:17 +0000
To: Crawford, Molly
Cc: Magee, Peder; Estrada, Danielle
Subject: [REDACTED]

(b)(5)



Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

(b)(5)

From: Chopra, Rohit
Sent: 13 Jun 2019 09:21:03 -0400
To: Magee, Peder;Cohen, Kristin;George, Tiffany;Mithal, Maneesha
Cc: Estrada, Danielle;Kaufman, Daniel;Meyer, Erie K;Levine, Samuel
Subject: [REDACTED]

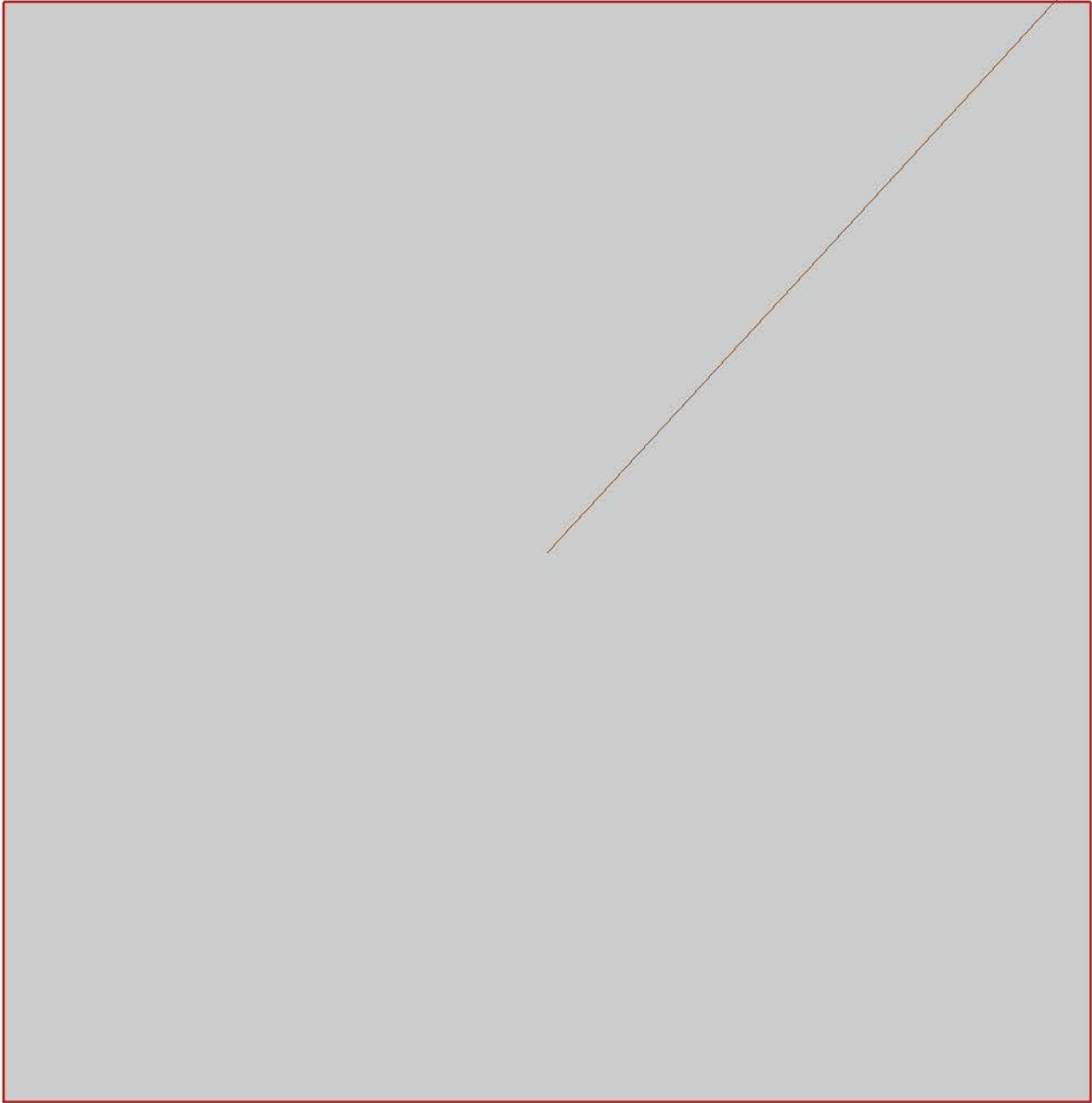
(b)(5)

(b)(5)

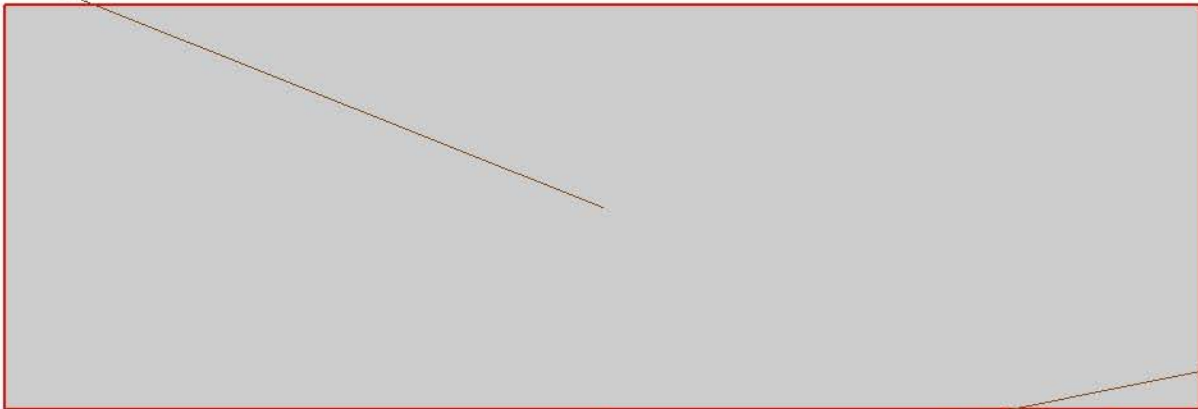
All,

Thanks for all that you've put together on this [REDACTED]

(b)(5)



(b)(5)



(b)(5)

(b)(5)

Thanks again for helping us understand this



RC

(b)(5) **From:** Cohen, Kristin
(b)(5) **Sent:** 25 Jun 2019 17:48:51 +0000
To: Crawford, Molly; Magee, Peder; Kaufman, Daniel; Mithal, Maneesha
Subject: RE [REDACTED]

[REDACTED]

(b)(5) **From:** Crawford, Molly <mccrawford@ftc.gov>
(b)(5) **Sent:** Tuesday, June 25, 2019 12:18 PM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>
Subject: RE [REDACTED]

[REDACTED]

(b)(5) **From:** Cohen, Kristin <kcohen@ftc.gov>
(b)(5) **Sent:** Tuesday, June 25, 2019 12:07 PM
To: Crawford, Molly <mccrawford@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>
Subject: RE [REDACTED]

[REDACTED]

From: Crawford, Molly <mccrawford@ftc.gov>
Sent: Tuesday, June 25, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Kaufman, Daniel

(b)(5)

(b)(5)

<DKAUFMAN@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Subject

[Redacted]

Molly Crawford | Attorney Advisor | Office of Chairman Joseph Simons
Federal Trade Commission | 600 Pennsylvania Avenue, NW, H-448 | Washington, D.C. 20580
Phone: 202.326.3076 | Fax: 202.326.3393 | Email: mcrawford@ftc.gov

(b)(5)
(b)(5)

From: Winter, Brad
Sent: 13 Nov 2018 10:35:34 -0500
To: Magee, Peder;Cohen, Kristin
Subject: RE: [REDACTED]

[REDACTED]

I'm stepping away but free 2:30-4 pm.
-Brad

(b)(5)

From: Magee, Peder
Sent: Tuesday, November 13, 2018 10:24 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Winter, Brad <BWINTER@ftc.gov>
Subject: RE: [REDACTED]

Hi Brad, just circling back on this. I think we spoke on Friday you said you'd be able to have a look Tuesday. Thanks

(b)(5)

From: Cohen, Kristin
Sent: Tuesday, November 13, 2018 8:24 AM
To: Winter, Brad <BWINTER@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>
Subject: [REDACTED]

Hi Brad,

[REDACTED]

(b)(5)

From: DEbrief
Sent: 11 Sep 2019 09:19:34 -0400
To: Cohen, Kristin
Cc: Wolfe, Douglas
Subject: RE: Final order in FTC v. Google, Youtube X190037

Thank you for your email submission.

DEbrief@ftc.gov

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Wednesday, September 11, 2019 8:21 AM
To: DEbrief <DEbrief@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Final order in FTC v. Google, Youtube X190037

Attached please find the final order in FTC v. Google and YouTube in X190037.

(b)(5)
(b)(5)

From: Clark, Andrew
Sent: 28 May 2019 16:49:07 +0000
To: Cohen, Kristin
Subject: RE [REDACTED]
Attachments: [REDACTED]

Attached. Let me know if you need anything further.

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, May 28, 2019 11:23 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>; Goldberg, Richard <RGoldber@CIV.USDOJ.GOV>
Subject: [REDACTED]

(b)(5)

Hi Andrew,

[REDACTED]

Best,
Kristin

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, May 28, 2019 11:20 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Subject: [REDACTED]

(b)(5) **From:** Cohen, Kristin
(b)(5) **Sent:** 28 Jun 2019 14:53:56 +0000
(b)(5) **To:** 'Baron, Rachel E.'
(b)(5) **Cc:** Magee, Peder; George, Tiffany
Subject: RE: Google/YouTube [redacted]
Attachments: [redacted]

[redacted]

(b)(5) **From:** Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
Sent: Friday, June 28, 2019 10:24 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [redacted]

Hi all,

Can someone please send me the signed copy of the order?

Thanks,
Rachel

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Thursday, June 27, 2019 7:26 AM
To: Baron, Rachel E. <rabaron@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube settlement

(b)(5) Thanks, Rachel [redacted]

[redacted] Below is the contact information for New York:

Jordan Adler, 212-416-6307, Jordan.adler@ag.ny.gov
Clark Russell, 212-416-8433, Clark.russell@ag.ny.gov

(b)(5) **From:** Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
(b)(5) **Sent:** Wednesday, June 26, 2019 5:43 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [redacted]

[redacted]

(b)(5)
(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Wednesday, June 26, 2019 5:35 PM
To: Baron, Rachel E. <rabaron@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

[REDACTED]

Thanks so much!

(b)(5)

From: Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
Sent: Tuesday, June 25, 2019 4:05 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

[REDACTED]

(b)(5)

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, June 25, 2019 3:57 PM
To: Baron, Rachel E. <rabaron@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

[REDACTED]

(b)(5)

Hi Rachel,

[REDACTED]

Best,
Kristin

(b)(5)

From: Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
Sent: Monday, June 24, 2019 5:14 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube [REDACTED]

Of course. Call me anytime tomorrow: (202) 532-4488.

From: Cohen, Kristin <kcohen@ftc.gov>

Sent: Monday, June 24, 2019 5:10 PM

To: Baron, Rachel E. <rabaron@CIV.USDOJ.GOV>

Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: RE: Google/YouTube [REDACTED]

[REDACTED]

----- Original Message -----

From: "Baron, Rachel E." <Rachel.E.Baron@usdoj.gov>

Date: Mon, June 24, 2019 4:52 PM -0400

To: "Cohen, Kristin" <kcohen@ftc.gov>

CC: "Magee, Peder" <PMAGEE@ftc.gov>, "George, Tiffany" <tgeorge@ftc.gov>

Subject: RE: Google/YouTube [REDACTED]

Hi Kristin,

[REDACTED]

Thanks,
Rachel Baron

From: Cohen, Kristin <kcohen@ftc.gov>

Sent: Wednesday, June 05, 2019 10:22 AM

To: Clark, Andrew <AClark@CIV.USDOJ.GOV>

Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: RE: [REDACTED]

Hi Andrew,

[REDACTED]

Thanks again,
Kristin

From: Clark, Andrew <Andrew.Clark@usdoj.gov>

Sent: Wednesday, June 05, 2019 9:58 AM

To: Townsend, James <jtownsend@ftc.gov>

(b)(5)

Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: [REDACTED]

Thanks much.

(b)(5)

From: Townsend, James <jtownsend@ftc.gov>
Sent: Wednesday, June 05, 2019 9:29 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: [REDACTED]

(b)(5)

Dear Andrew Clark,

[REDACTED]

James Townsend

Office of the General Counsel | Federal Trade Commission
600 Pennsylvania Avenue NW, Washington, D.C. 20580
(202) 326-2225 | jtownsend@ftc.gov

(b)(5)

From: Cohen, Kristin
Sent: 25 Jun 2019 19:57:25 +0000
To: 'Baron, Rachel E.'
Cc: Magee, Peder; George, Tiffany
Subject: RE: Google/YouTube
Attachments:

(b)(5)

[Redacted]

(b)(5)

Hi Rachel,

[Redacted]

Best,
Kristin

(b)(5)

From: Baron, Rachel E. <Rachel.E.Baron@usdoj.gov>
Sent: Monday, June 24, 2019 5:14 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube

Of course. Call me anytime tomorrow: (202) 532-4488.

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Monday, June 24, 2019 5:10 PM
To: Baron, Rachel E. <raboron@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Google/YouTube

(b)(5)

[Redacted]

----- Original Message -----

(b)(5)

From: "Baron, Rachel E." <Rachel.E.Baron@usdoj.gov>
Date: Mon, June 24, 2019 4:52 PM -0400
To: "Cohen, Kristin" <kcohen@ftc.gov>
CC: "Magee, Peder" <PMAGEE@ftc.gov>, "George, Tiffany" <tgeorge@ftc.gov>
Subject: RE: Google/YouTube

(b)(5)

Hi Kristin,

[Redacted]

Thanks,
Rachel Baron

(b)(5) **From:** Cohen, Kristin <kcohen@ftc.gov>
Sent: Wednesday, June 05, 2019 10:22 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: [REDACTED]

(b)(5) Hi Andrew,

(b)(5) [REDACTED]

[REDACTED] You can call me with any question:
202-326-2276.

Thanks again,
Kristin

(b)(5) **From:** Clark, Andrew <Andrew.Clark@usdoj.gov>
Sent: Wednesday, June 05, 2019 9:58 AM
To: Townsend, James <jtownsend@ftc.gov>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: [REDACTED]

Thanks much.

(b)(5) **From:** Townsend, James <jtownsend@ftc.gov>
Sent: Wednesday, June 05, 2019 9:29 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: [REDACTED]

(b)(5) Dear Andrew Clark,

[REDACTED]

James Townsend
Office of the General Counsel | Federal Trade Commission
600 Pennsylvania Avenue NW, Washington, D.C. 20580
(202) 326-2225 | jtownsend@ftc.gov

From: Smith, Andrew
Sent: 17 Jun 2019 11:19:28 -0400
To: Magee, Peder;Cohen, Kristin;Mithal, Maneesha
Cc: Kaufman, Daniel;Crawford, Molly
Subject: RE: Google YouTube

(b)(5)

Andrew Smith | Director | Bureau of Consumer Protection
Federal Trade Commission | 600 Pennsylvania Avenue, NW | Washington, D.C. 20580
Phone: 202-326-3280 | Email: asmith@ftc.gov

From: Delaney, Elizabeth A <EDELANEY@ftc.gov>
Sent: Monday, June 17, 2019 11:02 AM
To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>
Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Smith, Andrew <asmith@ftc.gov>; Crawford, Molly <mcrawford@ftc.gov>
Subject: Google YouTube

(b)(5)

Hi all,

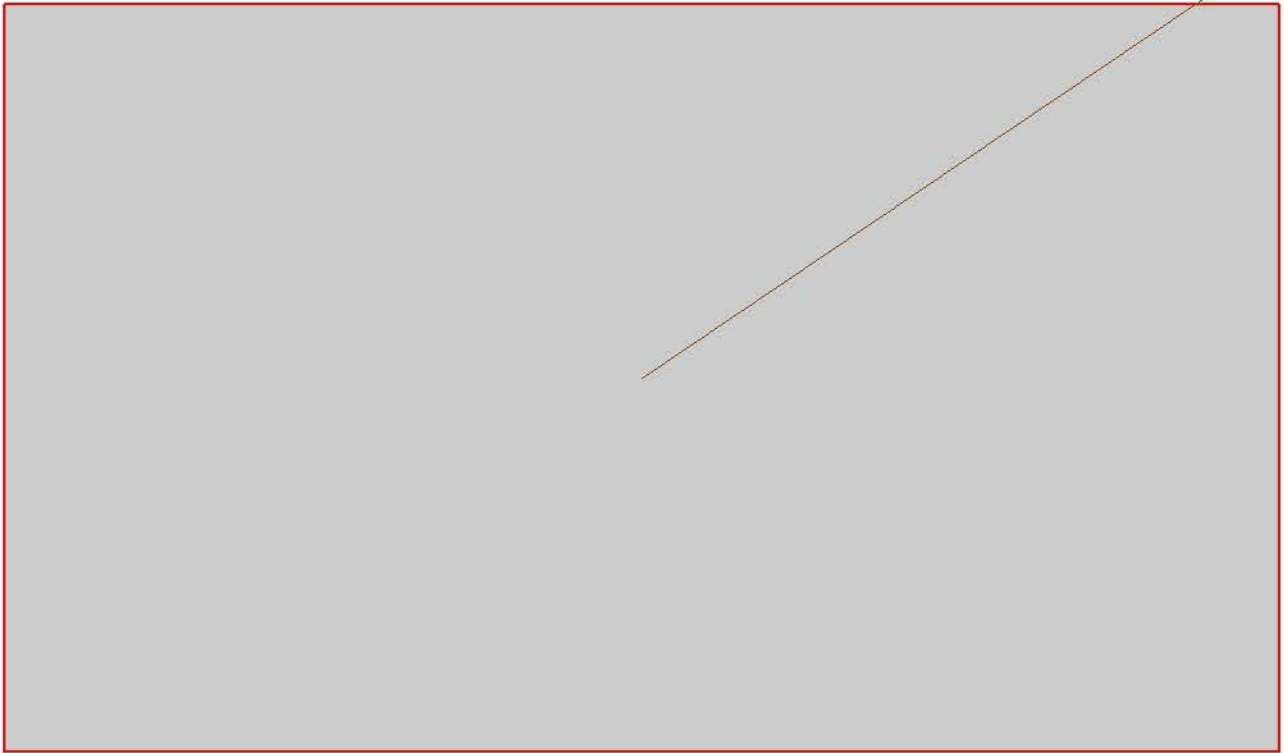
Thanks,

Beth

From: Cohen, Kristin
Sent: 15 Jul 2019 19:51:13 +0000
To: Crawford, Molly;Mithal, Maneesha;Eichorn, Mark
Cc: Kaufman, Daniel;Estrada, Danielle
Subject: RE: [REDACTED]

(b)(5)

(b)(5)



From: Crawford, Molly <mcrawford@ftc.gov>
Sent: Monday, July 15, 2019 2:09 PM
To: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

Sorry should have added Daniel.

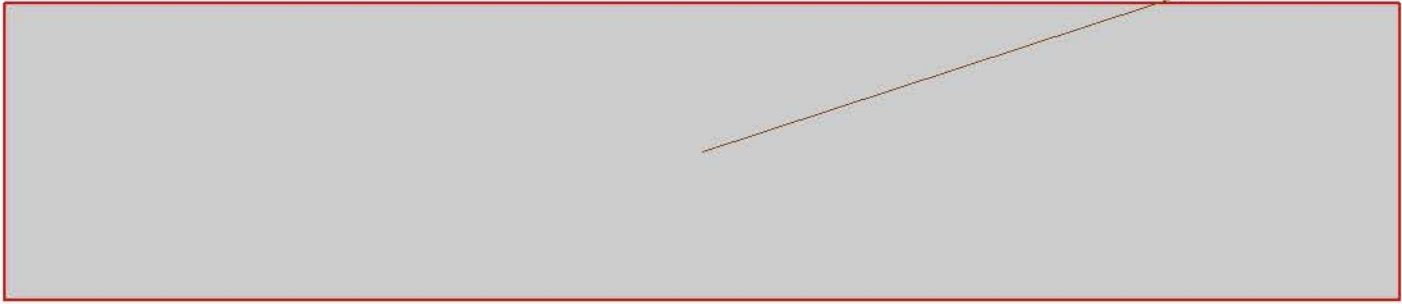
From: Crawford, Molly
Sent: Monday, July 15, 2019 1:59 PM
To: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: [REDACTED]

(b)(5)

(b)(5)



(b)(5)



Molly Crawford | Attorney Advisor | Office of Chairman Joseph Simons
Federal Trade Commission | 600 Pennsylvania Avenue, NW, H-448 | Washington, D.C. 20580
Phone: 202.326.3076 | Fax: 202.326.3393 | Email: mcrawford@ftc.gov

(b)(5)

From: Winter, Brad
Sent: 1 Apr 2019 15:37:49 -0400
To: Cohen, Kristin
Cc: Magee, Peder; George, Tiffany
Subject: RE [redacted]

Kristin,
No worries about the multiple emails. I missed you back by phone.

(b)(5)

[redacted]

(b)(5)

-Brad

[redacted]

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Monday, April 01, 2019 12:18 PM
To: Winter, Brad <BWINTER@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: [redacted]

(b)(5)

[redacted]

Thanks for your help.

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

(b)(5)
(b)(5)

From: Adler, Jordan
Sent: 4 Sep 2019 01:23:12 +0000
To: Cohen, Kristin; Magee, Peder; George, Tiffany; Clark Russell
Subject: RE: [REDACTED]
Attachments: [REDACTED]

(b)(5)
Kristin,

[REDACTED]

I will be online for a while in case there are any issues with the document.

Thanks!
Jordan

Jordan S. Adler | Senior Enforcement Counsel
Bureau of Internet and Technology (BIT)
New York State Office of the Attorney General
28 Liberty St., New York, NY 10005
(t) 212-416-6307 | (f) 212-416-8369
jordan.adler@ag.ny.gov
<http://www.ag.ny.gov/bureau/internet-bureau>

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, September 3, 2019 12:19 PM
To: Adler, Jordan <Jordan.Adler@ag.ny.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Russell, Clark <Clark.Russell@ag.ny.gov>
Subject: [REDACTED]

Hi Clark and Jordan,

[REDACTED]

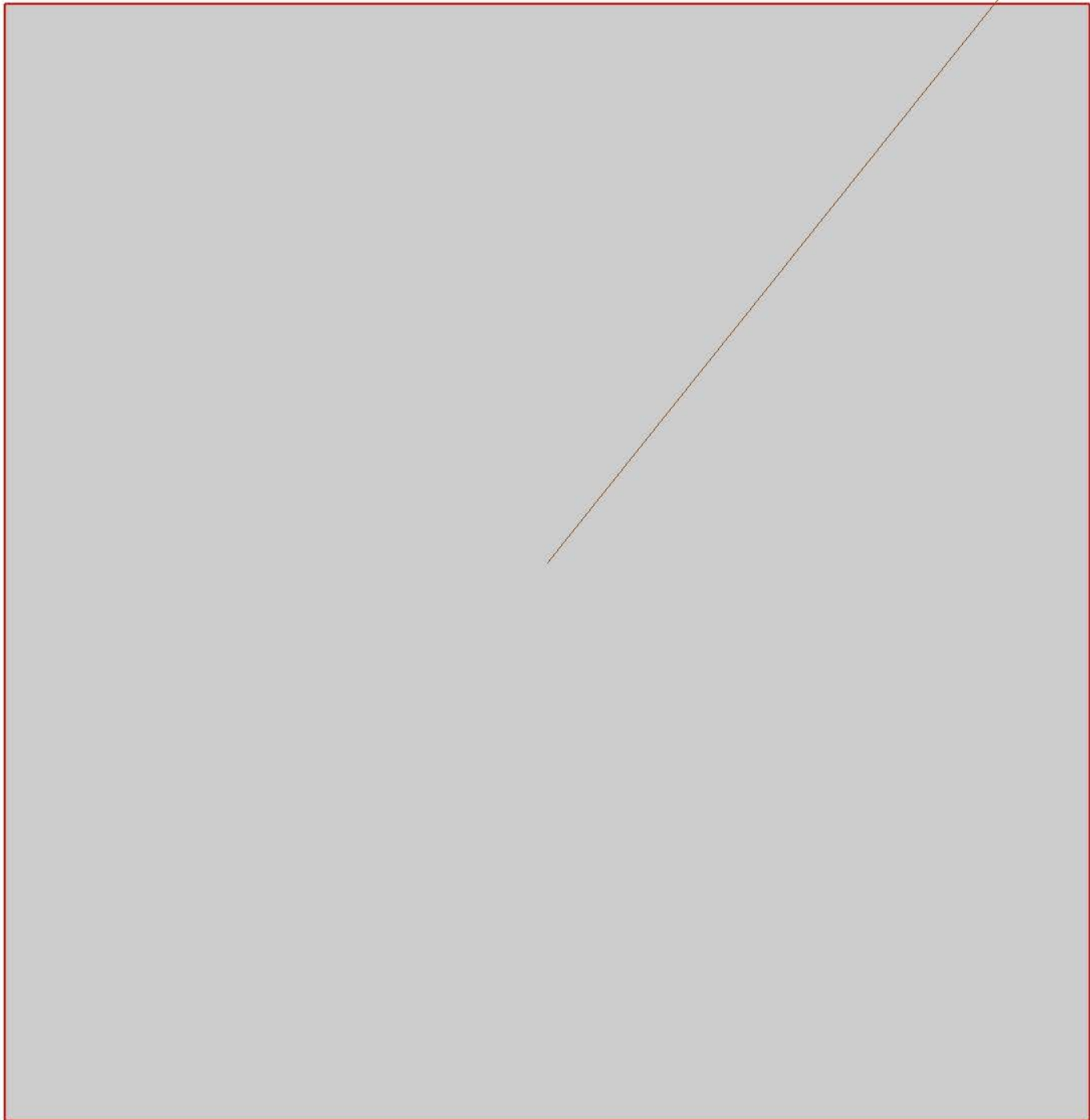
Thank you!

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(b)(5)

From: Cohen, Kristin
Sent: 14 Jun 2019 14:04:56 +0000
To: Chopra, Rohit; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: RE: [REDACTED]

(b)(5)



(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

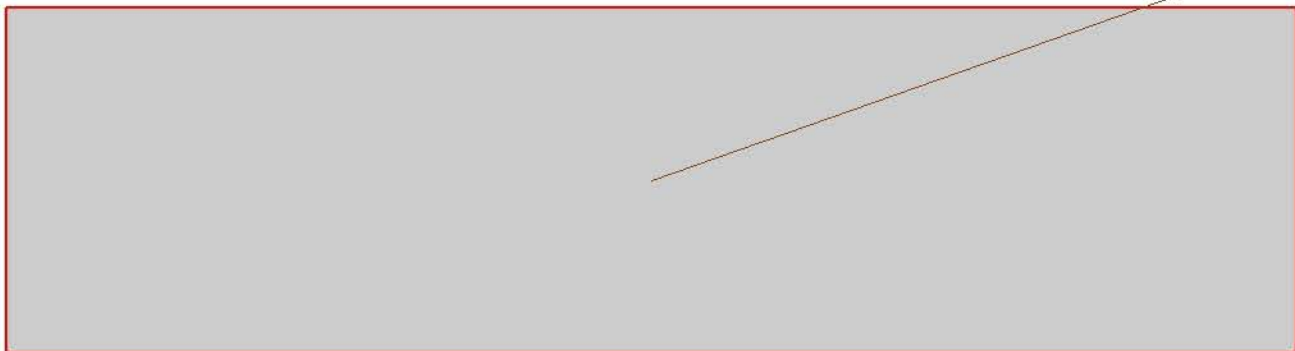
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: [Redacted]

(b)(5)

All,

(b)(5)



(b)(5)

From: Winter, Brad
Sent: 1 Apr 2019 10:42:07 -0400
To: Cohen, Kristin
Cc: Magee, Peder; George, Tiffany
Subject: RE [REDACTED]

(b)(5)

Hi,

[REDACTED]

-Brad

(b)(5)

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Monday, April 01, 2019 8:59 AM
To: Winter, Brad <BWINTER@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: FW: [REDACTED]

(b)(5)

Hi Brad,

[REDACTED]

Thanks again for all your help.

From: Olsen, Chris <colsen@wsgr.com>
Sent: Friday, March 29, 2019 6:03 PM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

Cc: Weingarten, Libby <lweingarten@wsgr.com>

Subject: [REDACTED]

[REDACTED]

We are happy to discuss after you've had a chance to take a look.

Have a nice weekend,

Chris

(b)(6)

Christopher N. Olsen | Privacy and Data Protection

Wilson Sonsini Goodrich & Rosati

1700 K Street NW | Washington, DC 20006

202.973.8803 (direct) [REDACTED] (mobile)

colsen@wsgr.com | www.wsgr.com

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(b)(5) **From:** Cohen, Kristin
(b)(5) **Sent:** 5 Jun 2019 14:22:02 +0000
(b)(5) **To:** 'Clark, Andrew' (b)(5)
(b)(5) **Cc:** Magee, Peder; George, Tiffany
Subject: RE: (b)(5)
Attachments: (b)(5)

Hi Andrew, (b)(5)

(b)(5)

(b)(5) You can call me with any question:
202-326-2276.

Thanks again,
Kristin

(b)(5) **From:** Clark, Andrew <Andrew.Clark@usdoj.gov>
Sent: Wednesday, June 05, 2019 9:58 AM
To: Townsend, James <jtownsend@ftc.gov>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: (b)(5)

Thanks much.

(b)(5) **From:** Townsend, James <jtownsend@ftc.gov>
Sent: Wednesday, June 05, 2019 9:29 AM
To: Clark, Andrew <AClark@CIV.USDOJ.GOV>
Cc: Gum, William Ashley <wgum@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: (b)(5)

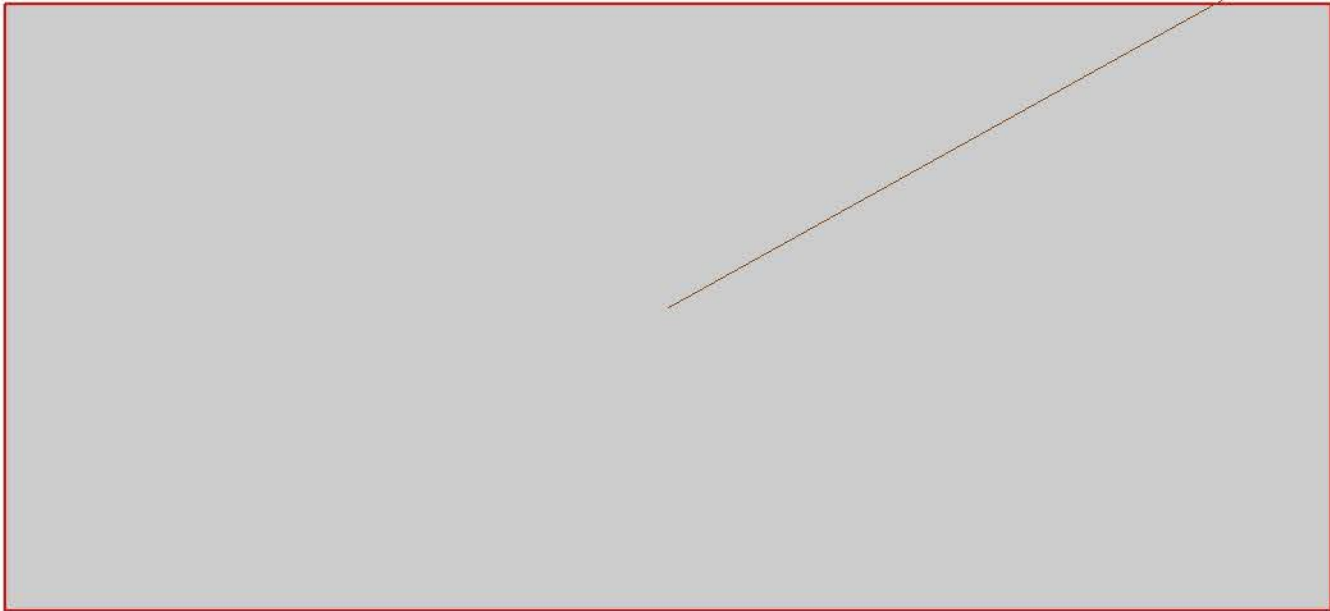
(b)(5) Dear Andrew Clark,
(b)(5)

James Townsend
Office of the General Counsel | Federal Trade Commission
600 Pennsylvania Avenue NW, Washington, D.C. 20580
(202) 326-2225 | jtownsend@ftc.gov

From: Olsen, Chris
Sent: 2 Mar 2019 12:02:38 +0000
To: Cohen, Kristin;George, Tiffany;Magee, Peder
Cc: Weingarten, Libby
Subject: RE: YouTube [REDACTED]
Attachments: [REDACTED]

(b)(4);
(b)(4):6(f)
(b)(3):6(f)

(b)(4);
(b)(3):6(f)



From: Cohen, Kristin [mailto:kcohen@ftc.gov]
Sent: Friday, March 1, 2019 3:23 PM
To: Olsen, Chris; George, Tiffany; Magee, Peder
Cc: Weingarten, Libby
Subject: RE: YouTube [REDACTED]

(b)(4);
(b)(3):6(f)

Thank you, Chris.

From: Olsen, Chris <colsen@wsgr.com>
Sent: Friday, March 01, 2019 3:22 PM
To: Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>
Cc: Weingarten, Libby <lweingarten@wsgr.com>
Subject: RE: YouTube [REDACTED]

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)



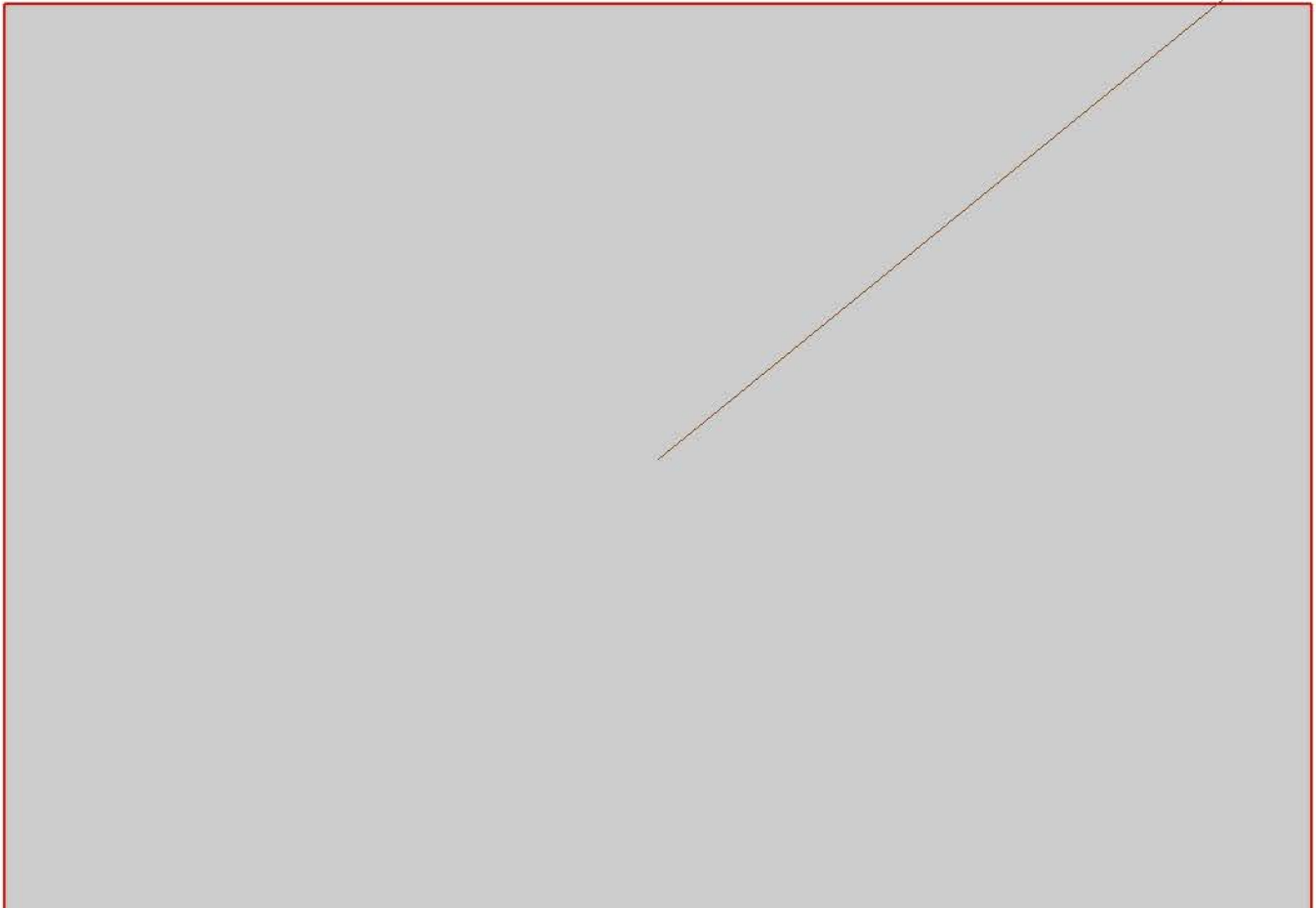
Thanks,
Chris

Please note this response, like our prior responses, is CONFIDENTIAL and should be treated as such. The official language below covers this submission.

Please be aware that the enclosed information contains proprietary and confidential trade secret and other information, the disclosure of which would cause significant harm to Google. Google requests that the Commission keep these materials confidential consistent with the relevant provisions of the FTC Act, 15 U.S.C. §§ 46(f), 57b-2(a-f), FOIA exemptions three, four, and seven, 5 U.S.C. § 552(b)(3), (4), and (7), and all other applicable statutes, regulations, and customary confidentiality policies. In the event that any third party (including any other governmental agency or body) seeks disclosure of, or access to, these materials under FOIA or another context, Google requests to be timely notified by your office and given an opportunity to object to any such disclosure or grant of access. Furthermore, in the event that your office discloses these materials to any third party, Google requests that you advise such third party of the highly confidential nature of these materials. Additionally, Google requests that these materials be destroyed by your office or returned upon the closure of this investigation.

From: Cohen, Kristin [<mailto:kcohen@ftc.gov>]
Sent: Friday, February 22, 2019 4:01 PM
To: Olsen, Chris; Weingarten, Libby
Cc: Magee, Peder; George, Tiffany
Subject: YouTube [REDACTED]

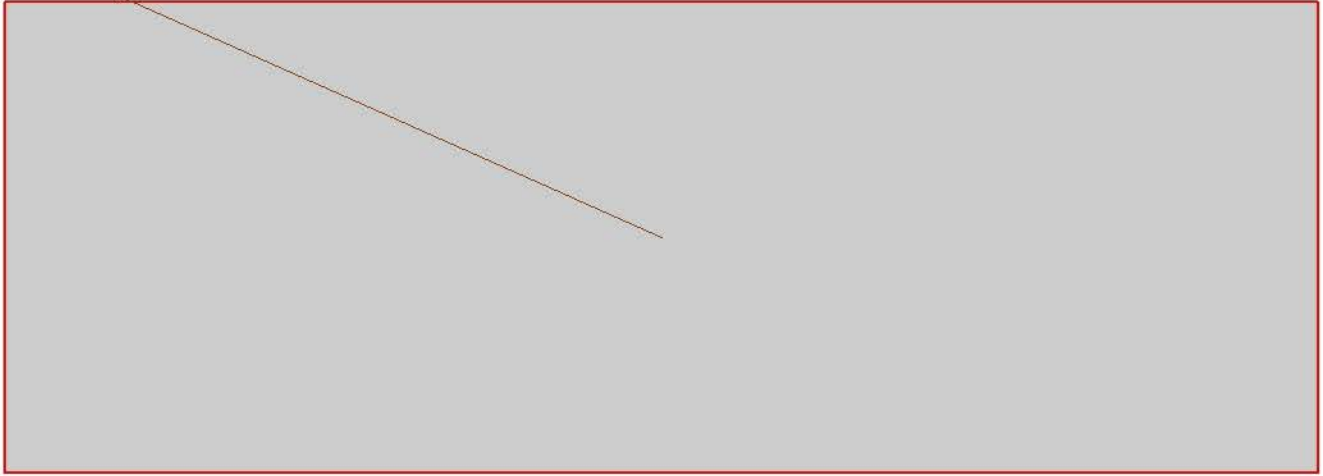
Hi Chris,



(b)(4);
(b)(3):6(f)

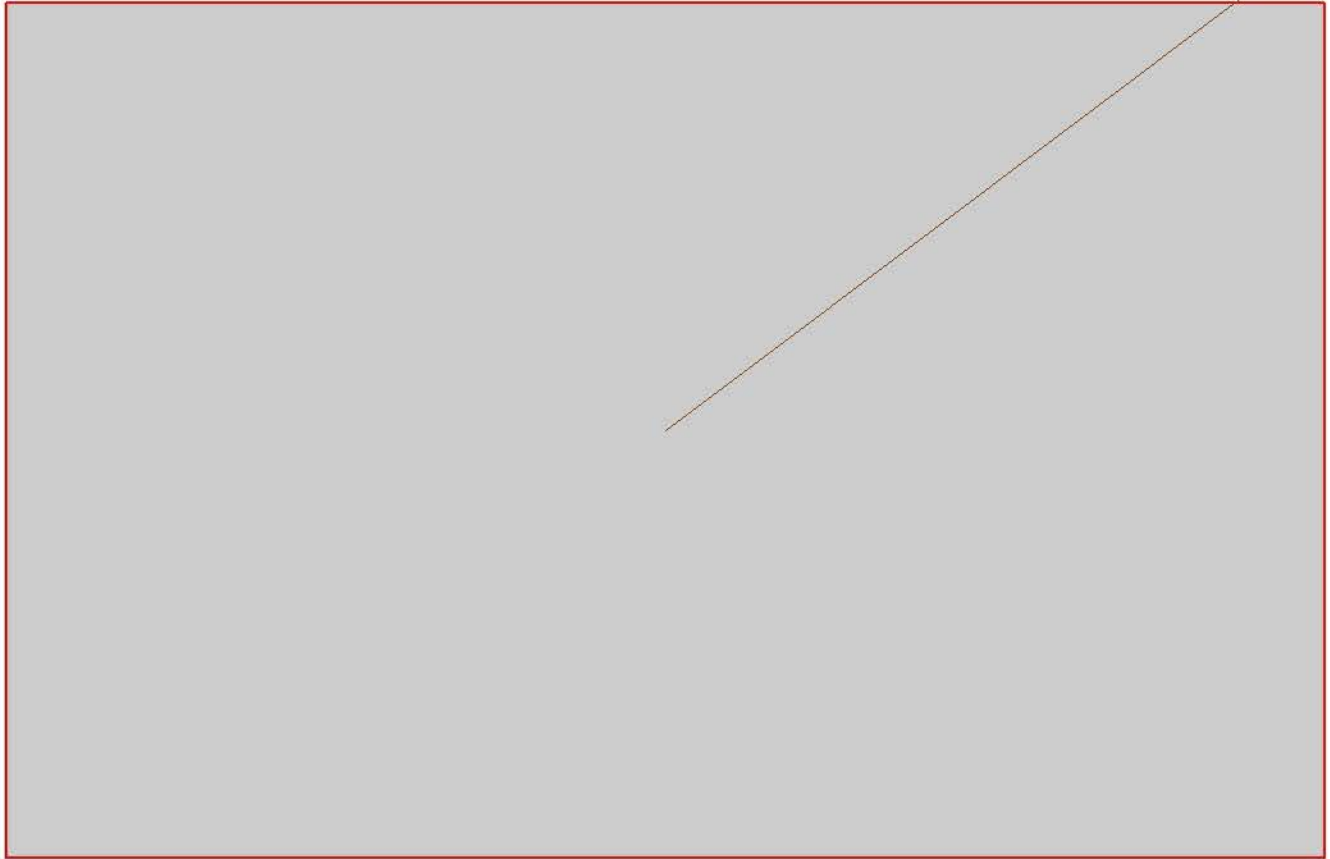
(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)



Thanks,
Kristin

(b)(4);
(b)(3):6(f)



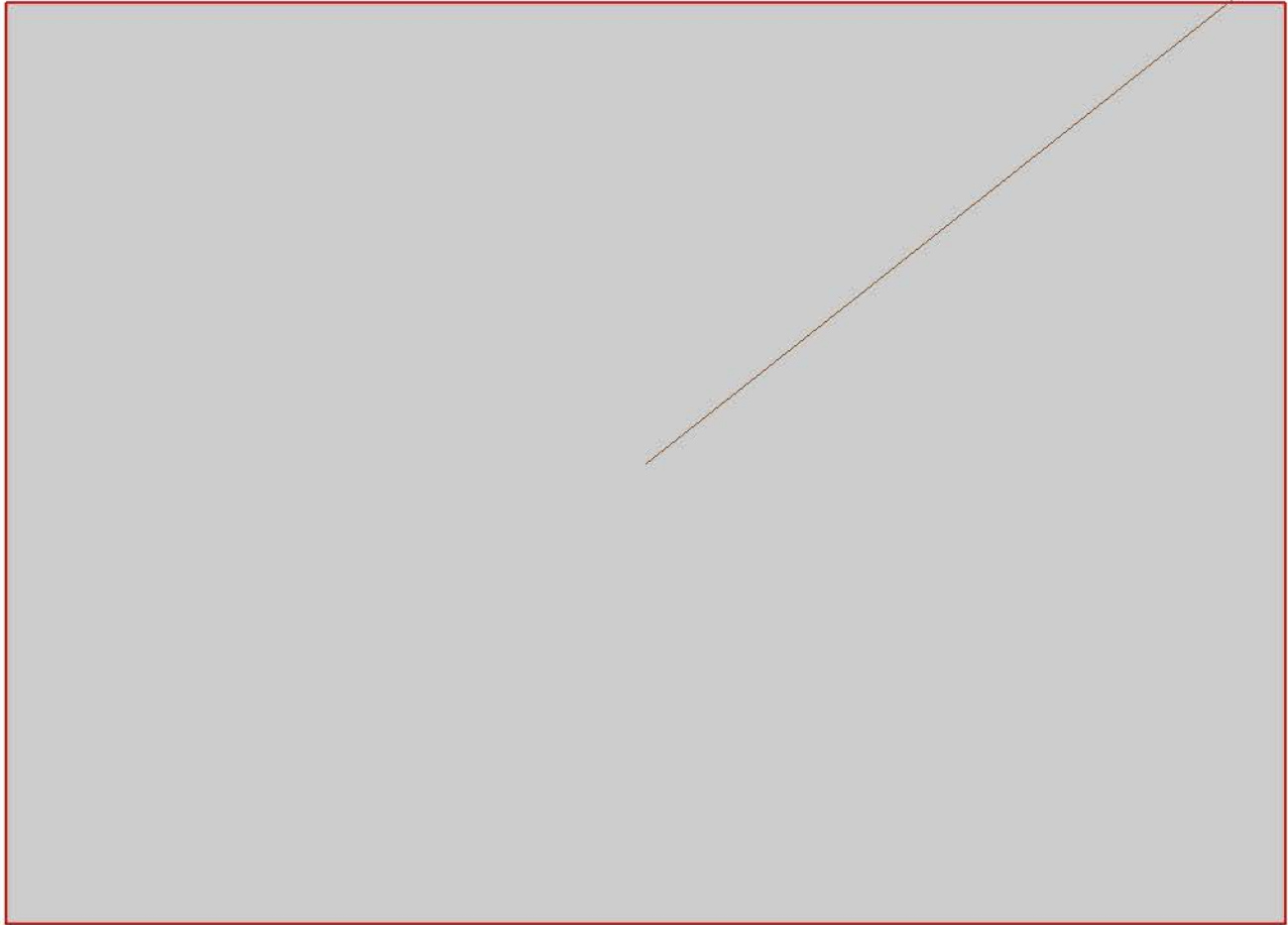
Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

From: Cohen, Kristin
Sent: 11 Apr 2019 20:15:46 +0000
To: Chopra, Rohit; Estrada, Danielle
Cc: Mithal, Maneesha; Eichorn, Mark; George, Tiffany; Levine, Samuel; King, Austin; Crawford, Molly; Magee, Peder; Meyer, Erie K
Subject: RE: YouTube

Commissioner Chopra:



Please let us know if you have any further questions.

From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Wednesday, April 10, 2019 2:54 PM
To: Jagielski, Karen <KJAGIELSKI@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>; King, Austin <aking3@ftc.gov>; Crawford, Molly <mcrawford@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>
Subject: RE: YouTube

(b)(5)

Apologies, [redacted] Adding her!

From: Chopra, Rohit

Sent: Wednesday, April 10, 2019 2:46 PM

To: Jagielski, Karen <KJAGIELSKI@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>; King, Austin <aking3@ftc.gov>; Crawford, Molly <mcrawford@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>

Subject: RE: YouTube [redacted]

Maneesha/Karen,

[redacted]

Thanks, RC

-----Original Appointment-----

From: Meyer, Erie K **On Behalf Of** Chopra, Rohit

Sent: Friday, March 15, 2019 4:30 PM

To: Chopra, Rohit; Magee, Peder; Meyer, Erie K

Cc: Mithal, Maneesha; Eichorn, Mark; George, Tiffany; Cohen, Kristin; Levine, Samuel; King, Austin; Crawford, Molly

Subject: YouTube [redacted]

When: Wednesday, March 20, 2019 11:30 AM-12:30 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ 326

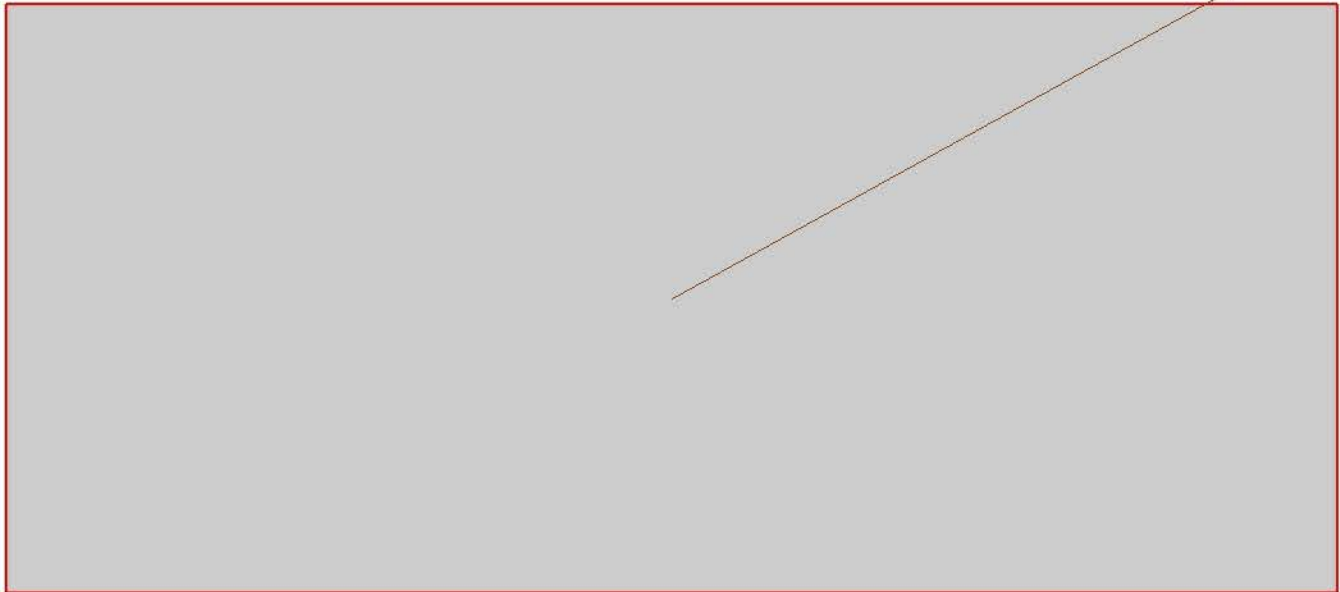
(b)(5)

(b)(5)

From: King, Austin
Sent: 19 Jun 2019 11:03:38 -0400
To: Cohen, Kristin; Magee, Peder; George, Tiffany
Cc: Mithal, Maneesha; Eichorn, Mark; Estrada, Danielle; Kaufman, Daniel
Subject: RE: YouTube [redacted]

(b)(5)

(b)(5)



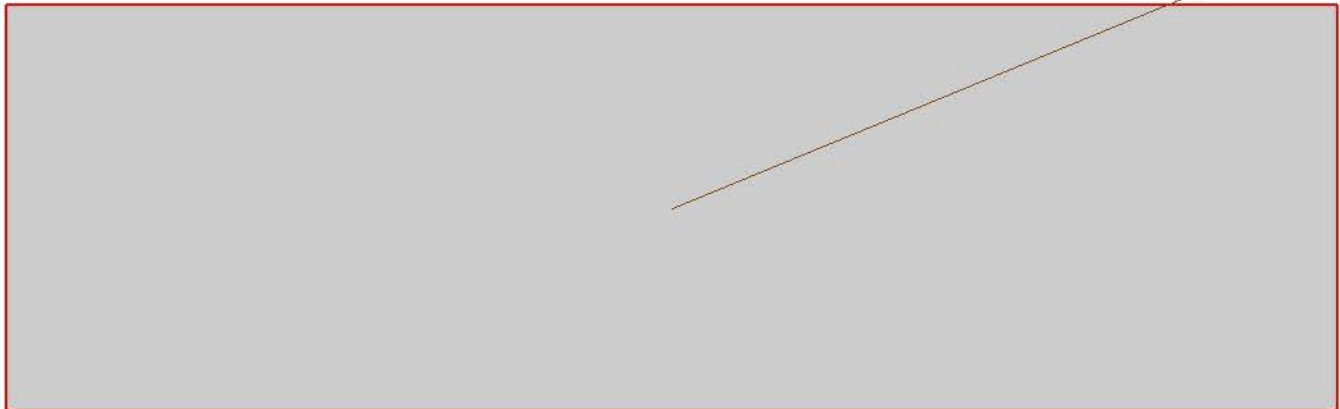
Many thanks for any clarity you can provide us!
Austin

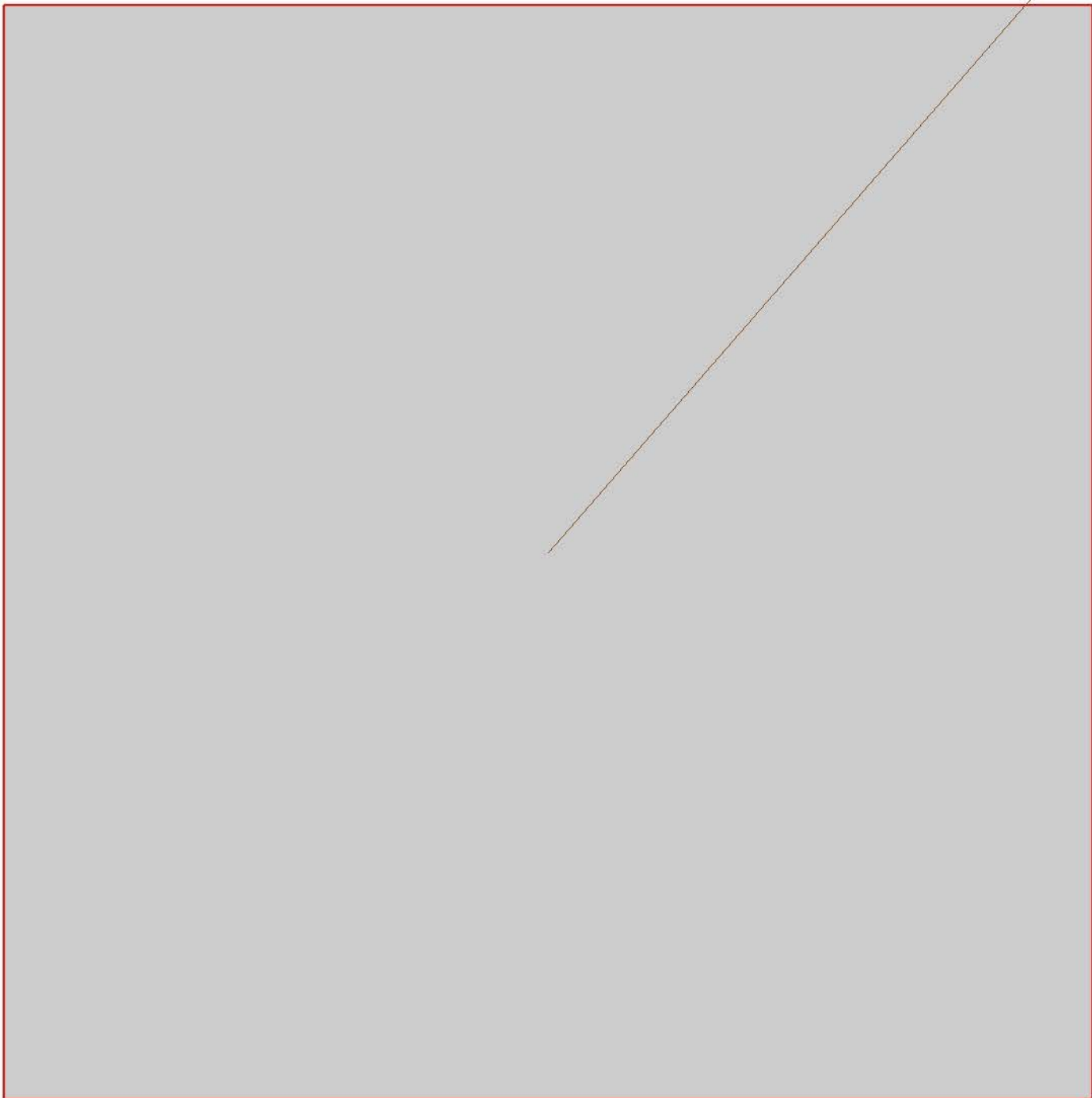
From: King, Austin
Sent: Monday, June 17, 2019 6:18 PM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>
Subject: YouTube [redacted]

(b)(5)

(b)(5)

Dear YouTube team,





Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

From: Weingarten, Libby
Sent: 3 Sep 2019 23:23:52 +0000
To: Cohen, Kristin; Magee, Peder
Cc: Olsen, Chris
Subject: RE: YouTube

(b)(4);
(b)(3):6(f)
Hi Kristin, Peder,

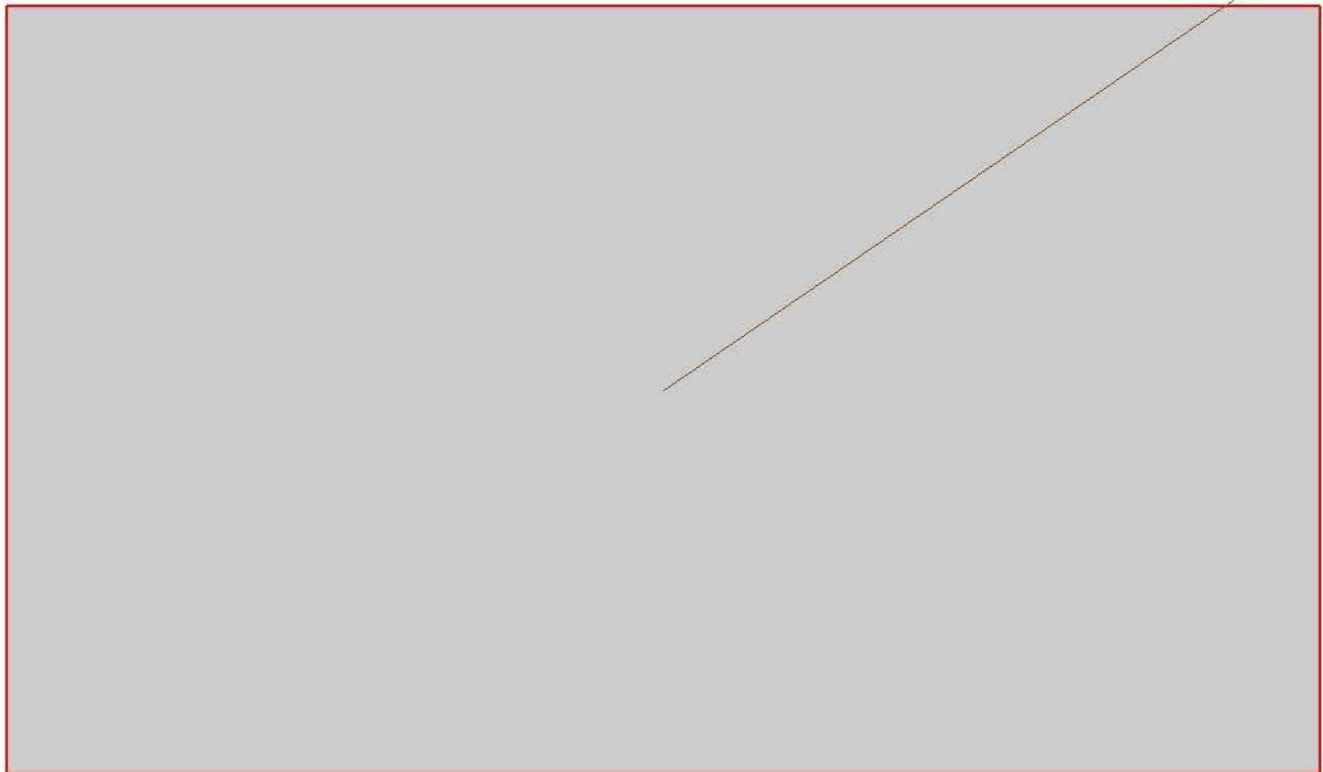


Best,
Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich Rosati | (202) 973-8861 | lweingarten@wsgr.com

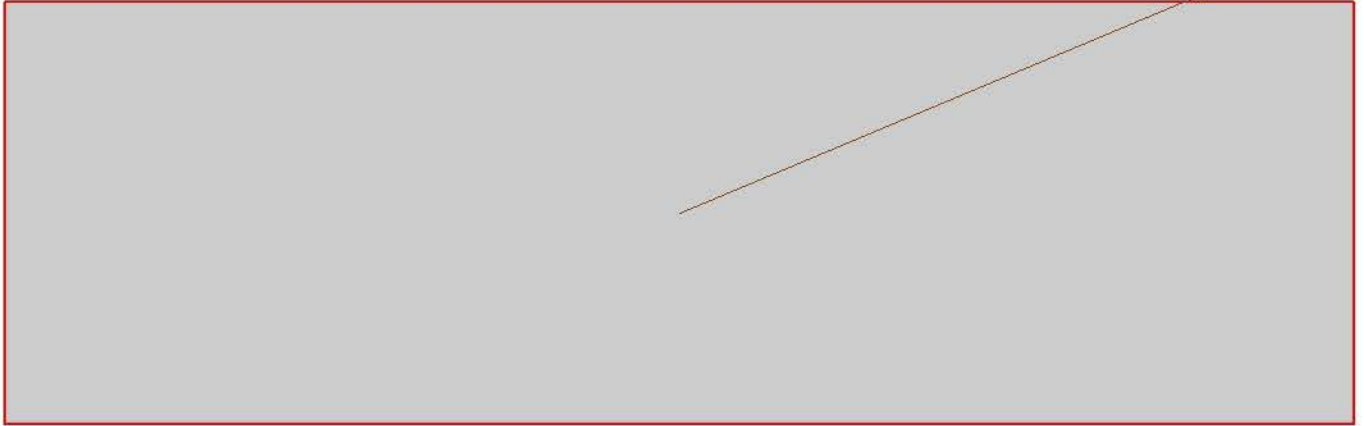
From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, September 3, 2019 5:15 PM
To: Weingarten, Libby <lweingarten@wsgr.com>
Subject: YouTube

Hi Libby,



(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)



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From: Cohen, Kristin
Sent: 26 Apr 2019 12:43:38 +0000
To: 'Weingarten, Libby';Olsen, Chris
Cc: Magee, Peder;George, Tiffany
Subject: RE: YT / Signature page

(b)(4);
(b)(3):6(f)

Hi Libby,



From: Weingarten, Libby <lweingarten@wsgr.com>
Sent: Friday, April 26, 2019 8:22 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Olsen, Chris <colsen@wsgr.com>
Cc: Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: YT / Signature page

Great, thank you.

From: Cohen, Kristin [<mailto:kcohen@ftc.gov>]
Sent: Friday, April 26, 2019 6:08 AM
To: Weingarten, Libby; Olsen, Chris
Cc: Magee, Peder; George, Tiffany
Subject: RE: YT / Signature page

(b)(4);
(b)(3):6(f)



----- Original Message -----

From: "Weingarten, Libby" <lweingarten@wsgr.com>
Date: Thu, April 25, 2019 6:00 PM -0400
To: "Olsen, Chris" <colsen@wsgr.com>, "Cohen, Kristin" <kcohen@ftc.gov>
CC: "Magee, Peder" <PMAGEE@ftc.gov>, "George, Tiffany" <tgeorge@ftc.gov>
Subject: RE: YT / Signature page

(b)(4);
(b)(3):6(f)

Hi Kristin,



Thanks,
Libby

From: Olsen, Chris
Sent: Thursday, April 25, 2019 5:01 PM
To: Cohen, Kristin
Cc: Weingarten, Libby; Magee, Peder; George, Tiffany
Subject: Re: YT / Signature page

(b)(4);
(b)(3):6(f)

[Redacted]

(b)(6)

Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) [Redacted]

On Apr 25, 2019, at 4:54 PM, Cohen, Kristin <kcohen@ftc.gov> wrote:

(b)(4);
(b)(3):6(f)

Hi Chris,

[Redacted]

From: Cohen, Kristin
Sent: Thursday, April 25, 2019 4:18 PM
To: 'Olsen, Chris' <colsen@wsgr.com>
Cc: Weingarten, Libby <lweingarten@wsgr.com>; Magee, Peder <PMAGEE@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: RE: YT / Signature page

(b)(4);
(b)(3):6(f)

Chris,

[Redacted]

From: Olsen, Chris <colsen@wsgr.com>

Sent: Thursday, April 25, 2019 4:14 PM

To: Cohen, Kristin <kcohen@ftc.gov>

Cc: Weingarten, Libby <lweingarten@wsgr.com>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: Re: YT / Signature page

[Redacted]

Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) [Redacted]

On Apr 25, 2019, at 4:03 PM, Cohen, Kristin <kcohen@ftc.gov> wrote:

Hi Chris and Libby,

[Redacted]

Thanks,
Kristin

From: Olsen, Chris <colsen@wsgr.com>

Sent: Thursday, April 25, 2019 3:05 PM

To: Weingarten, Libby <lweingarten@wsgr.com>

Cc: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: Re: YT / Signature page

[Redacted]

Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) [Redacted]

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

(b)(6)

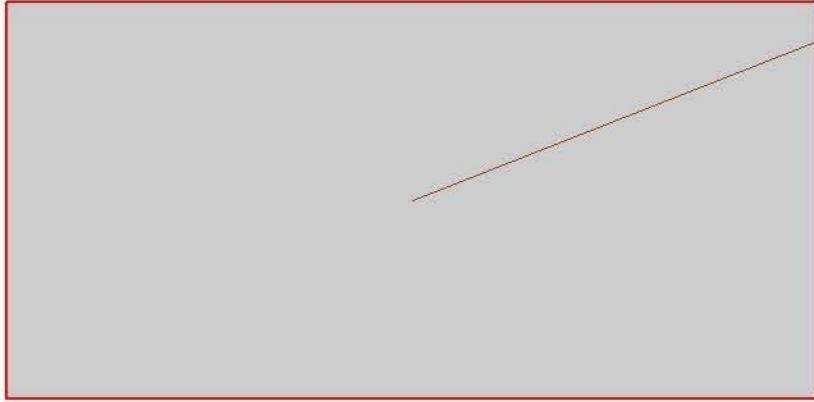
(b)(4);
(b)(3):6(f)

(b)(6)

On Apr 25, 2019, at 2:44 PM, Weingarten, Libby <lweingarten@wsgr.com> wrote:

(b)(4);
(b)(3):6(f)

Hi Kristin, Peder,



Thanks very much!

Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich
Rosati | (202) 973-8861 | lweingarten@wsgr.com

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

(b)(4);
(b)(3):6(f)



(b)(5)

From: Chopra, Rohit
Sent: 17 Jun 2019 08:55:17 -0400
To: Cohen, Kristin; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: RE: [REDACTED]

(b)(5)

Thanks in advance, RC

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Friday, June 14, 2019 10:05 AM
To: Chopra, Rohit <rchopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

(b)(5)

From: Chopra, Rohit <rchopra@ftc.gov>

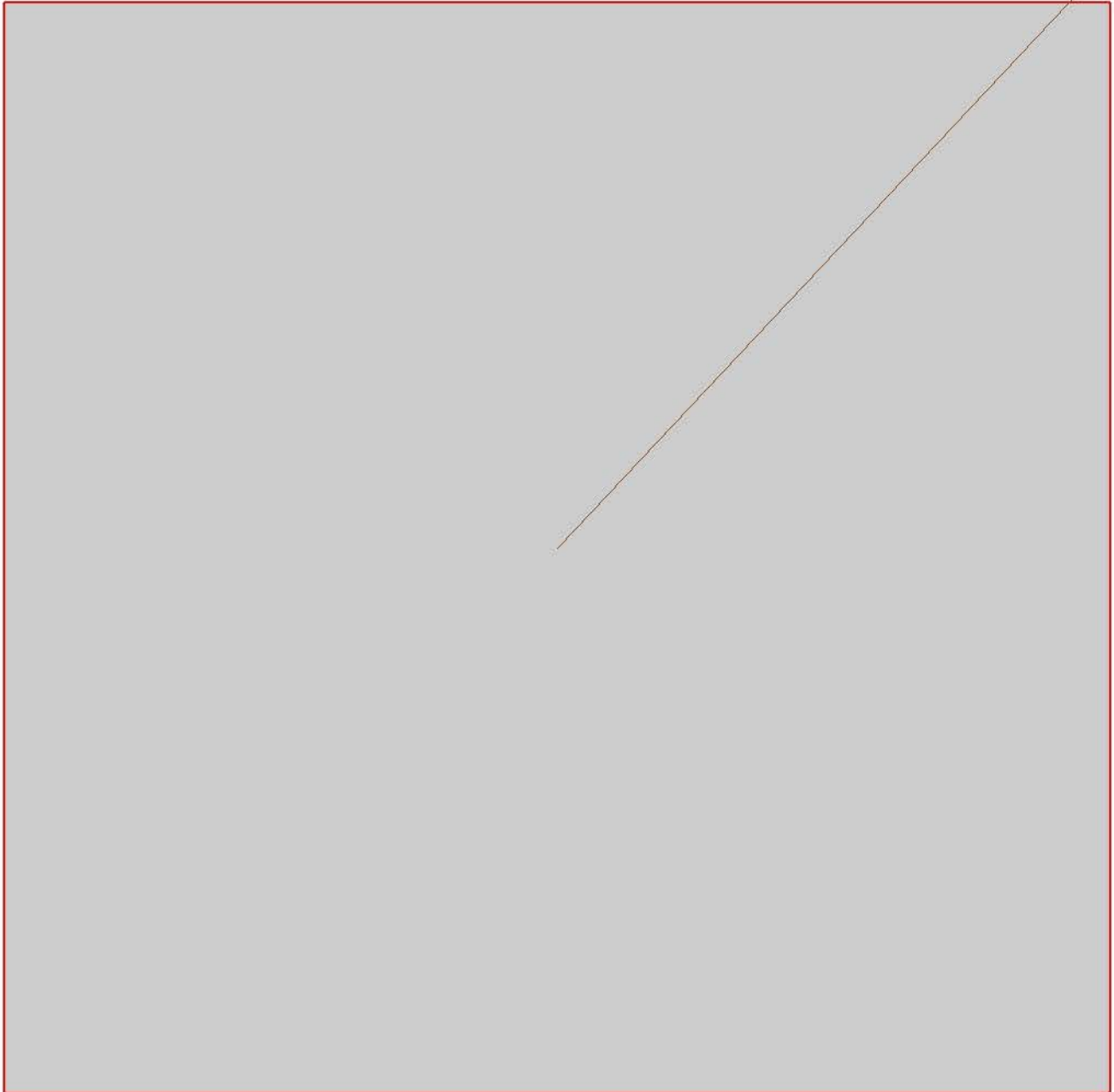
Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

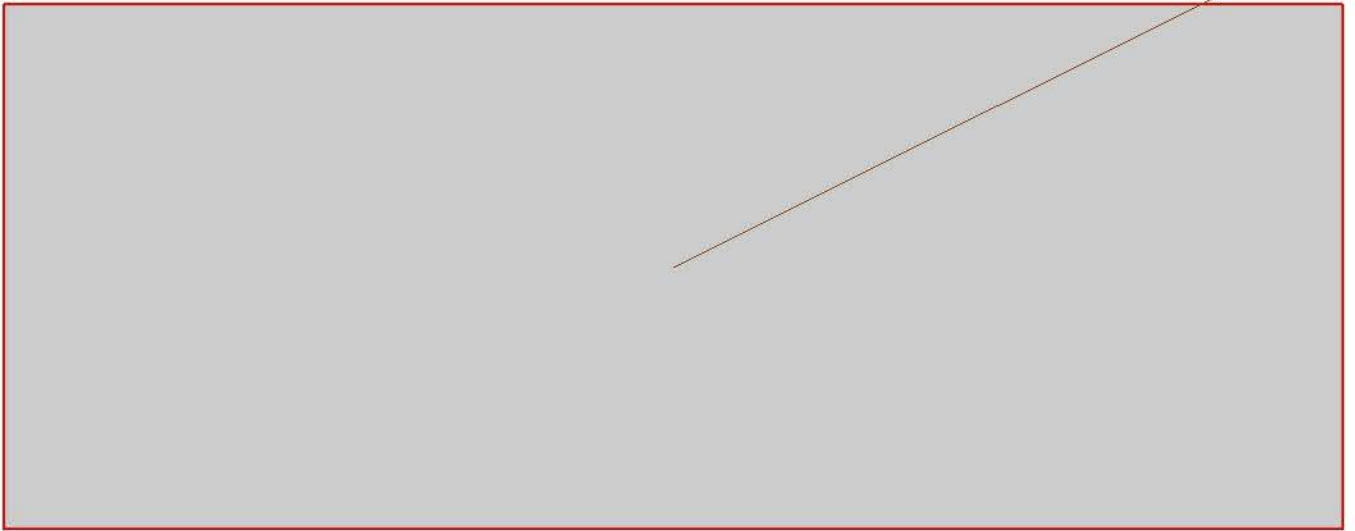
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: [REDACTED]

All,



(b)(5)



RC

(b)(5)

From: Chopra, Rohit
Sent: 17 Jun 2019 11:53:05 -0400
To: Cohen, Kristin; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Eri K; Levine, Samuel
Subject: RE: [REDACTED]

(b)(5)

[REDACTED]

Thanks again.

From: Chopra, Rohit
Sent: Monday, June 17, 2019 8:55 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Eri K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

Thanks in advance, RC

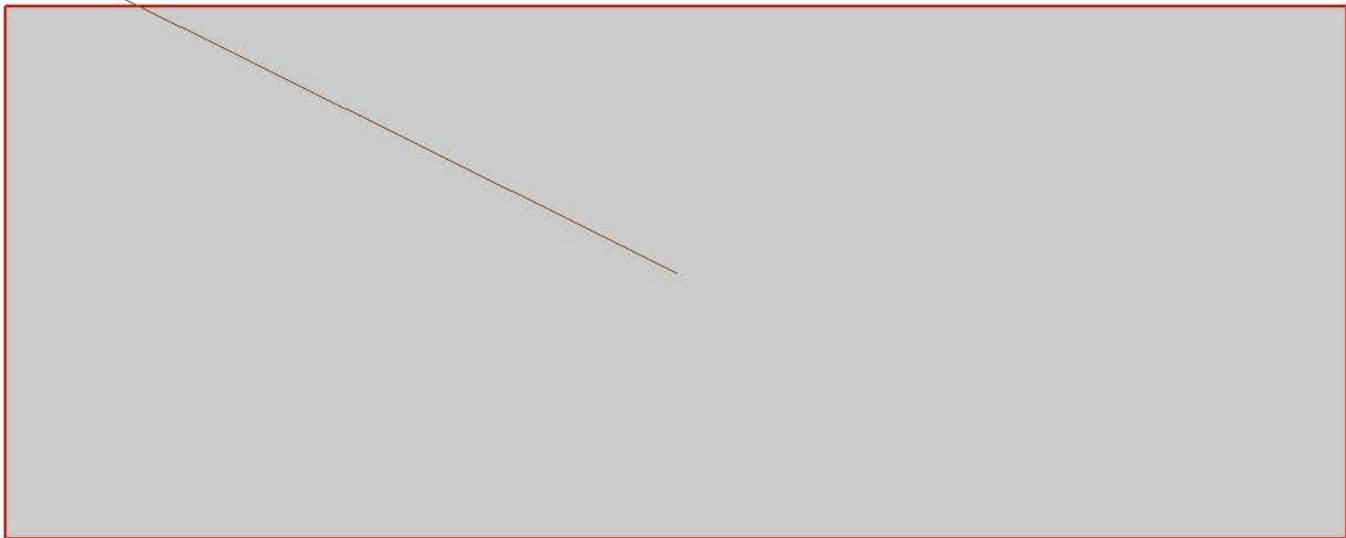
From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Friday, June 14, 2019 10:05 AM
To: Chopra, Rohit <r chopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Eri K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

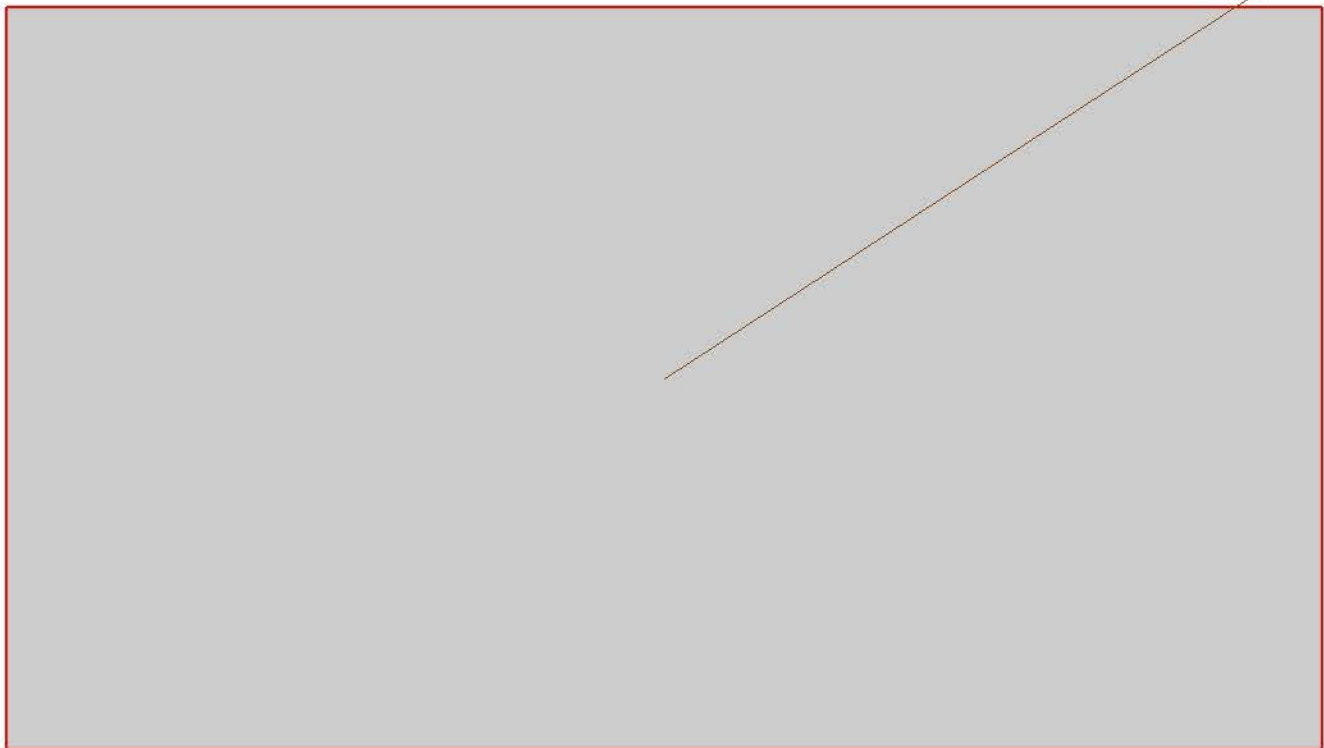
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject 

(b)(5)

All,

(b)(5)



From: Cohen, Kristin
Sent: 18 Jun 2019 13:55:35 +0000
To: Chopra, Rohit; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: RE: [REDACTED]

From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Monday, June 17, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

Thanks again.

From: Chopra, Rohit
Sent: Monday, June 17, 2019 8:55 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: [REDACTED]

Thanks in advance, RC

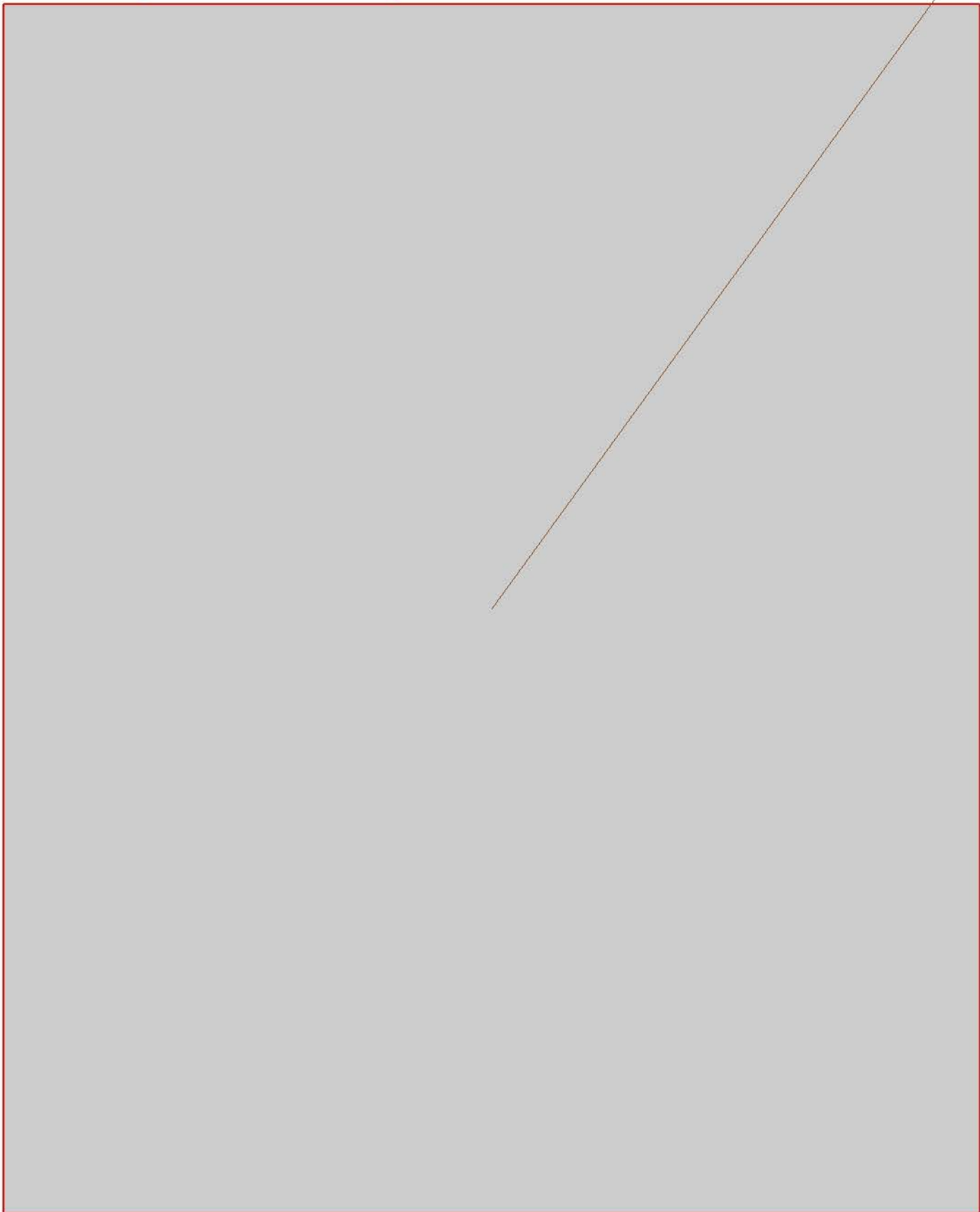
From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Friday, June 14, 2019 10:05 AM
To: Chopra, Rohit <rchopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K

(b)(5)

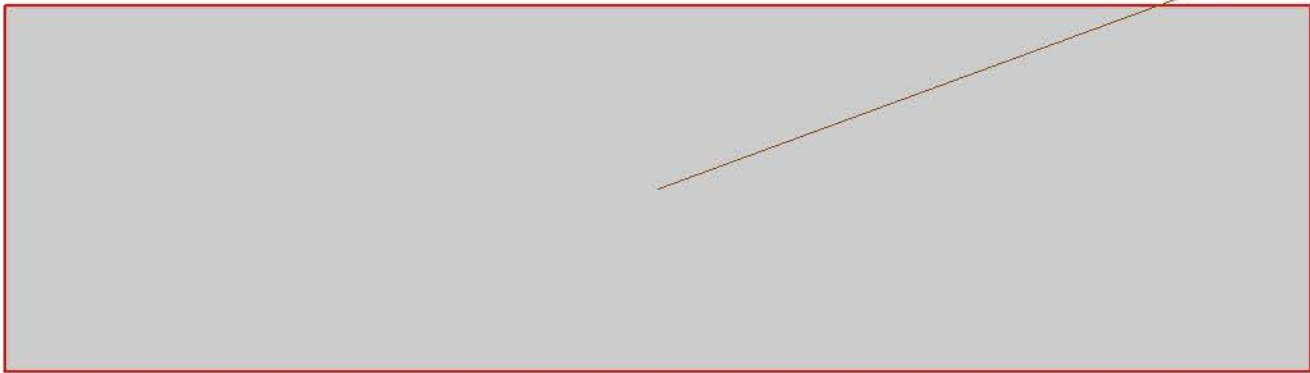
<emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: RE [REDACTED]

(b)(5)



(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

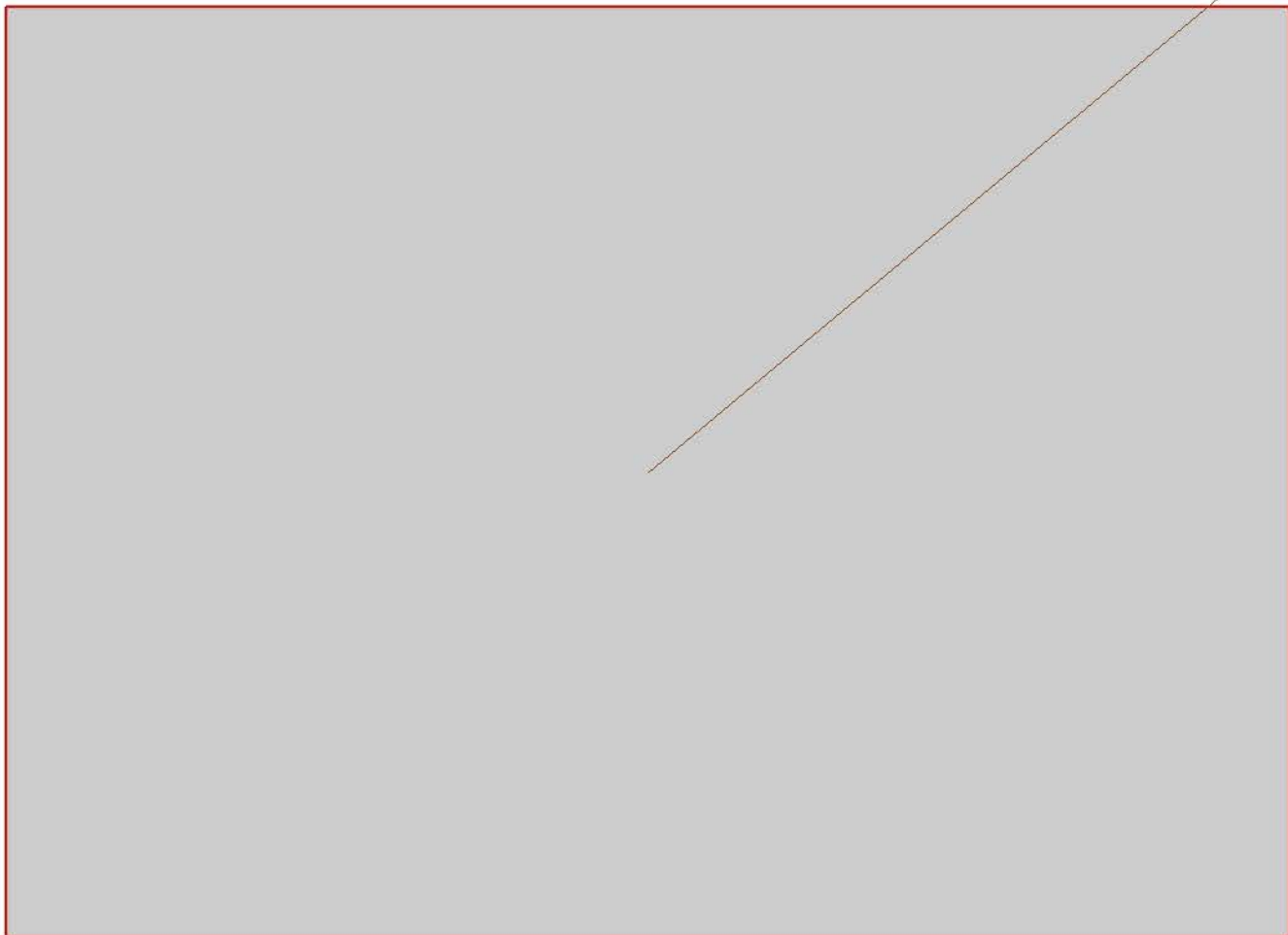
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject 

(b)(5)

All,

(b)(5)



(b)(5)

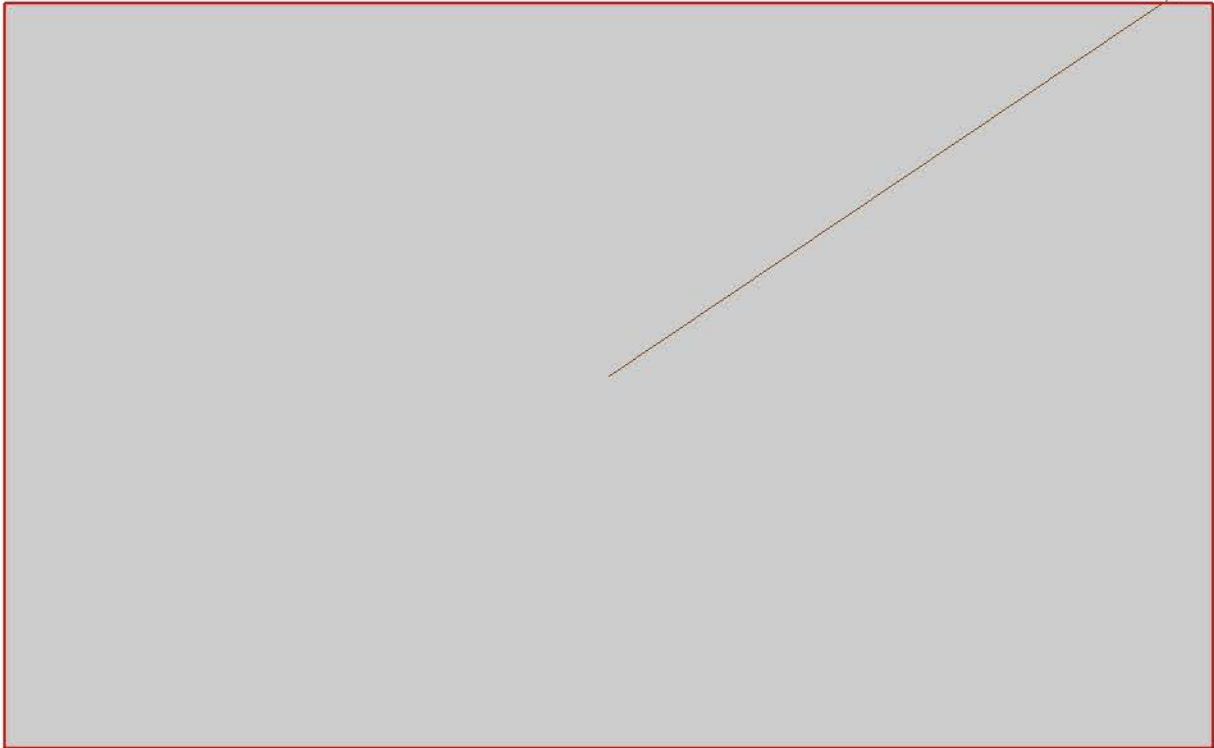


RC

From: Chopra, Rohit
Sent: 19 Jun 2019 09:57:09 -0400
To: Cohen, Kristin; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: Re: [REDACTED]

(b)(5)

(b)(5)



Thanks, RC

On: 18 June 2019 09:55,
"Cohen, Kristin" <kcohen@ftc.gov> wrote:

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Monday, June 17, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer,

(b)(5)

Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE [REDACTED]

(b)(5)

[REDACTED]

Thanks again.

From: Chopra, Rohit
Sent: Monday, June 17, 2019 8:55 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

Thanks in advance, RC

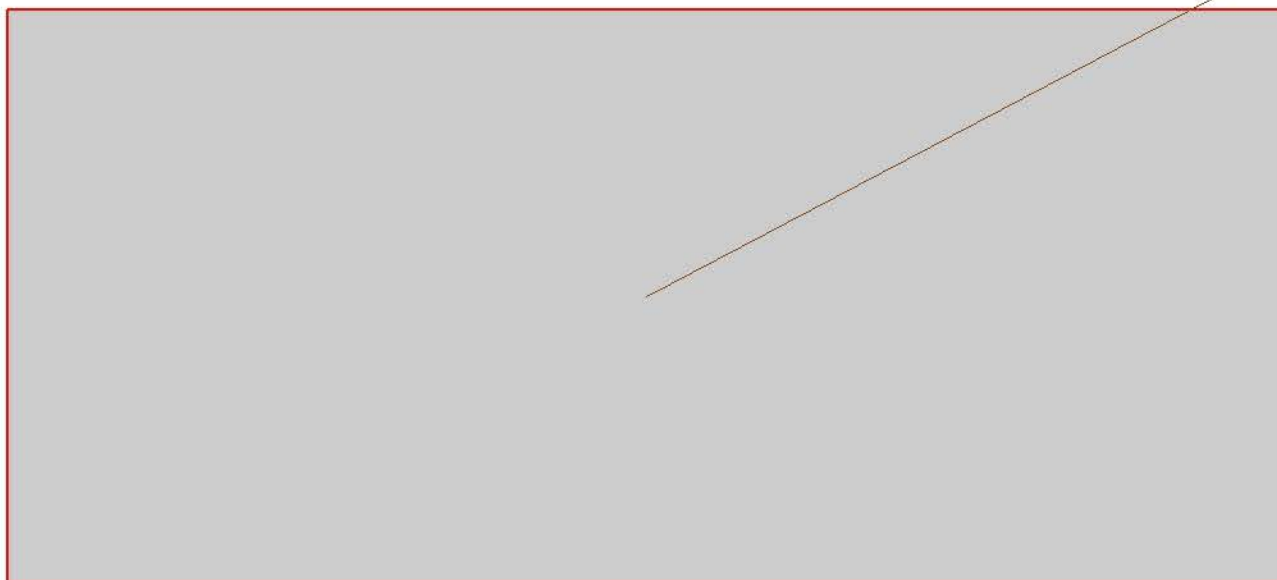
From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Friday, June 14, 2019 10:05 AM
To: Chopra, Rohit <rchopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE [REDACTED]

(b)(5)

(b)(5)

[REDACTED]

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

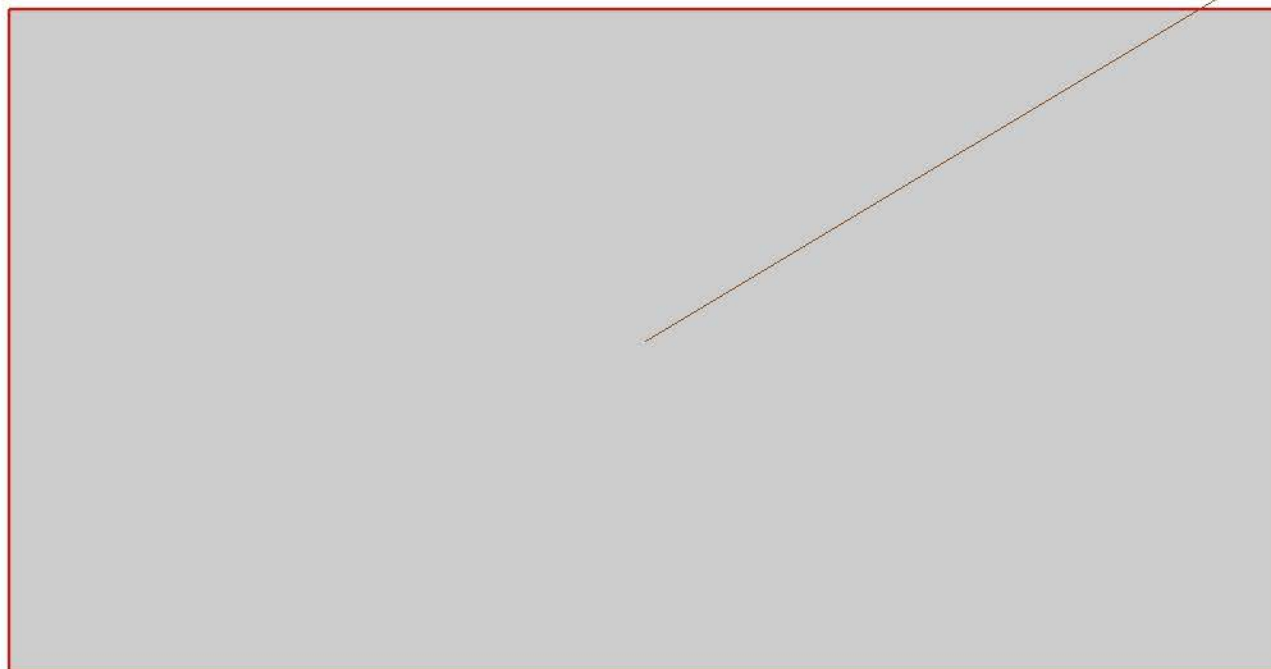
Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: 

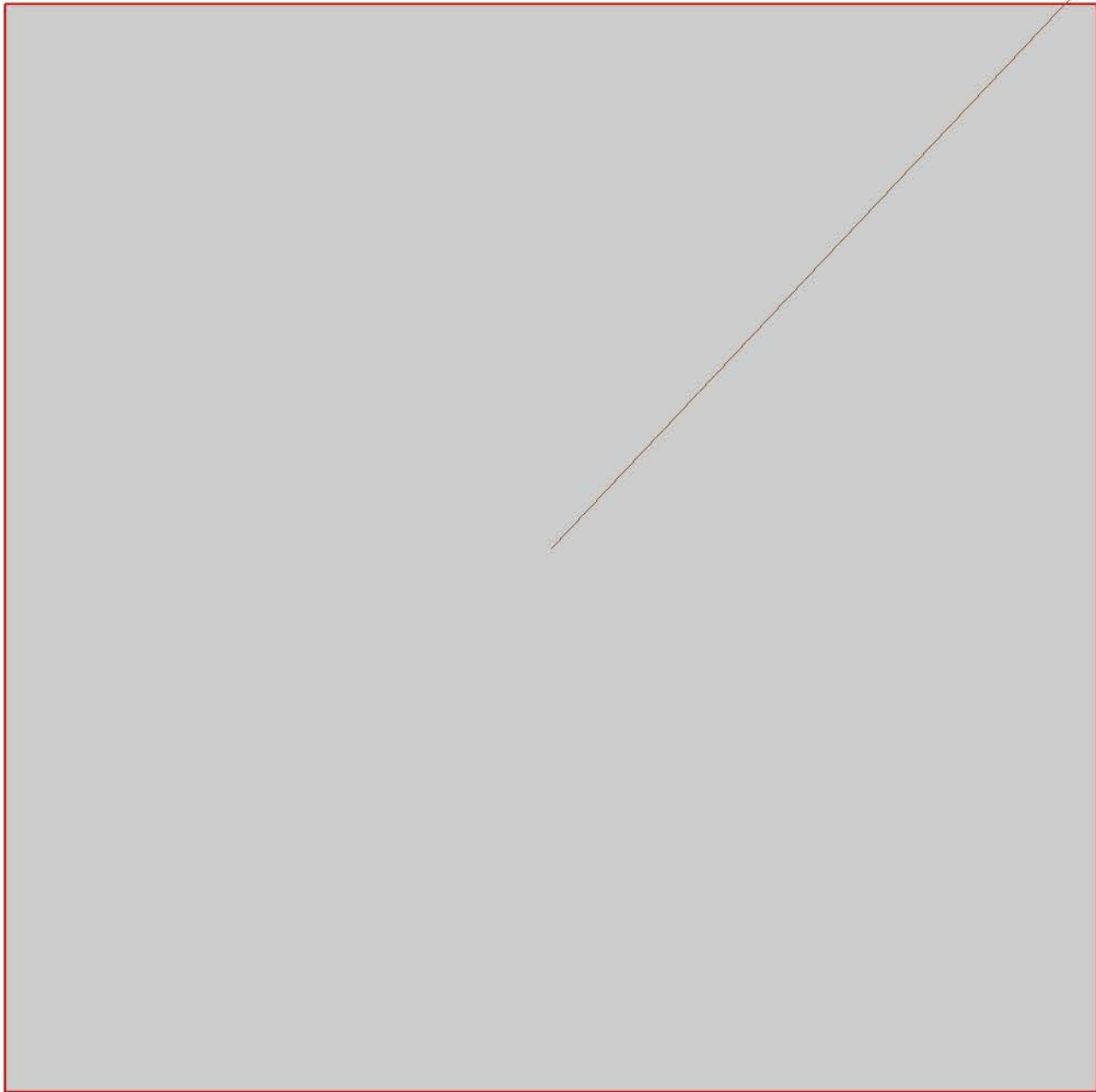
All,



(b)(5)

(b)(5)

(b)(5)

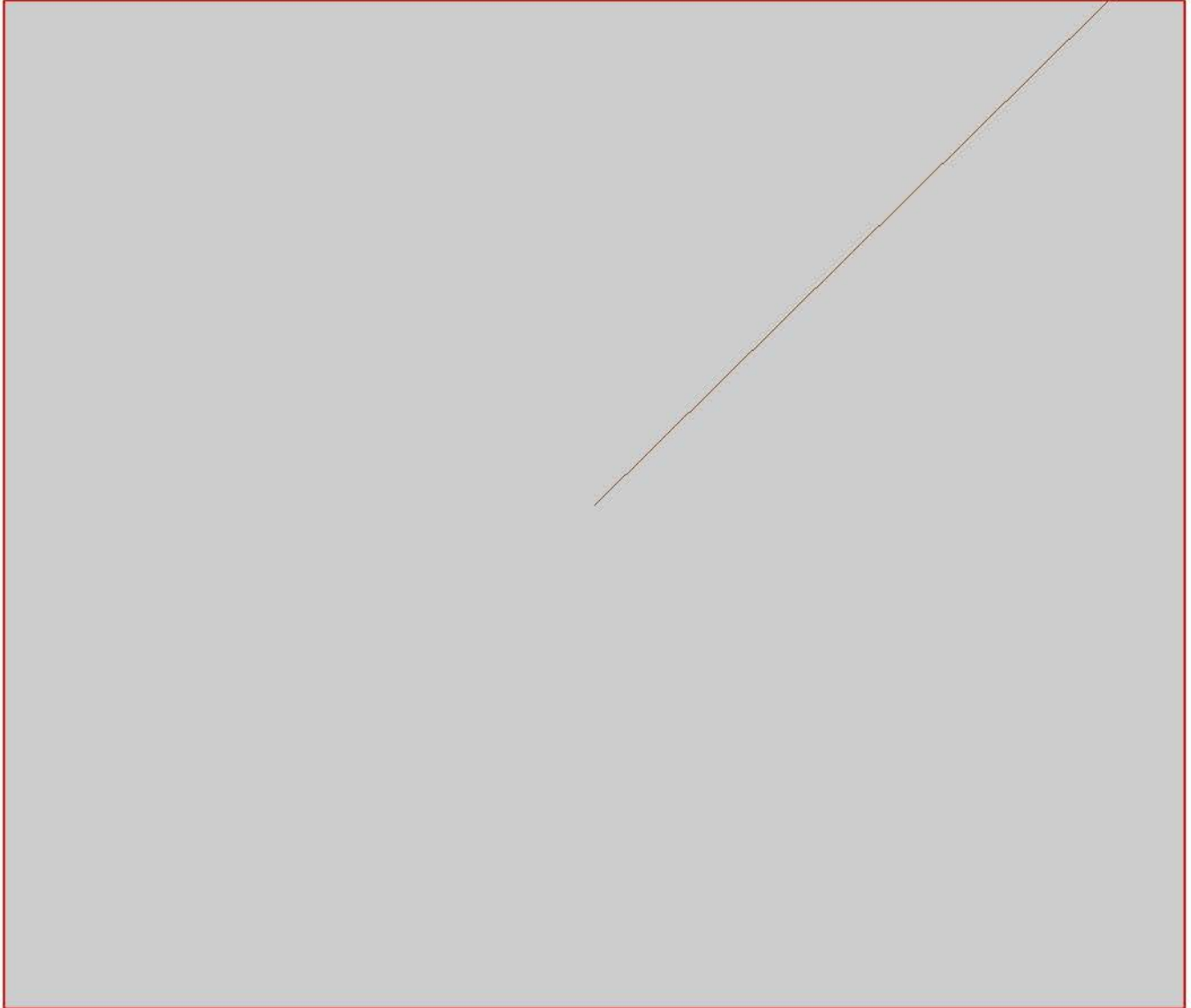


RC

(b)(5)

From: Cohen, Kristin
Sent: 19 Jun 2019 17:19:08 +0000
To: Chopra, Rohit; Magee, Peder; George, Tiffany; Mithal, Maneesha; Eichorn, Mark
Cc: Estrada, Danielle; Kaufman, Daniel; Meyer, Erie K; Levine, Samuel
Subject: RE: [REDACTED]

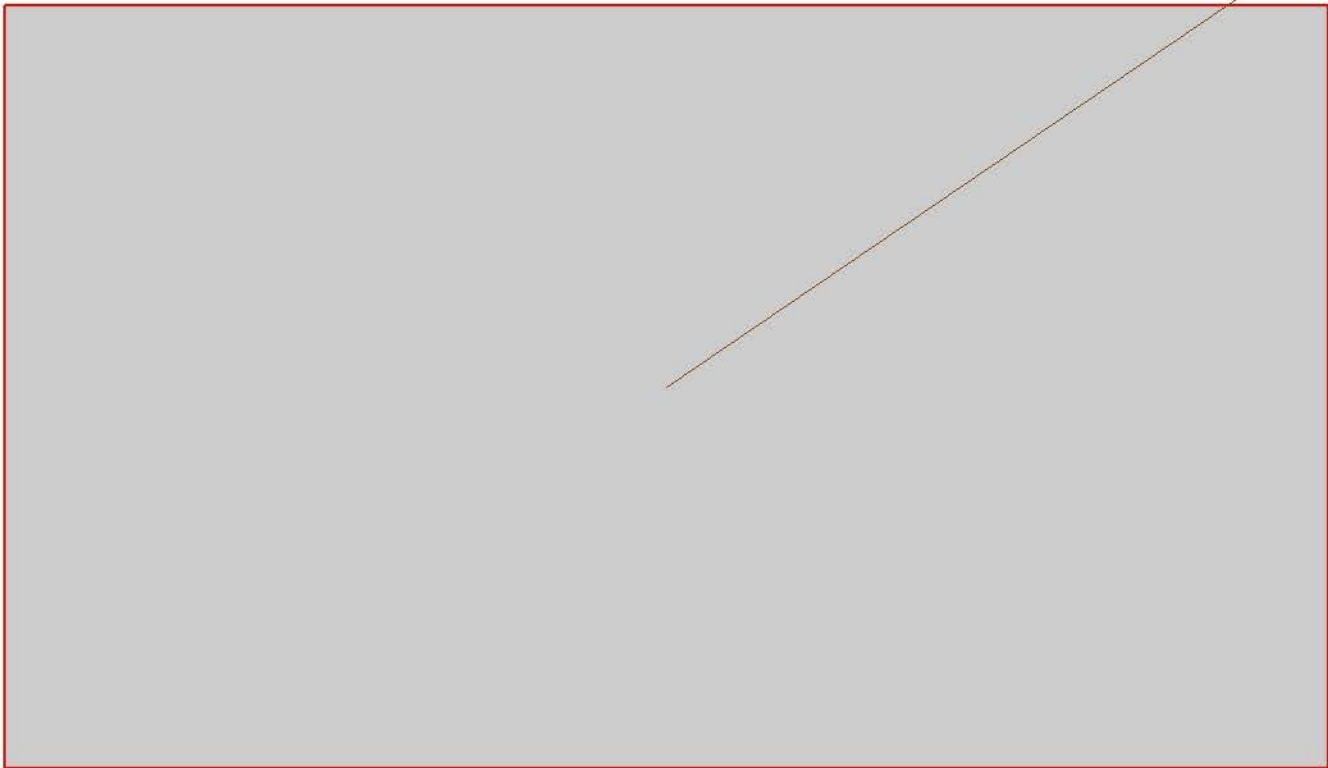
(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Wednesday, June 19, 2019 9:57 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: Re: [REDACTED]

(b)(5)

(b)(5)



Thanks, RC

On: 18 June 2019 09:55,
"Cohen, Kristin" <kcohen@ftc.gov> wrote:

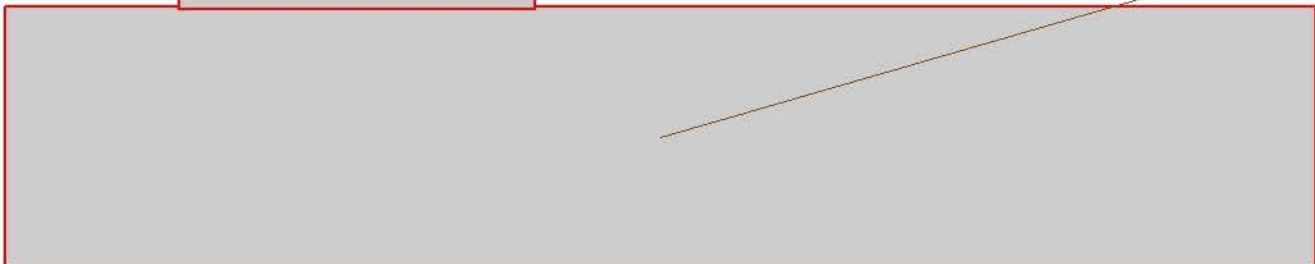
(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Monday, June 17, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE [REDACTED]

(b)(5)

(b)(5)



Thanks again.

From: Chopra, Rohit

Sent: Monday, June 17, 2019 8:55 AM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: RE: [REDACTED]

Thanks in advance, RC

From: Cohen, Kristin <kcohen@ftc.gov>

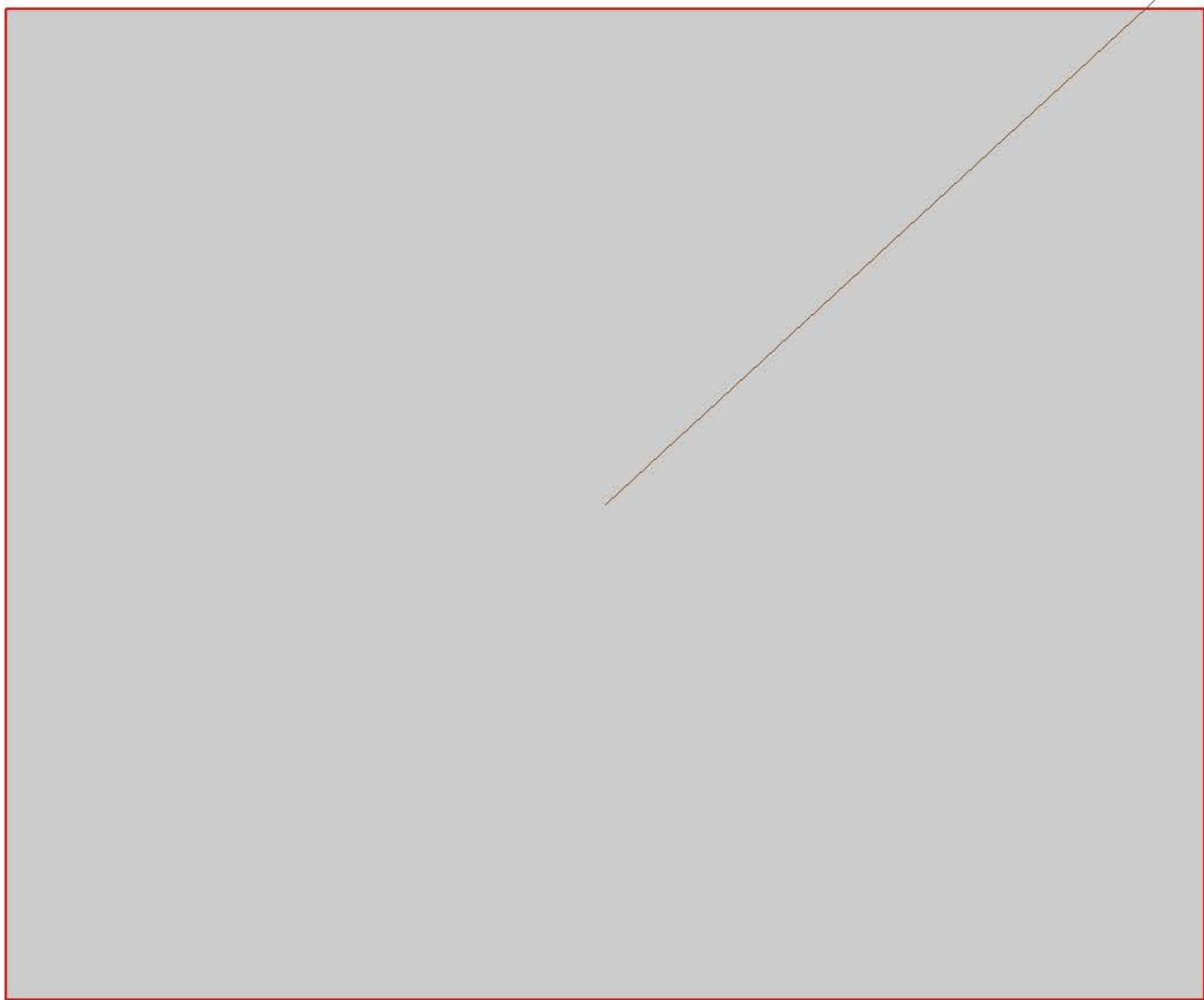
Sent: Friday, June 14, 2019 10:05 AM

To: Chopra, Rohit <rchopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: RE: [REDACTED]

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Thursday, June 13, 2019 9:21 AM

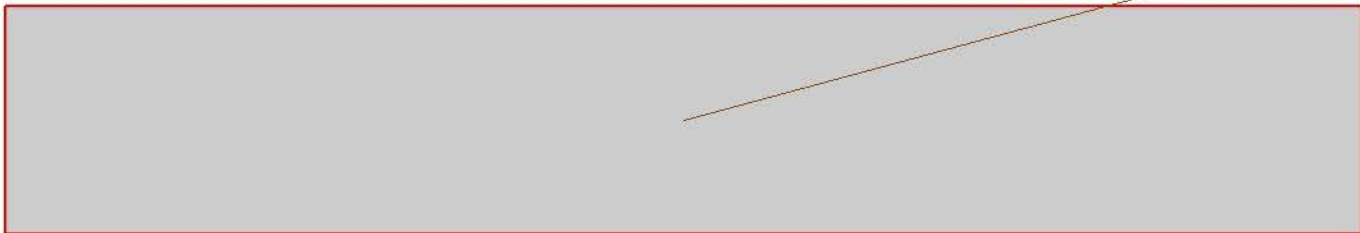
To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: 

All,

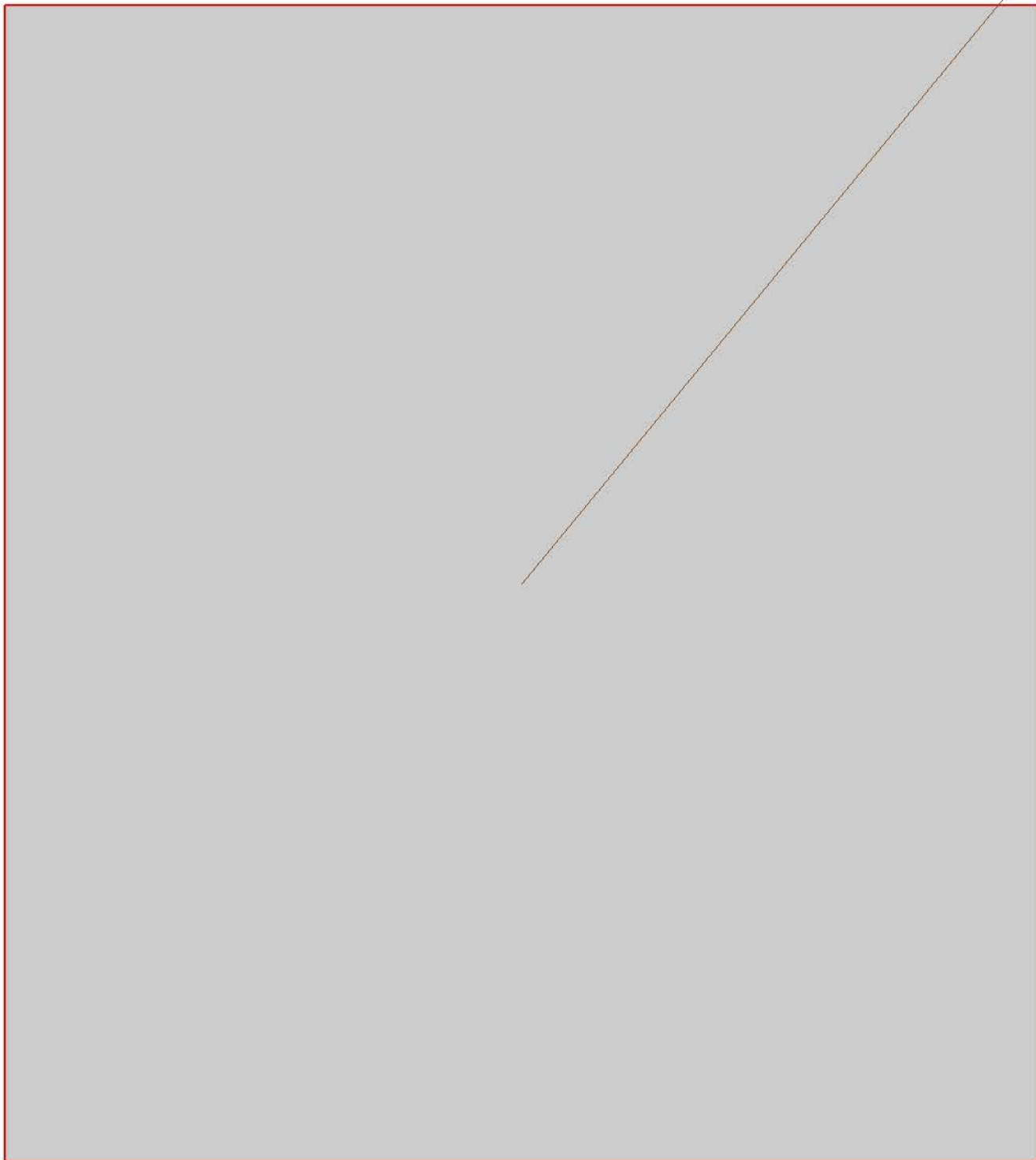
(b)(5)



(b)(5)

From: Magee, Peder
Sent: 3 Jul 2019 11:13:19 -0400
To: Chopra, Rohit;Cohen, Kristin;George, Tiffany;Mithal, Maneesha;Eichorn, Mark
Cc: Estrada, Danielle;Kaufman, Daniel;Meyer, Erie K;Levine, Samuel
Subject: RE: [REDACTED]

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Tuesday, July 02, 2019 7:36 PM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: Re: [REDACTED]

(b)(5)
Kristin and team,

[REDACTED]

RC

(b)(5)
On: 19 June 2019 13:19, "Cohen, Kristin" <kcohen@ftc.gov> wrote:

[REDACTED]

(b)(5)




From: Chopra, Rohit <rchopra@ftc.gov>

Sent: Wednesday, June 19, 2019 9:57 AM

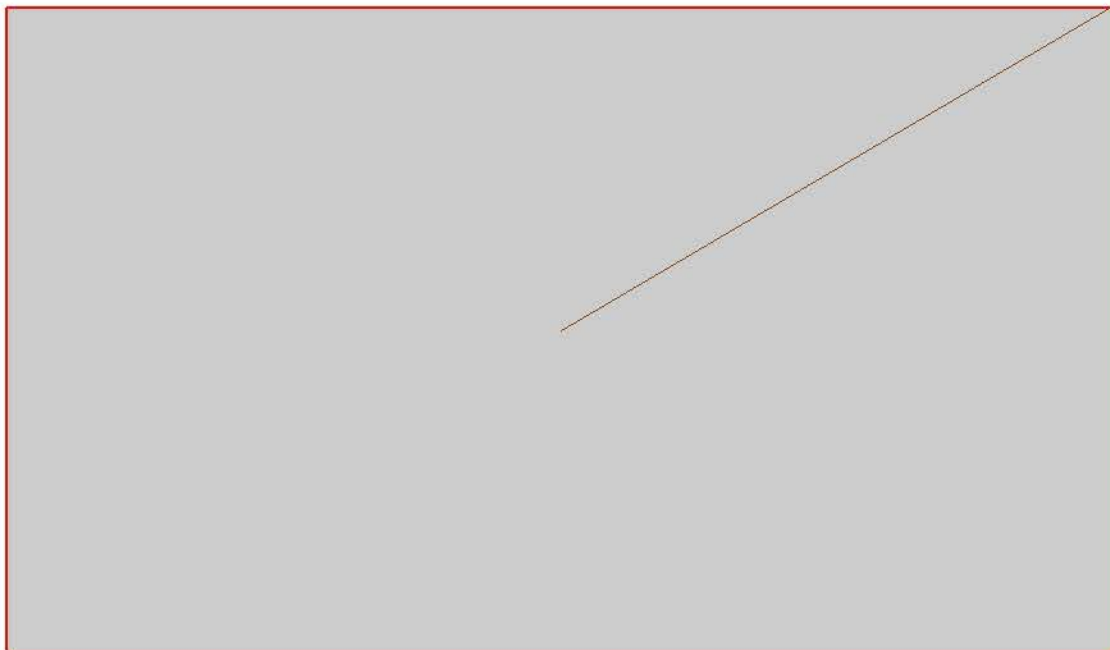
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

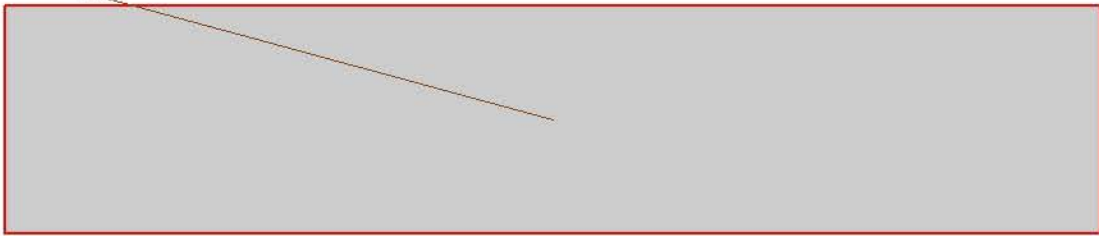
Subject: Re: 

(b)(5)

(b)(5)



(b)(5)



Thanks, RC

(b)(5)

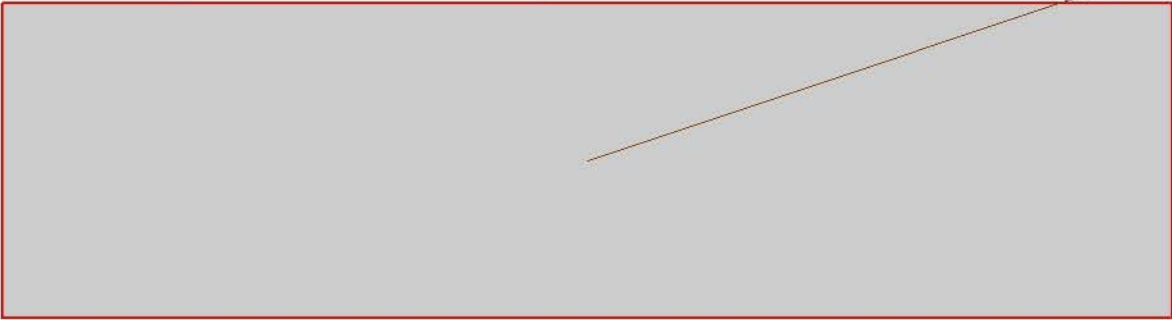
On: 18 June 2019 09:55,
"Cohen, Kristin" <kcohen@ftc.gov> wrote:



From: Chopra, Rohit <rchopra@ftc.gov>
Sent: Monday, June 17, 2019 11:53 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: 

(b)(5)

(b)(5)



Thanks again.

From: Chopra, Rohit
Sent: Monday, June 17, 2019 8:55 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>
Subject: RE: 

(b)(5)

(b)(5)



Thanks in advance, RC

From: Cohen, Kristin <kcohen@ftc.gov>

Sent: Friday, June 14, 2019 10:05 AM

To: Chopra, Rohit <rchopra@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

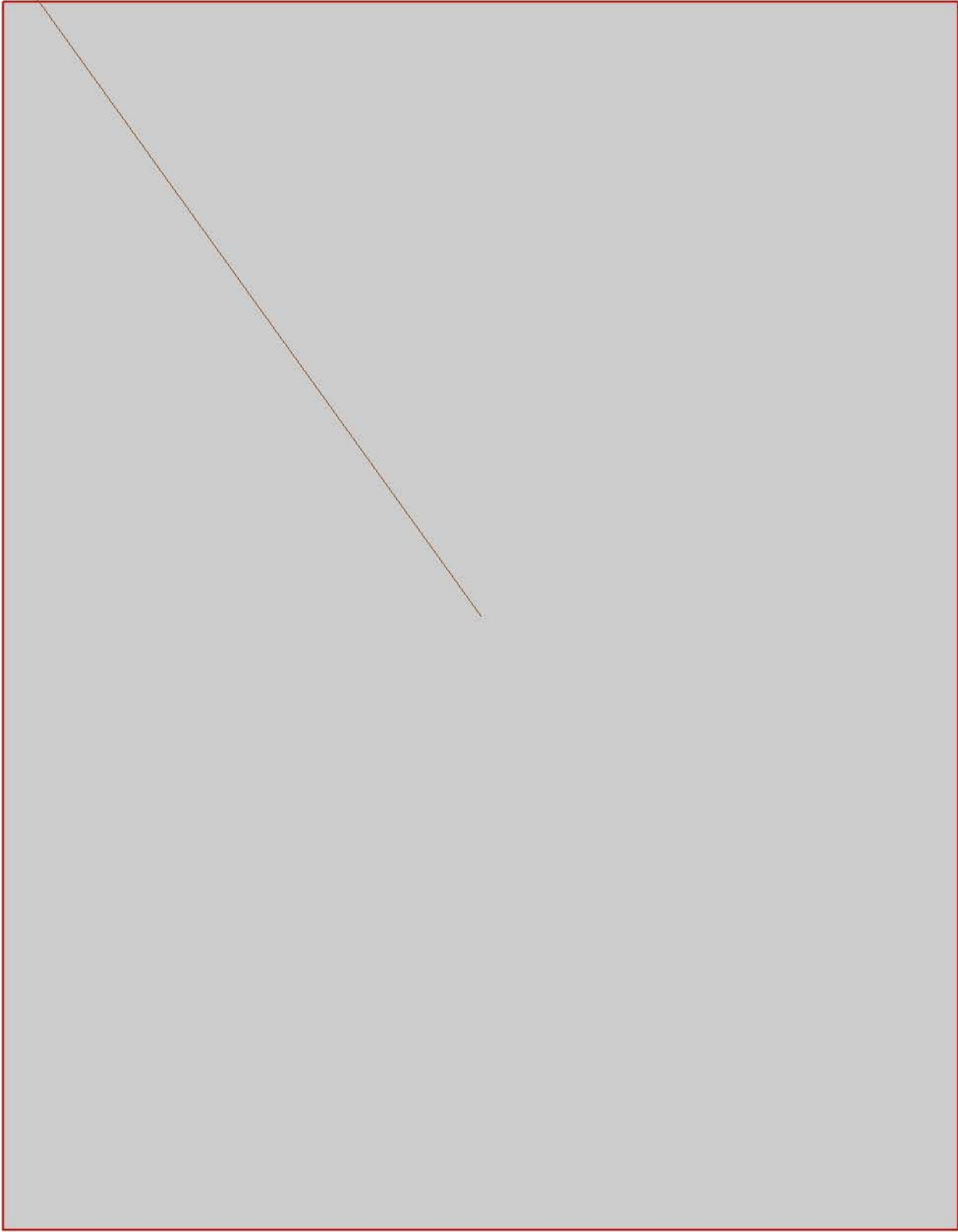
Subject: RE 

(b)(5)



(b)(5)

(b)(5)



From: Chopra, Rohit <rchopra@ftc.gov>

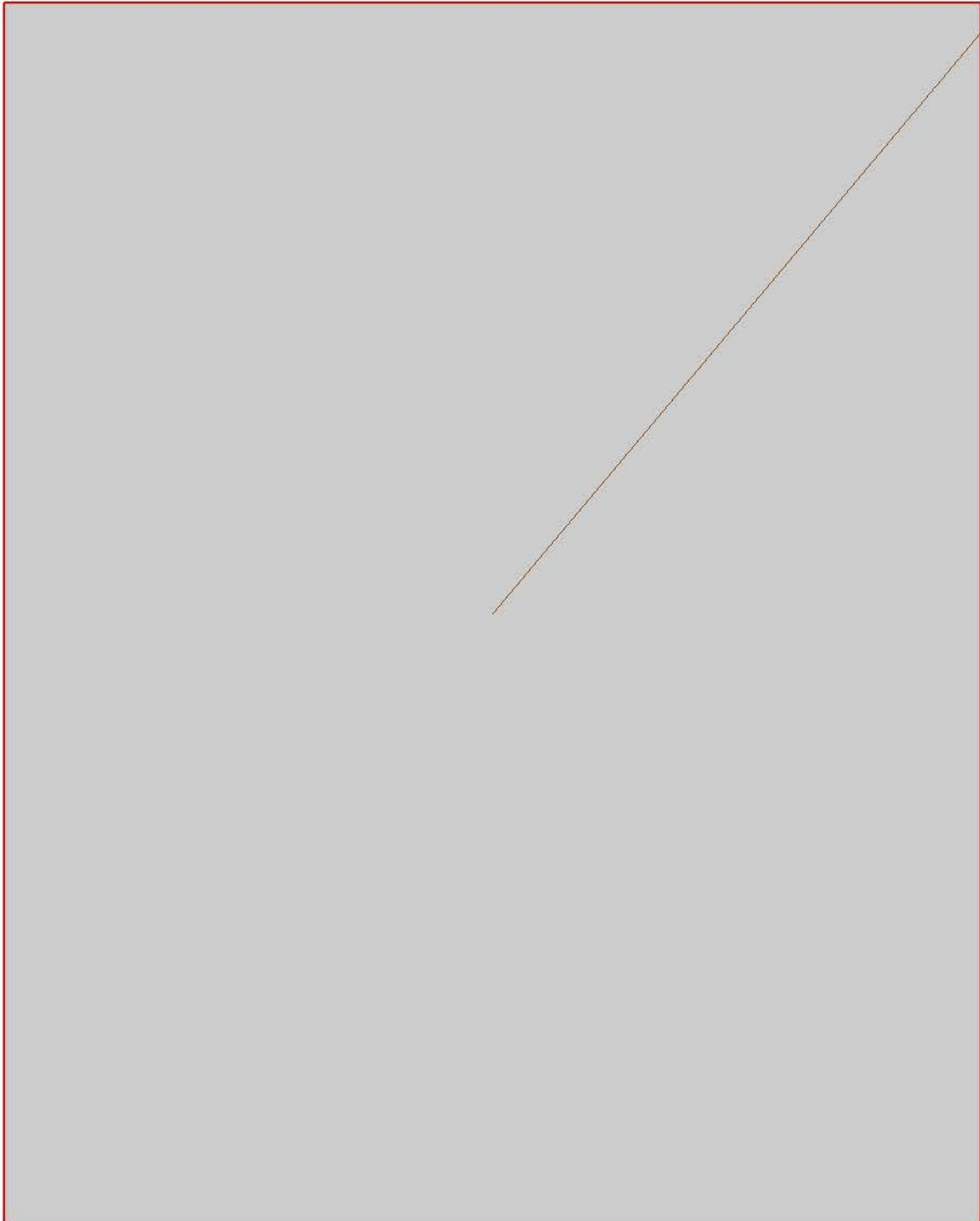
Sent: Thursday, June 13, 2019 9:21 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>

Cc: Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Levine, Samuel <slevine1@ftc.gov>

Subject: [REDACTED]

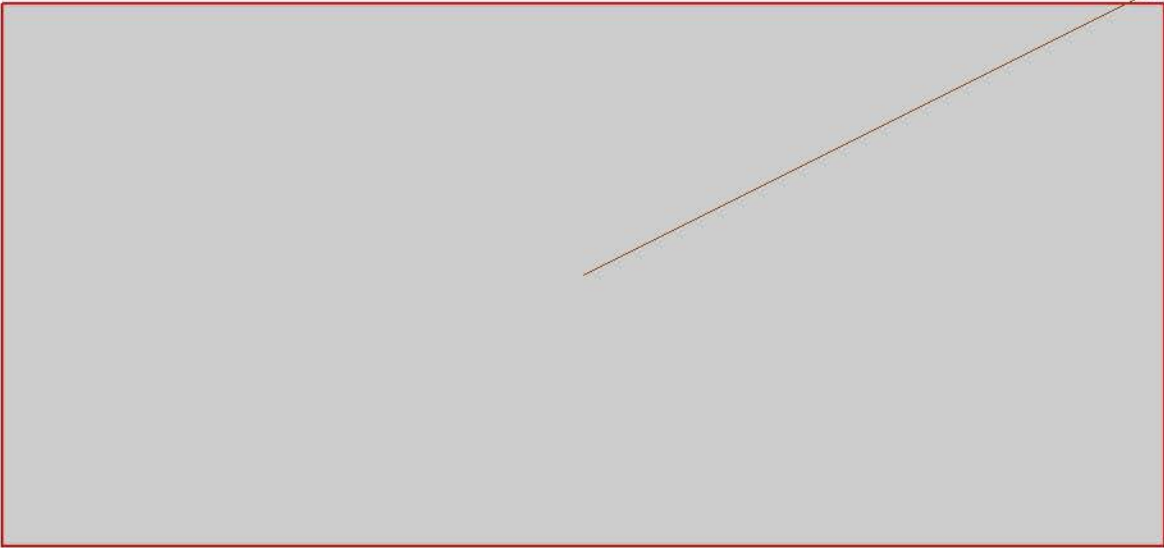
All,



(b)(5)

(b)(5)

(b)(5)



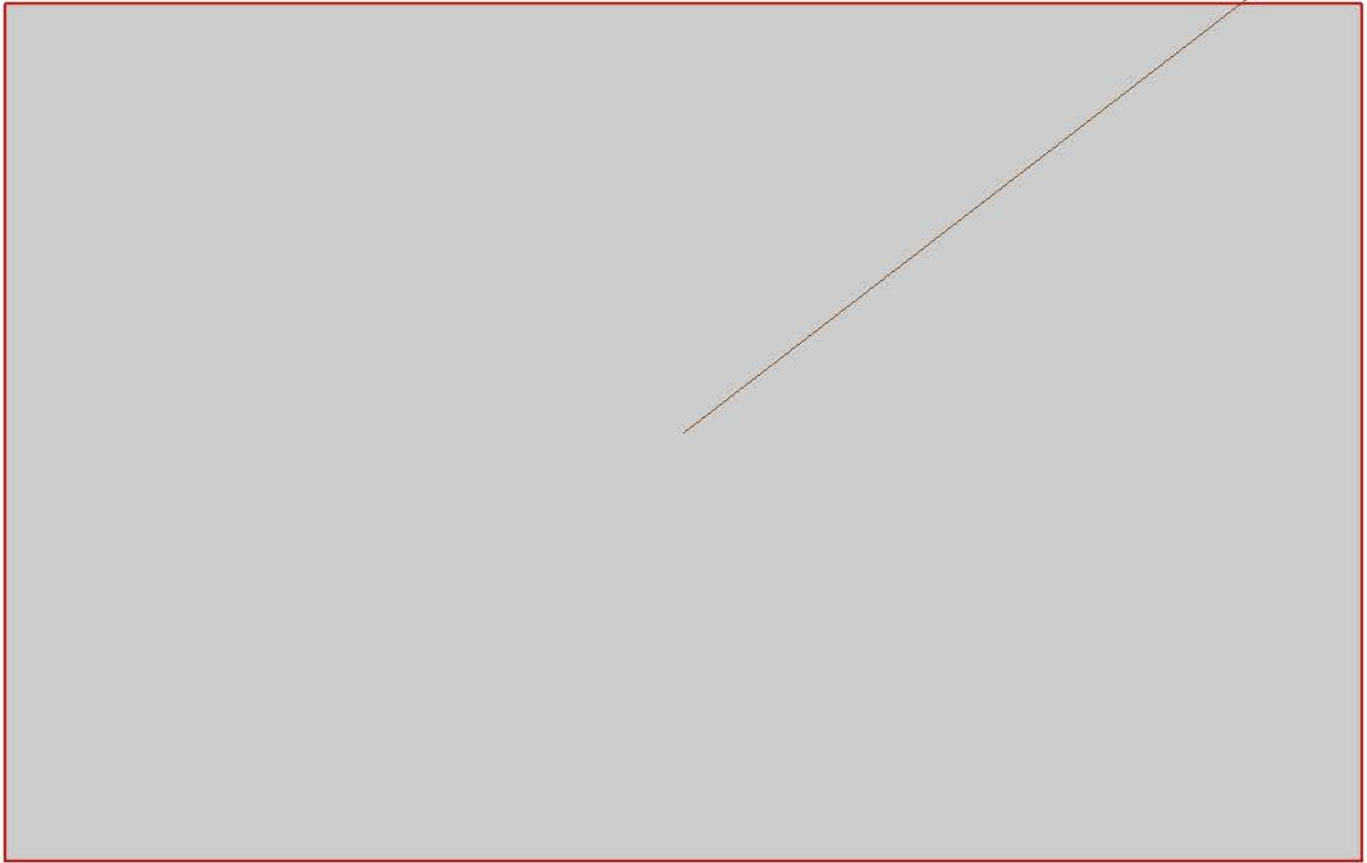
RC

(b)(5)

From: Cohen, Kristin
Sent: 19 Jun 2019 16:32:37 +0000
To: King, Austin; Magee, Peder; George, Tiffany
Cc: Mithal, Maneesha; Eichorn, Mark; Estrada, Danielle; Kaufman, Daniel
Subject: RE: YouTube [REDACTED]

(b)(5)

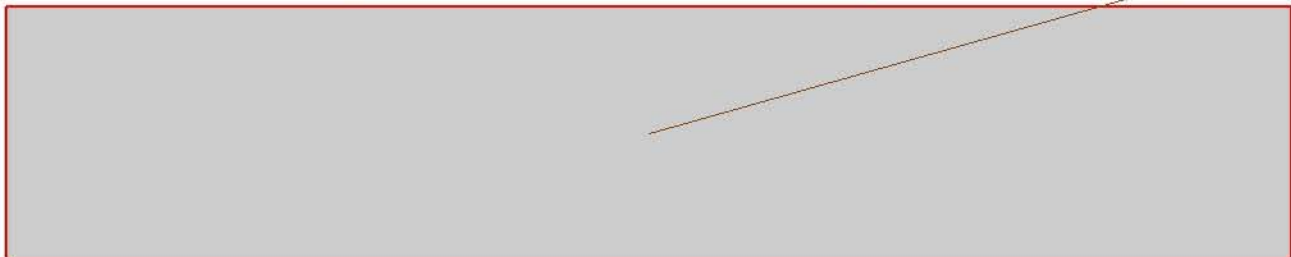
(b)(5)



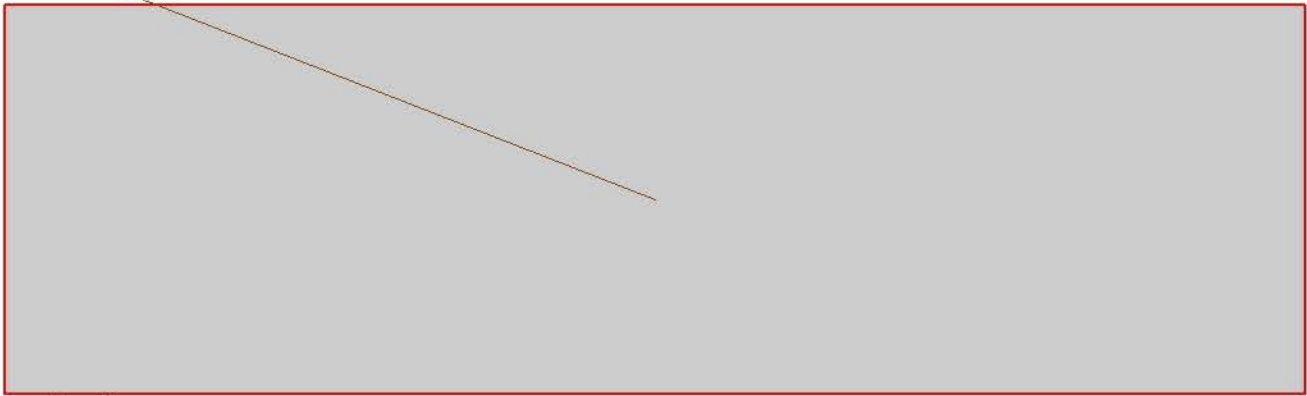
From: King, Austin <aking3@ftc.gov>
Sent: Wednesday, June 19, 2019 11:04 AM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>
Subject: RE: YouTube [REDACTED]

(b)(5)

(b)(5)



(b)(5)



Austin

From: King, Austin

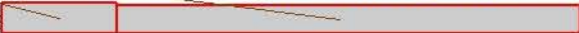
Sent: Monday, June 17, 2019 6:18 PM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: YouTube

(b)(5)



(b)(5)

Dear YouTube team,



(b)(5)



Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

(b)(5) **From:** Cohen, Kristin
(b)(5) **Sent:** 19 Jun 2019 18:28:25 +0000
(b)(5) **To:** Delaney, Elizabeth A; Magee, Peder
(b)(5) **Cc:** Crawford, Molly
(b)(5) **Subject:** RE: YouTube [redacted] (b)(5)

[redacted]

(b)(5) **From:** Delaney, Elizabeth A <EDELANEY@ftc.gov>
(b)(5) **Sent:** Wednesday, June 19, 2019 2:02 PM
(b)(5) **To:** Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
(b)(5) **Cc:** Crawford, Molly <mcrawford@ftc.gov>
(b)(5) **Subject:** FW: YouTube [redacted]

[redacted]

(b)(5) **From:** King, Austin <aking3@ftc.gov>
(b)(5) **Sent:** Wednesday, June 19, 2019 1:31 PM
(b)(5) **To:** Crawford, Molly <mcrawford@ftc.gov>; Meyer, Erie K <emeyer@ftc.gov>; Delaney, Elizabeth A <EDELANEY@ftc.gov>; Spector, Robin <rspector@ftc.gov>
(b)(5) **Subject:** FW: YouTube [redacted]

[redacted]

Thanks!
Austin

From: Cohen, Kristin <kcohen@ftc.gov>

Sent: Wednesday, June 19, 2019 12:33 PM

To: King, Austin <aking3@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: RE: YouTube [REDACTED]

(b)(5)

(b)(5)



From: King, Austin <aking3@ftc.gov>

Sent: Wednesday, June 19, 2019 11:04 AM

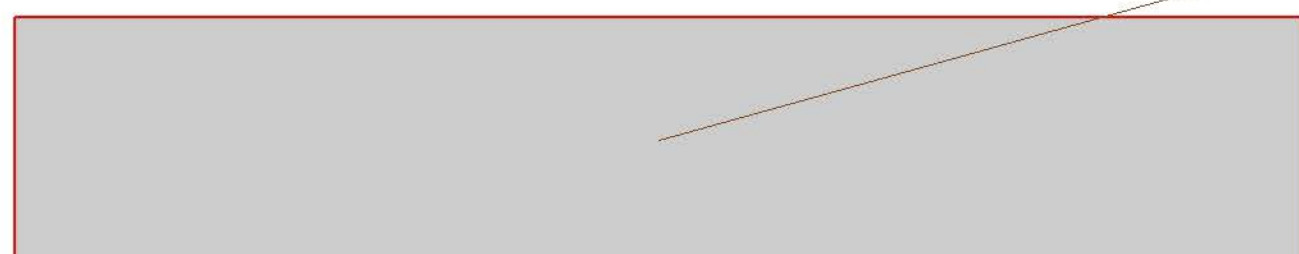
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

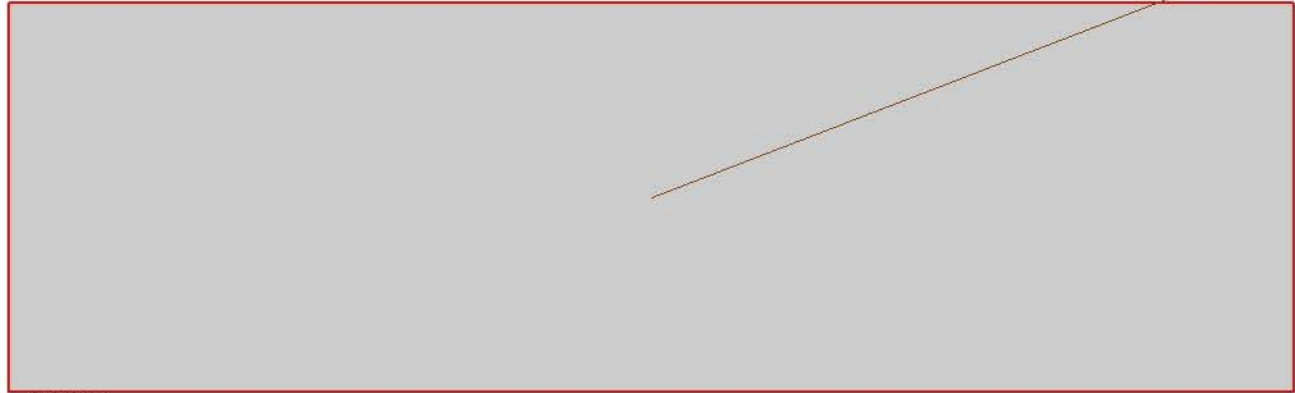
Subject: RE: YouTube [REDACTED]

(b)(5)

(b)(5)



(b)(5)



Austin

From: King, Austin

Sent: Monday, June 17, 2019 6:18 PM

To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Estrada, Danielle <destrada@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>

Subject: YouTube

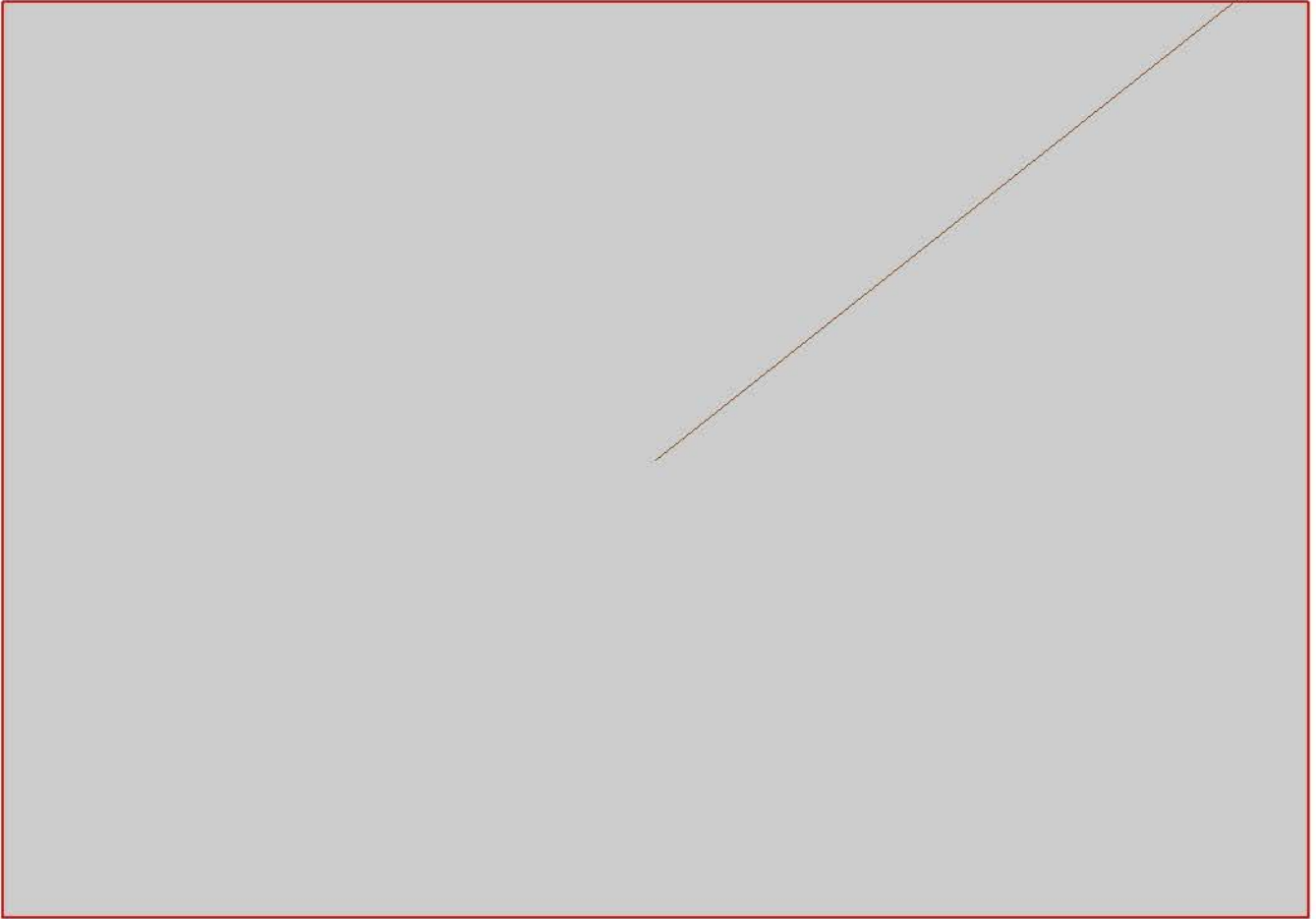


Dear YouTube team,

(b)(5)



(b)(5)



Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

From: Weingarten, Libby
Sent: 3 Sep 2019 23:23:52 +0000
To: Cohen, Kristin; Magee, Peder
Cc: Olsen, Chris
Subject: RE: YouTube

(b)(4);
(b)(3):6(f)
Hi Kristin, Peder,

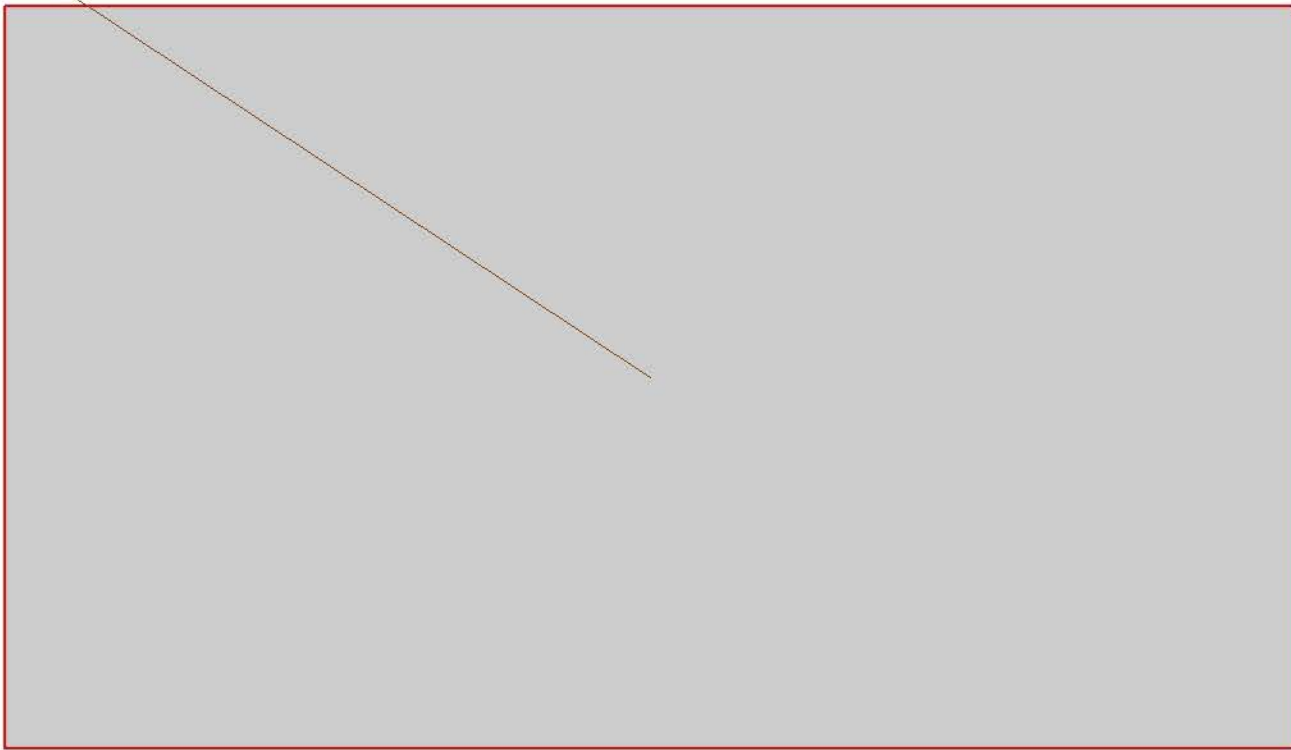


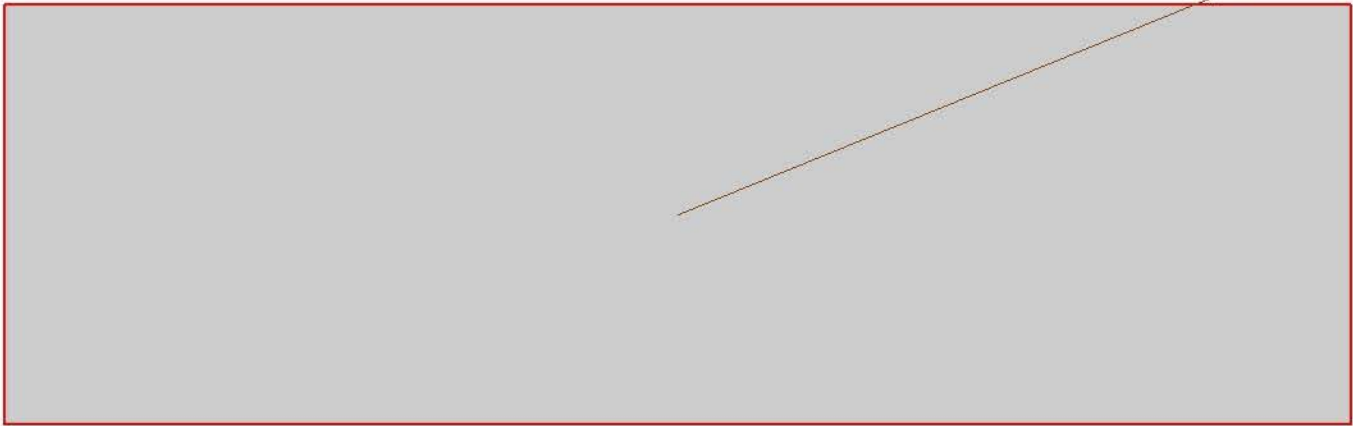
Best,
Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich Rosati | (202) 973-8861 | lweingarten@wsgr.com

From: Cohen, Kristin <kcohen@ftc.gov>
Sent: Tuesday, September 3, 2019 5:15 PM
To: Weingarten, Libby <lweingarten@wsgr.com>
Subject: YouTube

(b)(4);
(b)(3):6(f)
Hi Libby,





This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

From: Weingarten, Libby
Sent: 25 Apr 2019 22:00:17 +0000
To: Olsen, Chris;Cohen, Kristin
Cc: Magee, Peder;George, Tiffany
Subject: RE: YT / Signature page
Attachments: YT_Signature Page_CLEAN.pdf

(b)(4);
(b)(3):6(f) Hi Kristin,



Thanks,
Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich Rosati | (202) 973-8861 | lweingarten@wsgr.com

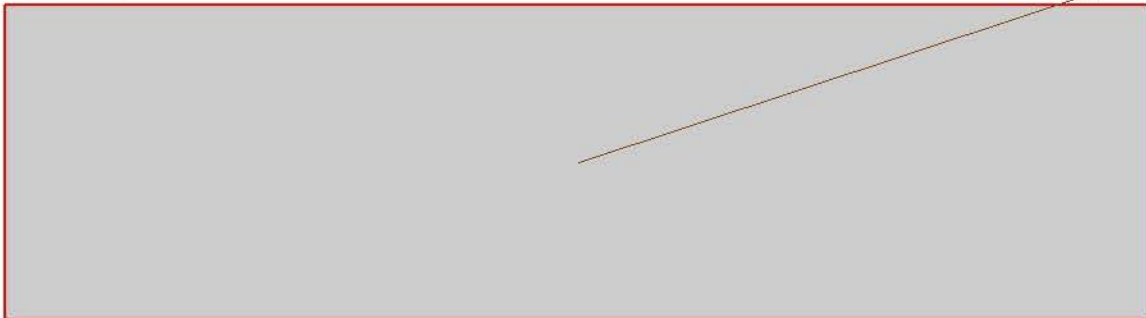
From: Olsen, Chris
Sent: Thursday, April 25, 2019 5:01 PM
To: Cohen, Kristin
Cc: Weingarten, Libby; Magee, Peder; George, Tiffany
Subject: Re: YT / Signature page

And,..thanks for working through this with us.

(b)(6) Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) 

On Apr 25, 2019, at 4:54 PM, Cohen, Kristin <kcohen@ftc.gov> wrote:

Hi Chris,



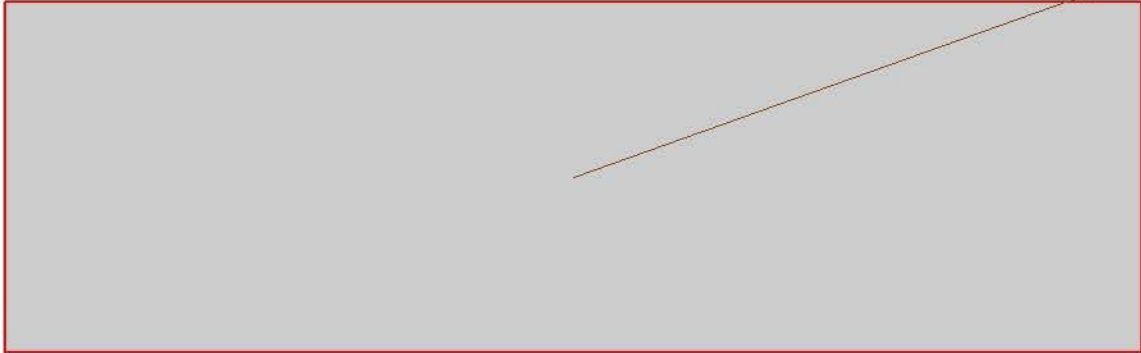
From: Cohen, Kristin
Sent: Thursday, April 25, 2019 4:18 PM

(b)(4);
(b)(3):6(f)

To: 'Olsen, Chris' <colsen@wsgr.com>
Cc: Weingarten, Libby <lweingarten@wsgr.com>; Magee, Peder <PMAGEE@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: RE: YT / Signature page

(b)(4);
(b)(3):6(f)

Chris,



From: Olsen, Chris <colsen@wsgr.com>
Sent: Thursday, April 25, 2019 4:14 PM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Weingarten, Libby <lweingarten@wsgr.com>; Magee, Peder <PMAGEE@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: Re: YT / Signature page

(b)(4);
(b)(3):6(f)



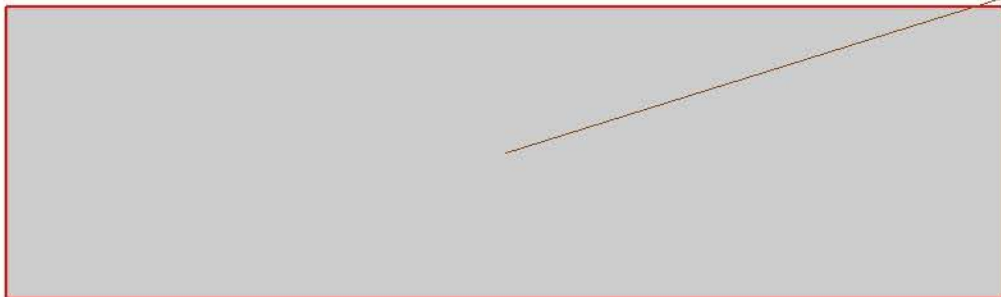
Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(e) 202 973-8803
(c) 

(b)(6)

On Apr 25, 2019, at 4:03 PM, Cohen, Kristin <kcohen@ftc.gov> wrote:

Hi Chris and Libby,

(b)(4);
(b)(3):6(f)



Thanks,
Kristin

From: Olsen, Chris <colsen@wsgr.com>
Sent: Thursday, April 25, 2019 3:05 PM
To: Weingarten, Libby <lweingarten@wsgr.com>
Cc: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: Re: YT / Signature page

(b)(4);
(b)(3):6(f)



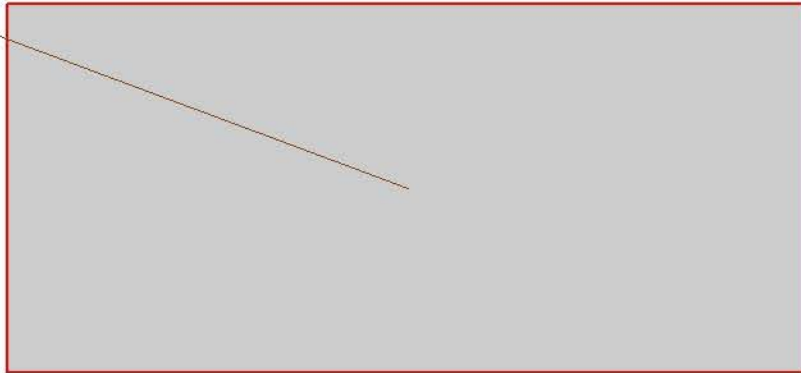
(b)(6)

Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) 

On Apr 25, 2019, at 2:44 PM, Weingarten, Libby <lweingarten@wsgr.com>
wrote:

(b)(4);
(b)(3):6(f)

Hi Kristin, Peder,



Thanks very much!

Libby

Libby Weingarten | Associate, Privacy and Data Protection | Wilson Sonsini Goodrich
Rosati | (202) 973-8861 | lweingarten@wsgr.com

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(b)(4);
(b)(3):6(f)

intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

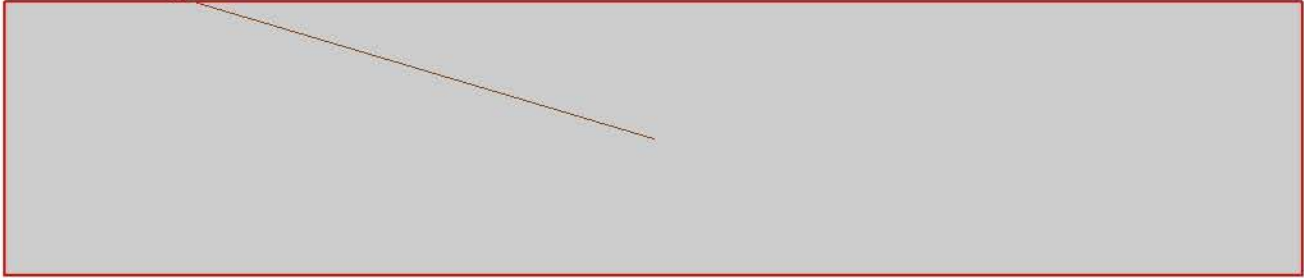


(b)(4);
(b)(3):6(f)

From: Olsen, Chris
Sent: 29 Mar 2019 22:03:26 +0000
To: Cohen, Kristin;Magee, Peder;George, Tiffany
Cc: Weingarten, Libby

(b)(4);
(b)(3):6(f)

Subject: [REDACTED]
Attachments: 2019.03.29 Complaint Compare to FTC.docx, 2019.03.29 Consent Order to FTC Redline.docx



Have a nice weekend,
Chris

(b)(6)

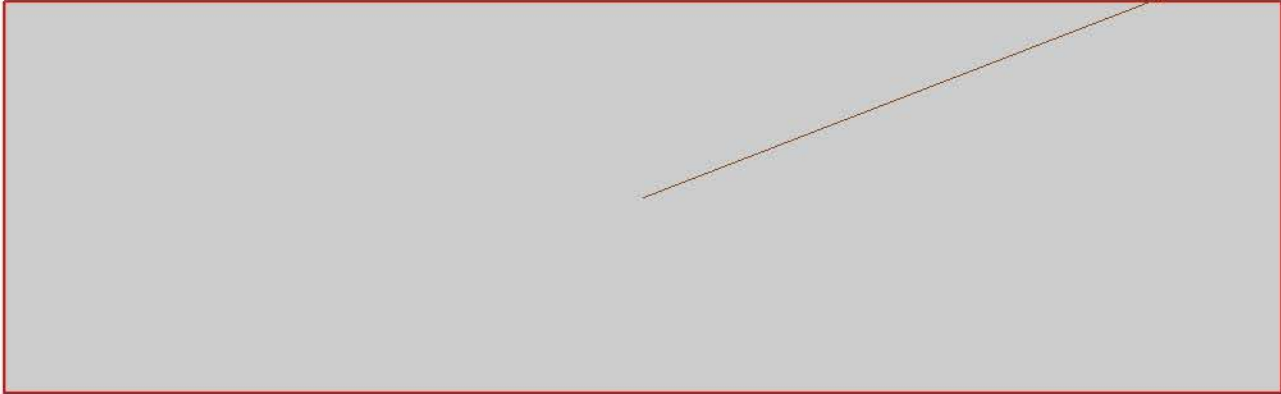
Christopher N. Olsen | Privacy and Data Protection
Wilson Sonsini Goodrich & Rosati
1700 K Street NW | Washington, DC 20006
202.973.8803 (direct [REDACTED] mobile)
colsen@wsgr.com | www.wsgr.com

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From: Olsen, Chris
Sent: 21 Dec 2018 20:02:47 +0000
To: Magee, Peder;Cohen, Kristin;George, Tiffany
Cc: Weingarten, Libby
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)



Thanks,
Chris

(b)(6)

Christopher N. Olsen | Privacy and Data Protection
Wilson Sonsini Goodrich & Rosati
1700 K Street NW | Washington, DC 20006
202.973.8803 (direct [REDACTED] mobile)
colsen@wsgr.com | www.wsgr.com

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(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

From: Cohen, Kristin
Sent: 26 Apr 2019 15:24:40 +0000
To: Jordan Adler;Clark Russell
Cc: Magee, Peder;George, Tiffany
Subject: [Redacted]
Attachments: [Redacted]

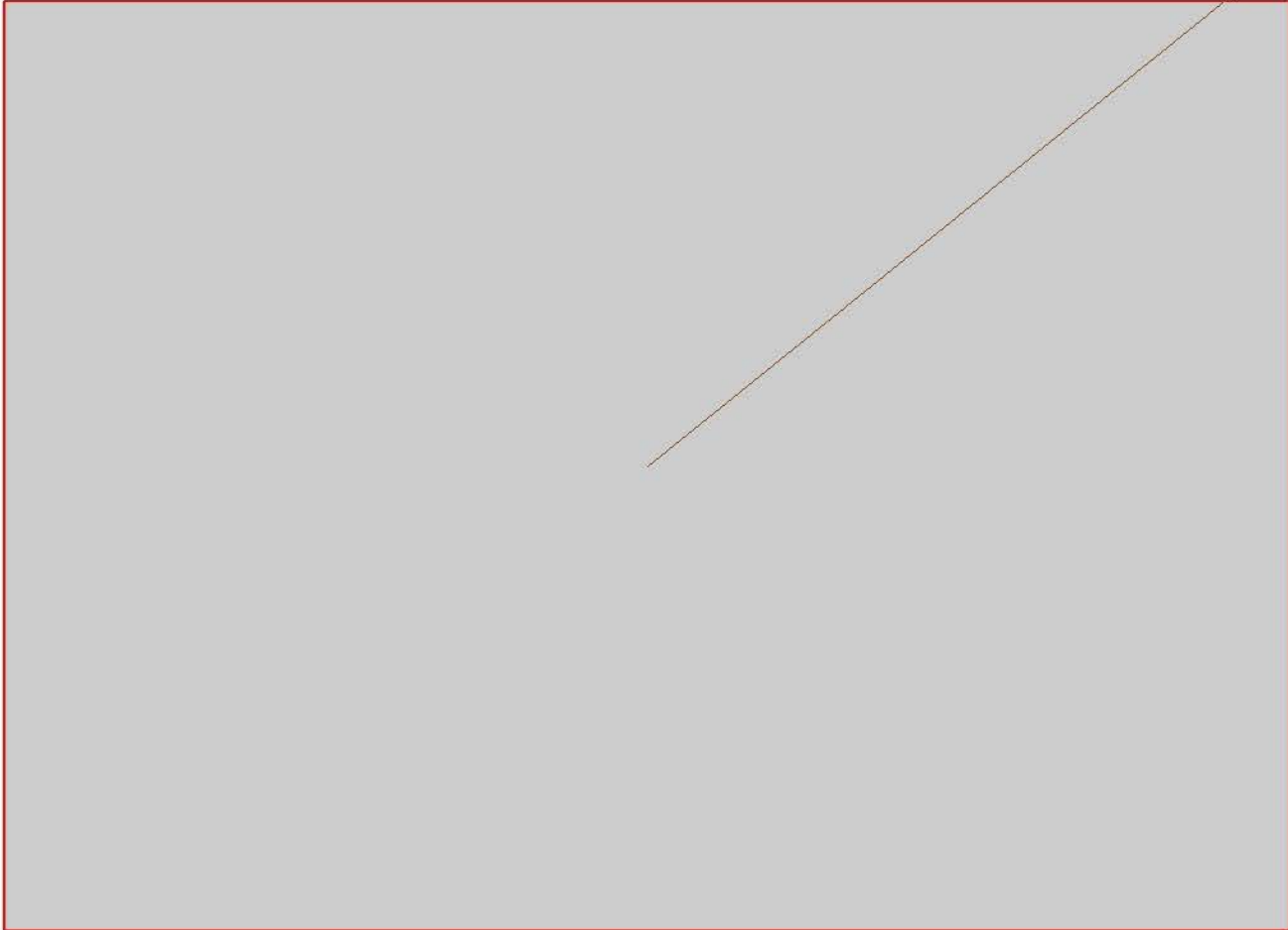
Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

(b)(4);
(b)(3):6(f)

From: Cohen, Kristin
Sent: 18 Jun 2019 20:33:27 +0000
To: Crawford, Molly
Cc: Magee, Peder; Mithal, Maneesha
Subject: [REDACTED]

(b)(4);
(b)(3):6(f)



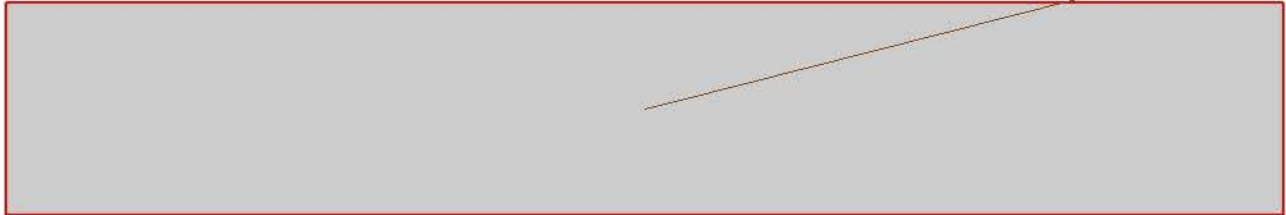
Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

From: Cohen, Kristin
Sent: 28 Mar 2019 13:17:43 +0000
To: Winter, Brad
Cc: George, Tiffany; Magee, Peder
Subject: YouTube

(b)(4);
(b)(3):6(f)

Hi Brad,



It looked like 2:00 worked for everyone.

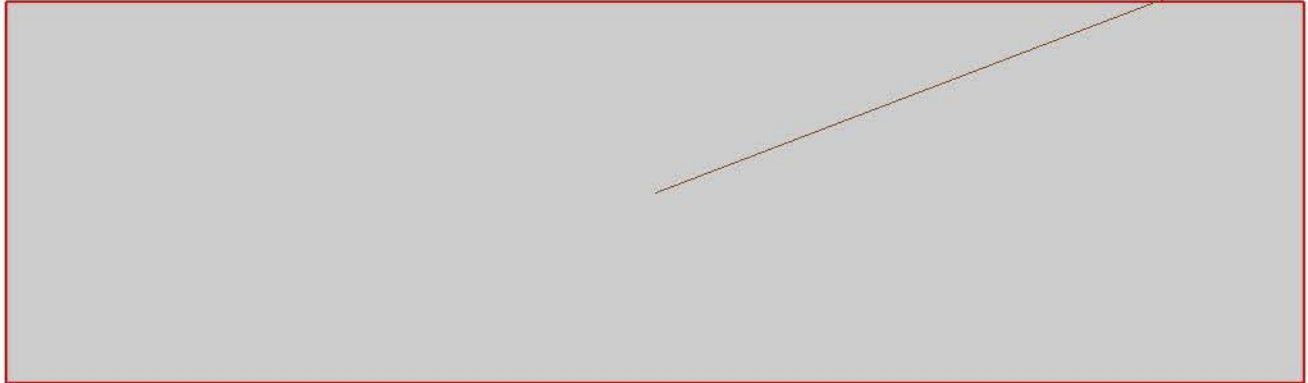
Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

From: Cohen, Kristin
Sent: 26 Mar 2019 13:50:48 +0000
To: 'Olsen, Chris';Weingarten, Libby
Cc: Magee, Peder;George, Tiffany
Subject: YouTube

Hi Chris,

(b)(4);
(b)(3):6(f)



Thanks,
Kristin

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

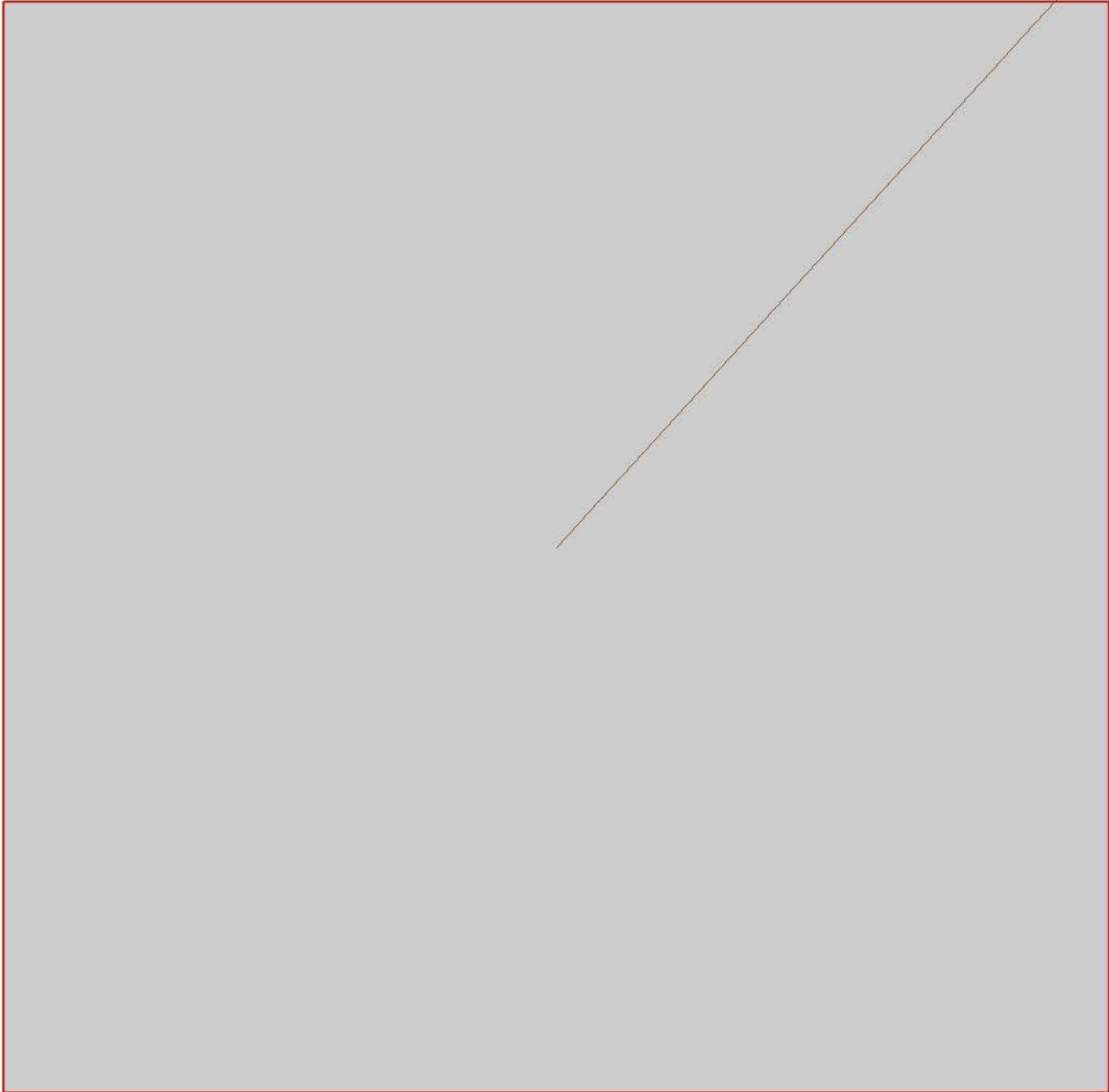
This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

(b)(4);
(b)(3):6(f)

From: Cohen, Kristin
Sent: 22 Feb 2019 21:00:45 +0000
To: 'Olsen, Chris';Weingarten, Libby
Cc: Magee, Peder;George, Tiffany
Subject: YouTube [redacted]

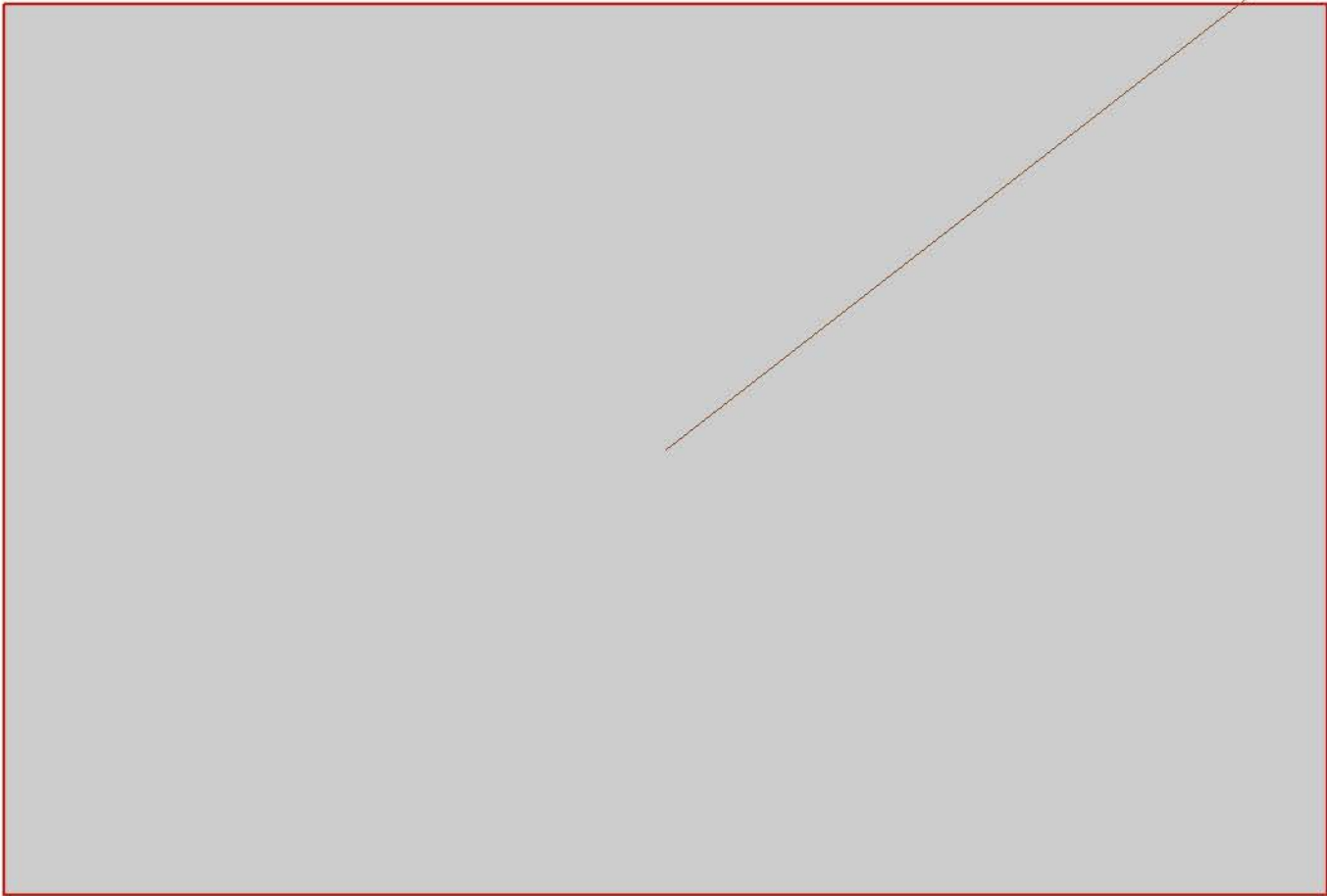
(b)(4);
(b)(3):6(f)

Hi Chris,



Thanks,
Kristin

(b)(4);
(b)(3):6(f)

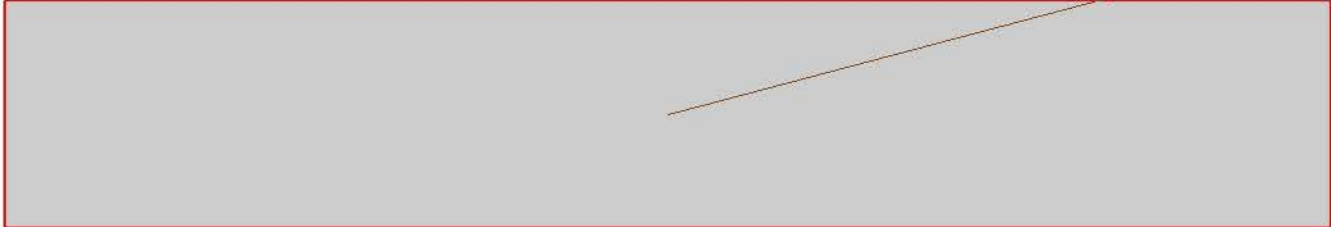


Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

From: Cohen, Kristin
Sent: 6 Sep 2019 20:12:00 +0000
To: Weingarten, Libby;'Olsen, Chris'
Cc: Magee, Peder;George, Tiffany
Subject: YouTube Complaint Errata
Attachments: Errata Civil Cover Sheet.pdf, Errata Exhibits.pdf, File Stamped Errata Complaint.pdf, Errata ECF Notification.pdf

(b)(5)



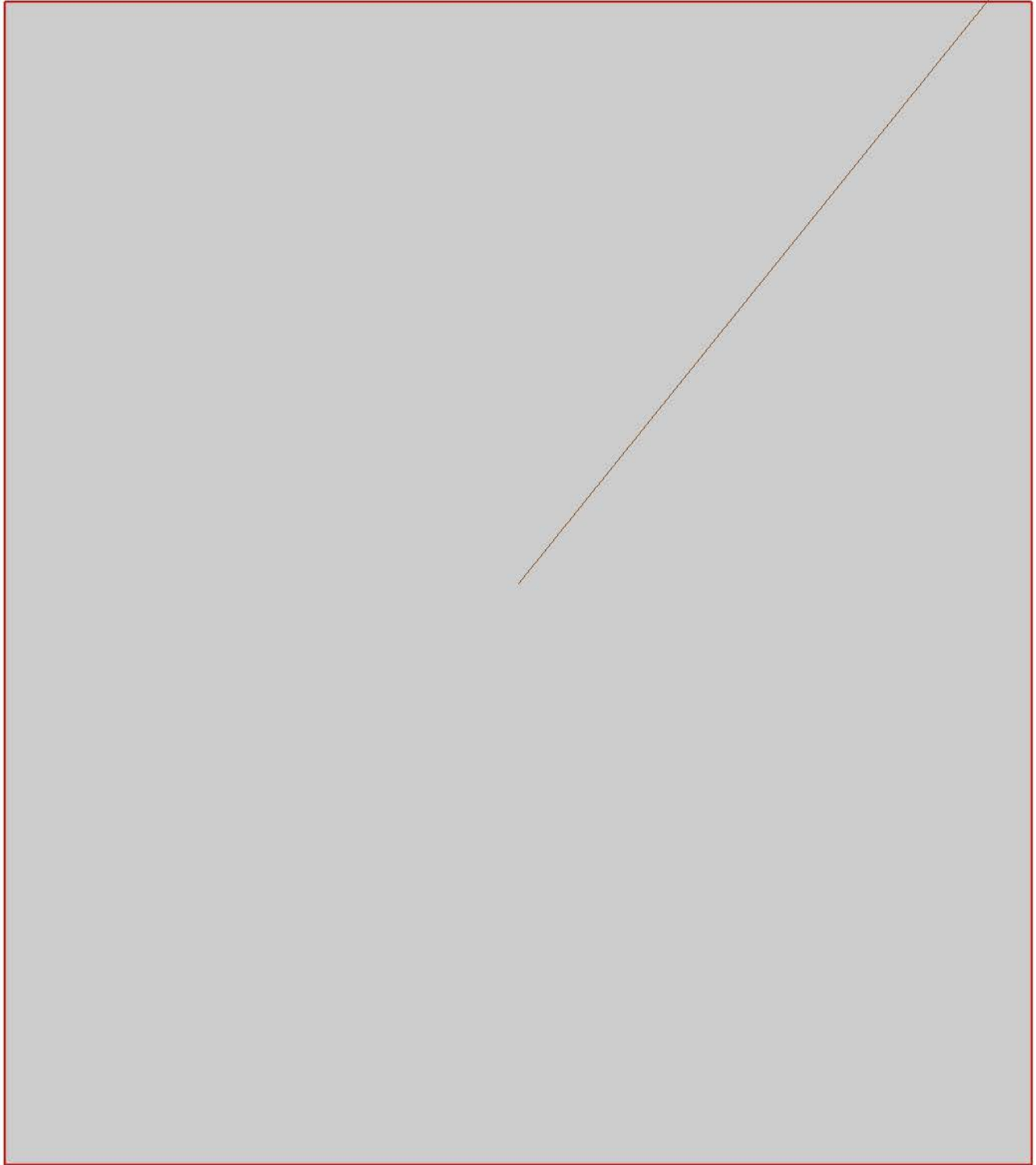
Thanks,
Kristin

From: King, Austin
Sent: 17 Jun 2019 18:18:14 -0400
To: Cohen, Kristin; Magee, Peder; George, Tiffany
Cc: Mithal, Maneesha; Eichorn, Mark; Estrada, Danielle; Kaufman, Daniel
Subject: YouTube [REDACTED]

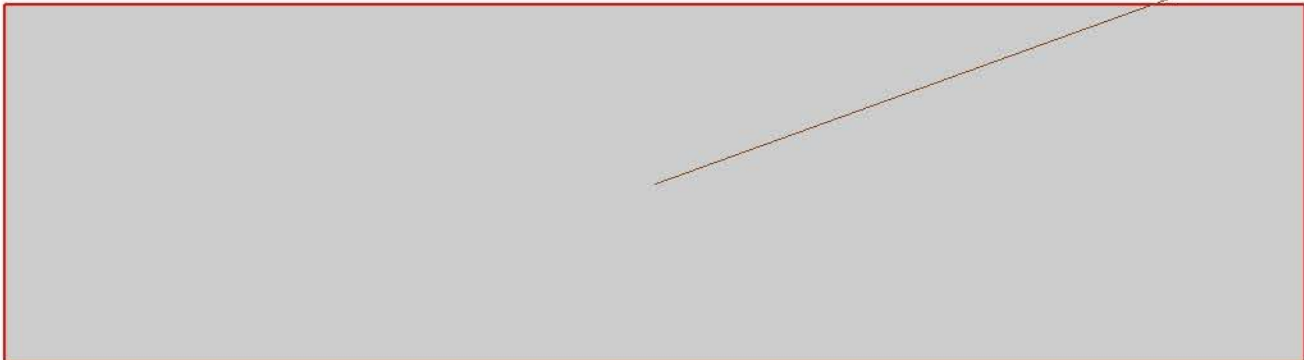
(b)(5)

(b)(5)

Dear YouTube team,



(b)(5)



Austin King
Federal Trade Commission
Attorney-Advisor to Commissioner Rebecca Kelly Slaughter
aking3@ftc.gov | (202) 326-3166

From: Cohen, Kristin
Sent: 4 Sep 2019 12:28:54 +0000
To: 'Olsen, Chris';Weingarten, Libby
Cc: Magee, Peder;George, Tiffany
Subject: YouTube
Attachments: stamped civil cover sheet.pdf, Stamped Complaint.pdf, stamped consent order.pdf, stamped exhibits.pdf, stamped motion for entry.pdf

Hi Chris and Libby,

We have filed the complaint and stipulated order with the court. Attached please find the file-stamped documents. The call in number for the press availability is [REDACTED] confirmation number [REDACTED]

(b)(6):
(b)(3):6(f)

(b)(6)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent injunction, and other equitable relief for Defendants’ violations of the Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN’S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children’s personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained. Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such

Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and
- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.

8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times

material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

25. In addition to marketing YouTube as a top destination for kids, Defendants have a content rating system that categorizes content into age groups and includes categories for children under 13 years old. In order to align with content policies for advertising, Defendants rate all videos uploaded to YouTube, as well as the channels as a whole. Defendants assign each channel and video a rating of Y (generally intended for ages 0-7); G (intended for any age); PG (generally intended for ages 10+); Teen (generally intended for ages 13+); MA (generally intended for ages 16+); and X (generally intended for ages 18+). Defendants assign these ratings through both automated and manual review. Previously, Defendants also used a classification for certain videos shown on YouTube as "Made for Kids."

26. Defendants do not treat Y rated channels or videos differently for purposes of data collection from other content on YouTube. Defendants continue to allow the channel owner to monetize Y rated content and earn revenue from behavioral advertising. Defendants also had no policy in place to treat content classified as "Made for Kids" differently for purposes of behavioral advertising on YouTube.

27. In 2015, Defendants created a separate mobile application called "YouTube Kids," aimed at children age 2-12, generally using content rated Y or G taken from YouTube on an automated basis. Defendants also specifically curate, through manual review, content that appears on the YouTube Kids home screen, which Defendants refer to as the "home canvas." Content that appears on YouTube Kids continues to be available on YouTube. Unlike Defendants' practices on YouTube, Defendants do not collect persistent identifiers from users of

YouTube Kids in order to serve behavioral advertising. Instead, Defendants monetize YouTube Kids solely through delivery of contextual advertising.

YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”) (collectively, “Plaintiffs”) filed their Complaint for Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312. Defendants have waived service of the summons and the Complaint. Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants violated the COPPA Rule and Section 5 of the FTC Act, 15 U.S.C. § 45, by failing to post a privacy policy on their online service providing clear, understandable, and complete notice of their information practices with respect to the Collection of Personal Information from Children, failing to provide direct notice to Parents of such information practices, and failing to Obtain Verifiable Parental Consent prior to Collecting, using, or Disclosing Personal Information from Children.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. “**Channel Owner**” means individuals or entities who upload videos onto the YouTube Service.
- B. “**Child**” or “**Children**” means an individual or individuals under the age of 13.

C. **“Clear and Conspicuous”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as Children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

D. “**Collects**” or “**Collection**” means the gathering of any Personal Information from a Child by any means, including but not limited to:

1. Requesting, prompting, or encouraging a Child to submit Personal Information online;
2. Enabling a Child to make Personal Information publicly available in identifiable form. An Operator shall not be considered to have Collected Personal Information if it takes reasonable measures to Delete all or virtually all Personal Information from a Child’s postings before they are made public and also to Delete such Personal Information from its records; or
3. Passive tracking of a Child online.

E. “**Compliance Date**” means four months after entry of this Order.

F. “**Content**” means any video or channel page found on the YouTube Service.

G. “**Defendants**” means Google LLC, a Delaware limited liability company, and YouTube, LLC, a Delaware limited liability company, and their successors and assigns.

H. “**Delete**” means to remove Personal Information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

I. “**Disclose**” or “**Disclosure**” means, with respect to Personal Information:

1. The Release of Personal Information Collected by an Operator from a Child in identifiable form for any purpose, except where an Operator provides such information to a Person who provides Support for the Internal Operations of the Website or Online Service; and

2. Making Personal Information Collected by an Operator from a Child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

J. **“Internet”** means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

K. **“Obtaining Verifiable Parental Consent”** means making any reasonable effort (taking into consideration available technology) to ensure that before Personal Information is Collected from a Child, a Parent of the Child:

1. Receives notice of the Operator’s Personal Information Collection, use, and Disclosure practices; and
2. Authorizes any Collection, use, and/or Disclosure of the Personal Information, using a method reasonably calculated, in light of available technology, to ensure that the Person providing consent is the Child’s Parent.

L. “**Online Contact Information**” means an email address or any other substantially similar identifier that permits direct contact with a Person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

M. “**Operator**” means any Person who operates a website located on the Internet or an online service and who Collects or maintains Personal Information from or about the users of or visitors to such website or online service, or on whose behalf such information is Collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with one or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). Personal Information *is Collected or maintained on behalf of* an Operator when:

1. It is Collected or maintained by an agent or service provider of the Operator; or
2. The Operator benefits by allowing another Person to Collect Personal Information directly from users of such website or online service.

N. “**Parent**” includes a legal guardian.

O. “**Person**” means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

P. **“Personal Information”** means individually identifiable information about an individual Collected online, including:

1. A first and last name;
2. A home or other physical address including street name and name of a city or town;
3. Online Contact Information;
4. A screen or user name where it functions in the same manner as Online Contact Information;
5. A telephone number;
6. A Social Security number;
7. A persistent identifier that can be used to recognize a user over time and across different websites or online services, where such persistent identifier is used for functions other than or in addition to Support for the Internal Operations of the Website or Online Service. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;
8. A photograph, video, or audio file where such file contains a Child’s image or voice;
9. Geolocation information sufficient to identify street name and name of a city or town; or
10. Information concerning the Child or the Parents of that Child that the Operator Collects online from the Child and combines with an identifier described in this definition.

Q. **“Release of Personal Information”** means the sharing, selling, renting, or transfer of Personal Information to any Third Party.

R. **“Support for the Internal Operations of the Website or Online Service”** means

1. Those activities necessary to:
 - a) Maintain or analyze the functioning of the website or online service;
 - b) Perform network communications;
 - c) Authenticate users of, or personalize the content on, the website or online service;
 - d) Serve contextual advertising on the website or online service or cap the frequency of advertising;
 - e) Protect the security or integrity of the user, website, or online service;
 - f) Ensure legal or regulatory compliance; or
 - g) Fulfill a request of a Child as permitted by Section 312.5(c)(3) and (4) of the COPPA Rule (attached as Appendix A);
2. So long as the information Collected for these activities listed in 1(a) – (g) is not used or Disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

S. **“Third Party”** means any Person who is not:

1. An Operator with respect to the Collection or maintenance of Personal Information on the website or online service; or
2. A Person who provides Support for the Internal Operations of the Website or Online Service and who does not use or Disclose information protected under the COPPA Rule (attached as Appendix A).

T. **“Website or Online Service Directed to Children”** means a commercial website or online service, or portion thereof, that is targeted to Children.

1. In determining whether a website or online service, or a portion thereof, is directed to Children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to Children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to Children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.
2. A website or online service shall be deemed directed to Children when it has actual knowledge that it is Collecting Personal Information directly from users of another Website or Online Service Directed to Children.
3. A website or online service that is directed to Children under the criteria set forth in paragraph (1) of this definition, but that does not target Children as its primary audience, shall not be deemed directed to Children if it:

- a) Does not Collect Personal Information from any visitor prior to Collecting age information; and
- b) Prevents the Collection, use, or Disclosure of Personal Information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of the COPPA Rule (attached as Appendix A).

4. A website or online service shall not be deemed directed to Children solely because it refers or links to a commercial Website or Online Service Directed to Children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

U. “YouTube Service” means the general audience YouTube user-generated video-sharing platform(s), currently at www.youtube.com and on YouTube mobile application(s), on which, among other things, consumers can view videos or upload videos to share.

ORDER

I. INJUNCTION CONCERNING DESIGNATING CONTENT ON THE YOUTUBE SERVICE AS DIRECTED TO CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating the YouTube Service, are permanently restrained and enjoined from:

A. Failing to develop, implement, and maintain a system for Channel Owners to designate whether their Content on the YouTube Service is directed to Children. Such system

shall include a Clear and Conspicuous notice that Content made available on the YouTube Service that is directed to Children may be subject to the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A) and that Channel Owners are obligated to designate such Content as directed to Children; and

B. Failing to provide annual training regarding complying with the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), for each Person responsible for managing Defendants' relationships with Channel Owners on the YouTube Service.

**II. INJUNCTION CONCERNING COLLECTION OF PERSONAL INFORMATION
FROM CHILDREN**

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating a Website or Online Service Directed to Children on the YouTube Service are hereby permanently restrained and enjoined from:

A. Failing to make reasonable efforts, taking into account available technology, to ensure that a Parent of a Child receives direct notice of Defendants' practices with regard to the Collection, use, or Disclosure of Personal Information from Children, including notice of any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

B. Failing to post a prominent and clearly labeled link to an online notice of its information practices with regard to Children on the home or landing page or screen of its

website or online service, and at each area of the website or online service where Personal Information is Collected from Children, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

C. Failing to Obtain Verifiable Parental Consent before any Collection, use, or Disclosure of Personal Information from Children, including consent to any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to Obtaining Verifiable Parental Consent; and

D. Violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A).

III. INJUNCTION CONCERNING USE OF PREVIOUSLY

COLLECTED PERSONAL INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, are ordered to refrain, within ninety (90) days of the Compliance Date, from Disclosing, using, or benefitting from Personal Information previously Collected from users of Content that is designated as directed to Children by a Channel Owner under the system required under Section I.A. above, as long as such designation occurs within sixty (60) days of the Compliance Date. Provided, however, that such Personal Information may be Disclosed to the extent requested by a government agency or required by law, regulation, or court order.

IV. CIVIL PENALTY AND OTHER MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of one hundred and thirty six million dollars (\$136,000,000) is entered in favor of Plaintiff FTC against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff FTC one hundred thirty six million dollars (\$136,000,000), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within thirty (30) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

C. Judgment in the amount of thirty four million dollars (\$34,000,000) is entered in favor of Plaintiff State of New York against Defendants, jointly and severally, as damages, restitution, or other compensation to its residents.

D. Defendants are ordered to pay to Plaintiff State of New York, by making payment to State of New York Department of Law, thirty four million dollars (\$34,000,000). Such payment must be made within thirty (30) days of entry of this Order by wire transfer in accordance with instructions provided by a representative of Plaintiff State of New York.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission or the State of New York in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission or the State of New York pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers, which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission and the State of New York an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, each Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who have supervisory responsibilities relating to the subject matter of Sections I and II of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission and the State of New York:

A. One year after the Compliance Date, each Defendant must submit a compliance report, sworn under penalty of perjury. In such report, each Defendant must:

1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and the State of New York may use to communicate with that Defendant;
2. Identify all of Defendant's businesses involved in operating the YouTube Service or in Collecting, using, or Disclosing Personal Information from Children on or from the YouTube Service by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. Describe the activities of each such business directly involved with operating the YouTube Service, including the goods and services offered and the means of advertising, marketing, and sales;
4. Describe in detail whether and how Defendants are in compliance with each Section of this Order;
5. Provide a copy of each materially different version of any privacy notice posted on or otherwise applicable to the YouTube Service or sent to users of the YouTube Service;

6. Describe in detail the methods used, if any, to track Child users of the YouTube Service (including methods used for passive tracking and means for users to control or opt out of tracking), and the measures taken to avoid tracking Children;

7. Describe in detail the methods used to Obtain Verifiable Parental Consent prior to any Collection, use, and/or Disclosure of Personal Information from Children through the YouTube Service;

8. Describe in detail the means provided for Parents to review the Personal Information Collected from their Children through the YouTube Service and to refuse to permit its further use or maintenance; and

9. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in: (1) any designated point of contact; or (2) the structure of that Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Each Defendant must submit to the Commission and the State of New York notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission and the State of New York required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

F. Unless otherwise directed by a State of New York representative in writing, all submissions to the State of New York pursuant to this Order must be emailed to ifraud@ag.ny.gov and sent by overnight courier (not the U.S. Postal Service) to: Bureau Chief, Bureau of Internet and Technology, New York State Attorney General’s Office, 28 Liberty Street, New York, New York 10005. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, each Defendant in connection with operating the YouTube Service must create and retain the following records:

A. Accounting records showing the revenues of all goods and services sold;

B. Personnel records showing, for each Person providing services, whether as an employee or otherwise, that Person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission and the State of New York;

D. Records of all consumer complaints relating to the unauthorized Collection, use or Disclosure of Personal Information of Children interacting with the YouTube Service, and any response;

E. A copy of each materially different form, page, or screen created, maintained, or otherwise provided by each Defendant through which Personal Information of Children is Collected through the YouTube Service, and a copy of each materially different document containing any representation regarding Collection, use, and Disclosure practices pertaining to Personal Information from Children Collected through the YouTube Service. Each webpage copy shall be accompanied by the URL of the webpage where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting information on the Internet; and

F. A copy of each unique advertisement, other marketing material, telemarketing script, or other representation related to the Collection of Personal Information of Children that is made in connection with promoting or offering for sale the YouTube Service.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or the State of New York, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and the State of New York are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and the State of New York are authorized to communicate directly with each Defendant. Each Defendant must permit representatives of the Commission and the State of New York to interview any employee or other Person affiliated with Defendant who has agreed to such an interview. The Person interviewed may have counsel present.

C. The Commission and the State of New York may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.


SO ORDERED this ___ day of _____, 2019.

UNITED STATES DISTRICT JUDGE


SO STIPULATED AND AGREED:

FOR PLAINTIFFS

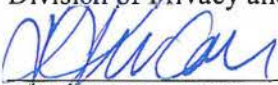
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FOR THE PEOPLE OF THE STATE OF NEW YORK:

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By:  _____

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FOR DEFENDANTS:



Date: April 25, 2019

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COUNSEL for GOOGLE LLC and YOUTUBE, LLC

DEFENDANT: GOOGLE LLC



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

DEFENDANT: YOUTUBE, LLC
By: Google LLC, its Managing Member



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

APPENDIX A

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, Email, Internet, Online service, Privacy, Record retention, Safety, science and technology, Trade practices, Web site, Youth.

■ Accordingly, for the reasons stated above, the Federal Trade Commission revises part 312 of Title 16 of the Code of Federal Regulations to read as follows:

**PART 312—CHILDREN'S ONLINE
PRIVACY PROTECTION RULE**

Sec.

- 312.1 Scope of regulations in this part.
- 312.2 Definitions.
- 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
- 312.4 Notice.
- 312.5 Parental consent.
- 312.6 Right of parent to review personal information provided by a child.
- 312.7 Prohibition against conditioning a child's participation on collection of personal information.

312.8 Confidentiality, security, and integrity of personal information collected from children.

312.9 Enforcement.

312.10 Data retention and deletion requirements.

312.11 Safe harbor programs.

312.12 Voluntary Commission Approval Processes.

312.13 Severability.

Authority: 15 U.S.C. 6501–6508.

§ 312.1 Scope of regulations in this part.

This part implements the Children's Online Privacy Protection Act of 1998, (15 U.S.C. 6501, *et seq.*) which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information from a child by any means, including but not limited to:

(1) Requesting, prompting, or encouraging a child to submit personal information online;

(2) Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child's postings before they are made public and also to delete such information from its records; or

(3) Passive tracking of a child online.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclose or disclosure means, with respect to personal information:

(1) The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the Web site or online service; and

(2) Making personal information collected by an operator from a child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a Web site or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(1) Receives notice of the operator's personal information collection, use, and disclosure practices; and

(2) Authorizes any collection, use, and/or disclosure of the personal information.

Online contact information means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

Operator means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information is *collected or maintained on behalf of* an operator when:

(1) It is collected or maintained by an agent or service provider of the operator; or

(2) The operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(1) A first and last name;

(2) A home or other physical address including street name and name of a city or town;

(3) Online contact information as defined in this section;

(4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;

(5) A telephone number;

(6) A Social Security number;

(7) A persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;

(8) A photograph, video, or audio file where such file contains a child's image or voice;

(9) Geolocation information sufficient to identify street name and name of a city or town; or

(10) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Release of personal information means the sharing, selling, renting, or transfer of personal information to any third party.

Support for the internal operations of the Web site or online service means:

(1) Those activities necessary to:

(i) Maintain or analyze the functioning of the Web site or online service;

(ii) Perform network communications;

(iii) Authenticate users of, or personalize the content on, the Web site or online service;

(iv) Serve contextual advertising on the Web site or online service or cap the frequency of advertising;

(v) Protect the security or integrity of the user, Web site, or online service;

(vi) Ensure legal or regulatory compliance; or

(vii) Fulfill a request of a child as permitted by § 312.5(c)(3) and (4);

(2) So long as The information collected for the activities listed in paragraphs (1)(i)–(vii) of this definition is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a

profile on a specific individual, or for any other purpose.

Third party means any person who is not:

(1) An operator with respect to the collection or maintenance of personal information on the Web site or online service; or

(2) A person who provides support for the internal operations of the Web site or online service and who does not use or disclose information protected under this part for any other purpose.

Web site or online service directed to children means a commercial Web site or online service, or portion thereof, that is targeted to children.

(1) In determining whether a Web site or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising promoting or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.

(2) A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.

(3) A Web site or online service that is directed to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it:

(i) Does not collect personal information from any visitor prior to collecting age information; and

(ii) Prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.

(4) A Web site or online service shall not be deemed directed to children solely because it refers or links to a commercial Web site or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

(a) Provide notice on the Web site or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));

(b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§ 312.5);

(c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);

(d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and

(e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Direct notice to the parent.* An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(c) *Content of the direct notice to the parent—(1) Content of the direct notice to the parent under § 312.5(c)(1) (Notice*

to Obtain Parent's Affirmative Consent to the Collection, Use, or Disclosure of a Child's Personal Information). This direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child, and, if such is the case, the name of the child or the parent, in order to obtain the parent's consent;

(ii) That the parent's consent is required for the collection, use, or disclosure of such information, and that the operator will not collect, use, or disclose any personal information from the child if the parent does not provide such consent;

(iii) The additional items of personal information the operator intends to collect from the child, or the potential opportunities for the disclosure of personal information, should the parent provide consent;

(iv) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section;

(v) The means by which the parent can provide verifiable consent to the collection, use, and disclosure of the information; and

(vi) That if the parent does not provide consent within a reasonable time from the date the direct notice was sent, the operator will delete the parent's online contact information from its records.

(2) *Content of the direct notice to the parent under § 312.5(c)(2) (Voluntary Notice to Parent of a Child's Online Activities Not Involving the Collection, Use or Disclosure of Personal Information).* Where an operator chooses to notify a parent of a child's participation in a Web site or online service, and where such site or service does not collect any personal information other than the parent's online contact information, the direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child in order to provide notice to, and subsequently update the parent about, a child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information;

(ii) That the parent's online contact information will not be used or disclosed for any other purpose;

(iii) That the parent may refuse to permit the child's participation in the Web site or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and

(iv) A hyperlink to the operator's online notice of its information

practices required under paragraph (d) of this section.

(3) *Content of the direct notice to the parent under § 312.5(c)(4) (Notice to a Parent of Operator's Intent to Communicate with the Child Multiple Times)*. This direct notice shall set forth:

(i) That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;

(ii) That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;

(iii) That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;

(iv) That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;

(v) That if the parent fails to respond to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and

(vi) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(4) *Content of the direct notice to the parent required under § 312.5(c)(5) (Notice to a Parent In Order to Protect a Child's Safety)*. This direct notice shall set forth:

(i) That the operator has collected the name and the online contact information of the child and the parent in order to protect the safety of a child;

(ii) That the information will not be used or disclosed for any purpose unrelated to the child's safety;

(iii) That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;

(iv) That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) *Notice on the Web site or online service*. In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page or screen of its Web site or online service, and, at each area of the Web site or online service

where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience Web site or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the Web site or online service's information practices must state the following:

(1) The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online service. *Provided that:* The operators of a Web site or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice;

(2) A description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information; and

(3) That the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§ 312.5 Parental consent.

(a) *General requirements*. (1) An operator is required to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

(b) *Methods for verifiable parental consent*. (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated,

in light of available technology, to ensure that the person providing consent is the child's parent. (2) Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:

(i) Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;

(ii) Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

(iii) Having a parent call a toll-free telephone number staffed by trained personnel;

(iv) Having a parent connect to trained personnel via video-conference;

(v) Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete; or

(vi) *Provided that*, an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory email to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier email.

(3) *Safe harbor approval of parental consent methods*. A safe harbor program approved by the Commission under § 312.11 may approve its member operators' use of a parental consent method not currently enumerated in paragraph (b)(2) of this section where the safe harbor program determines that such parental consent method meets the requirements of paragraph (b)(1) of this section.

(c) *Exceptions to prior parental consent*. Verifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child *except* as set forth in this paragraph:

(1) Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1). If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the

operator must delete such information from its records;

(2) Where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(2);

(3) Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;

(4) Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(3). An operator will not be deemed to have made reasonable efforts to ensure that a parent receives notice where the notice to the parent was unable to be delivered;

(5) Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of a child, and where such information is not used or disclosed for any purpose unrelated to the child's safety. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to provide a parent with notice as described in § 312.4(c)(4);

(6) Where the purpose of collecting a child's name and online contact information is to:

- (i) Protect the security or integrity of its Web site or online service;
- (ii) Take precautions against liability;
- (iii) Respond to judicial process; or
- (iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety; and where such information is not be used for any other purpose;

(7) Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the Web site or online service. In such case, there also shall be no obligation to provide notice under § 312.4; or

(8) Where an operator covered under paragraph (2) of the definition of *Web site or online service directed to children* in § 312.2 collects a persistent identifier and no other personal information from a user who affirmatively interacts with the operator and whose previous registration with that operator indicates that such user is not a child. In such case, there also shall be no obligation to provide notice under § 312.4.

§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a Web site or online service, the operator of that Web site or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children. The operator must also take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintaining the confidentiality, security and integrity of such information, and who provide assurances that they will maintain the information in such a manner.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502 (a) of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Data retention and deletion requirements.

An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.

§ 312.11 Safe harbor programs.

(a) *In general.* Industry groups or other persons may apply to the Commission for approval of self-regulatory program guidelines ("safe harbor programs"). The application shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the application. The Commission shall issue a written determination within 180 days of the filing of the application.

(b) *Criteria for approval of self-regulatory program guidelines.* Proposed safe harbor programs must demonstrate

that they meet the following performance standards:

(1) Program requirements that ensure operators subject to the self-regulatory program guidelines (“subject operators”) provide substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8, and 312.10.

(2) An effective, mandatory mechanism for the independent assessment of subject operators’ compliance with the self-regulatory program guidelines. At a minimum, this mechanism must include a comprehensive review by the safe harbor program, to be conducted not less than annually, of each subject operator’s information policies, practices, and representations. The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.

(3) Disciplinary actions for subject operators’ non-compliance with self-regulatory program guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of any action taken against subject operators by the industry group issuing the self-regulatory guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the self-regulatory guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the self-regulatory guidelines; or

(v) Any other equally effective action.

(c) *Request for Commission approval of self-regulatory program guidelines.* A proposed safe harbor program’s request for approval shall be accompanied by the following:

(1) A detailed explanation of the applicant’s business model, and the technological capabilities and mechanisms that will be used for initial and continuing assessment of subject operators’ fitness for membership in the safe harbor program;

(2) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(3) A comparison of each provision of §§ 312.2 through 312.8, and 312.10 with the corresponding provisions of the guidelines; and

(4) A statement explaining:

(i) How the self-regulatory program guidelines, including the applicable assessment mechanisms, meet the requirements of this part; and

(ii) How the assessment mechanisms and compliance consequences required

under paragraphs (b)(2) and (b)(3) provide effective enforcement of the requirements of this part.

(d) *Reporting and recordkeeping requirements.* Approved safe harbor programs shall:

(1) By July 1, 2014, and annually thereafter, submit a report to the Commission containing, at a minimum, an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section, a description of any disciplinary action taken against any subject operator under paragraph (b)(3) of this section, and a description of any approvals of member operators’ use of a parental consent mechanism, pursuant to § 312.5(b)(4);

(2) Promptly respond to Commission requests for additional information; and

(3) Maintain for a period not less than three years, and upon request make available to the Commission for inspection and copying:

(i) Consumer complaints alleging violations of the guidelines by subject operators;

(ii) Records of disciplinary actions taken against subject operators; and

(iii) Results of the independent assessments of subject operators’ compliance required under paragraph (b)(2) of this section.

(e) *Post-approval modifications to self-regulatory program guidelines.* Approved safe harbor programs must submit proposed changes to their guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(2) of this section. The statement required under paragraph (c)(4) of this section must describe how the proposed changes affect existing provisions of the guidelines.

(f) *Revocation of approval of self-regulatory program guidelines.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory program guidelines or their implementation do not meet the requirements of this part. Safe harbor programs that were approved prior to the publication of the Final Rule amendments must, by March 1, 2013, submit proposed modifications to their guidelines that would bring them into compliance with such amendments, or their approval shall be revoked.

(g) *Operators’ participation in a safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§ 312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or

bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator’s participation in the safe harbor program, whether the subject operator has taken action to remedy such non-compliance, and whether the operator’s non-compliance resulted in any one of the disciplinary actions set forth in paragraph (b)(3).

§ 312.12 Voluntary Commission Approval Processes.

(a) *Parental consent methods.* An interested party may file a written request for Commission approval of parental consent methods not currently enumerated in § 312.5(b). To be considered for approval, a party must provide a detailed description of the proposed parental consent methods, together with an analysis of how the methods meet § 312.5(b)(1). The request shall be filed with the Commission’s Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request; and

(b) *Support for internal operations of the Web site or online service.* An interested party may file a written request for Commission approval of additional activities to be included within the definition of support for internal operations. To be considered for approval, a party must provide a detailed justification why such activities should be deemed support for internal operations, and an analysis of their potential effects on children’s online privacy. The request shall be filed with the Commission’s Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

§ 312.13 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.

By direction of the Commission, Commissioner Rosch abstaining, and Commissioner Ohlhausen dissenting.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Maureen K. Ohlhausen

I voted against adopting the amendments to the Children's Online Privacy Protection Act (COPPA) Rule because I believe a core provision of the amendments exceeds the scope of the authority granted us by Congress in COPPA, the statute that underlies and authorizes the Rule.⁴⁰¹ Before I explain my concerns, I wish to commend the Commission staff for their careful consideration of the multitude of issues raised by the numerous comments in this proceeding. Much of the language of the amendments is designed to preserve flexibility for the industry while striving to protect children's privacy, a goal I support strongly. The final proposed amendments largely strike the right balance between protecting children's privacy online and avoiding undue burdens on providers of children's online content and services. The staff's great expertise in the area of children's privacy and deep understanding of the values at stake in this matter have been invaluable in my consideration of these important issues.

In COPPA Congress defined who is an operator and thereby set the outer boundary for the statute's and the COPPA Rule's reach.⁴⁰² It is undisputed that COPPA places obligations on operators of Web sites or online services directed to children or operators with actual knowledge that they are collecting personal information from

children. The statute provides, "It is unlawful for an operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed [by the FTC]." ⁴⁰³

The Statement of Basis and Purpose for the amendments (SBP) discusses concerns that the current COPPA Rule may not cover child-directed Web sites or services that do not themselves collect children's personal information but may incorporate third-party plug-ins that collect such information ⁴⁰⁴ for the plug-ins' use but do not collect or maintain the information for, or share it with, the child-directed site or service. To address these concerns, the amendments add a new proviso to the definition of operator in the COPPA Rule: "Personal information is collected or maintained on behalf of an operator when: (a) it is collected or maintained by an agent or service provider of the operator; or (b) the operator benefits by allowing another person to collect personal information directly from users of such Web site or online service." ⁴⁰⁵

The proposed amendments construe the term "on whose behalf such information is collected and maintained" to reach child-directed Web sites or services that merely derive from a third-party plug-in some kind of benefit, which may well be unrelated to the collection and use of children's

information (e.g., content, functionality, or advertising revenue). I find that this proviso—which would extend COPPA obligations to entities that do not collect personal information from children or have access to or control of such information collected by a third-party does not comport with the plain meaning of the statutory definition of an operator in COPPA, which covers only entities "on whose behalf such information is collected and maintained." ⁴⁰⁶ In other words, I do not believe that the fact that a child-directed site or online service receives any kind of benefit from using a plug-in is equivalent to the collection of personal information by the third-party plug-in on behalf of the child-directed site or online service.

As the Supreme Court has directed, an agency "must give effect to the unambiguously expressed intent of Congress." ⁴⁰⁷ Thus, regardless of the policy justifications offered, I cannot support expanding the definition of the term "operator" beyond the statutory parameters set by Congress in COPPA.

I therefore respectfully dissent.

[FR Doc. 2012–31341 Filed 1–16–13; 8:45 am]

BILLING CODE 6750–01–P

⁴⁰⁶ This expanded definition of operator reverses the Commission's previous conclusion that the appropriate test for determining an entity's status as an operator is to "look at the entity's relationship to the data collected," using factors such as "who owns and/or controls the information, who pays for its collection and maintenance, the pre-existing contractual relationships regarding collection and maintenance of the information, and the role of the Web site or online service in collecting and/or maintaining the information (i.e., whether the site participates in collection or is merely a conduit through which the information flows to another entity)." Children's Online Privacy Protection Rule 64 FR 59888, 59893, 59891 (Nov. 3, 1999) (final rule).

⁴⁰⁷ *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.").

⁴⁰¹ 15 U.S.C. 6501–6506.

⁴⁰² COPPA, 15 U.S.C. 6501(2), defines the term "operator" as "any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about users of or visitors to such Web site or online service, or on whose behalf such information is collected and maintained * * *" As stated in the Statement of Basis and Purpose for the original COPPA Rule, "The definition of 'operator' is of central importance because it determines who is covered by the Act and the Rule." Children's Online Privacy Protection Rule 64 FR 59888, 59891 (Nov. 3, 1999) (final rule).

⁴⁰³ 15 U.S.C. 6502(a)(1).

⁴⁰⁴ If the third-party plug-ins are child-directed or have actual knowledge that they are collecting children's personal information they are already expressly covered by the COPPA statute. Thus, as the SBP notes, a behavioral advertising network that targets children under the age of 13 is already deemed an operator. The amendment must therefore be aimed at reaching third-party plug-ins that are either not child-directed or do not have actual knowledge that they are collecting children's personal information, which raises a question about what harm this amendment will address. For example, it appears that this same type of harm could occur through general audience Web sites and online services collecting and using visitors' personal information without knowing whether some of the data is children's personal information, which is a practice that COPPA and the amendments do not prohibit.

⁴⁰⁵ 16 CFR 312.2 (Definitions).

EXHIBIT A

Google Presentation to Mattel
Insights on Families Online (partial)



INSIGHTS on FAMILIES online



Confidential • Proprietary

Google

YouTube is today's leader in reaching children age 6-11 against top TV channels

63%



YouTube.com

63%



TV Properties

57%



TV Properties

49%



TV Properties

Google

Source: Nielsen MRI 2015 Kids Study
YouTube Reach in the last 30 days, Desktop Only
Mobile not available

Google

EXHIBIT B

Google Presentation to Hasbro,
Stat Pack: Additional insight into mobile usage among parents +
children (partial)

Google

Stat Pack: Additional insight into mobile usage among parents + children

#1

YouTube is unanimously
voted as the favorite
website of kids 2 - 12



Age 2



Age 3



Age 4



Age 5

Age 6

Age 7

Age 8

Age 9

Age 10

Google

Source: The Marketing Store/KidSay, "Global Kids Study", 2014

93%

of tweens visit YouTube
to watch videos

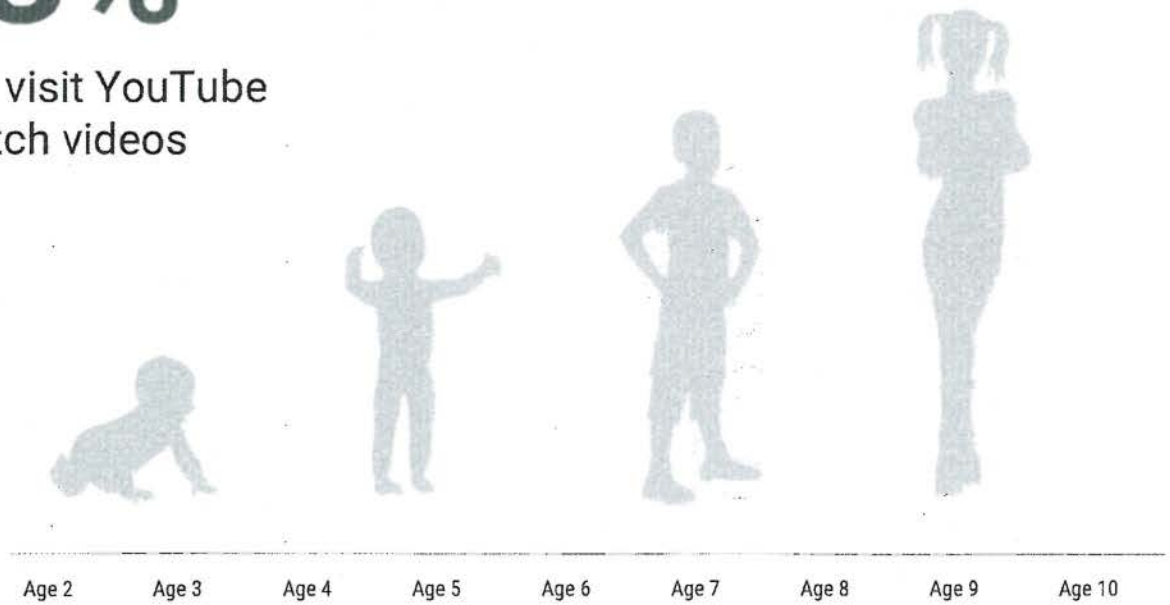


EXHIBIT C

Google Presentation to Hasbro,
2016 Kids + Family Digital Trends (partial)













2016 Kids + Family Digital Trends



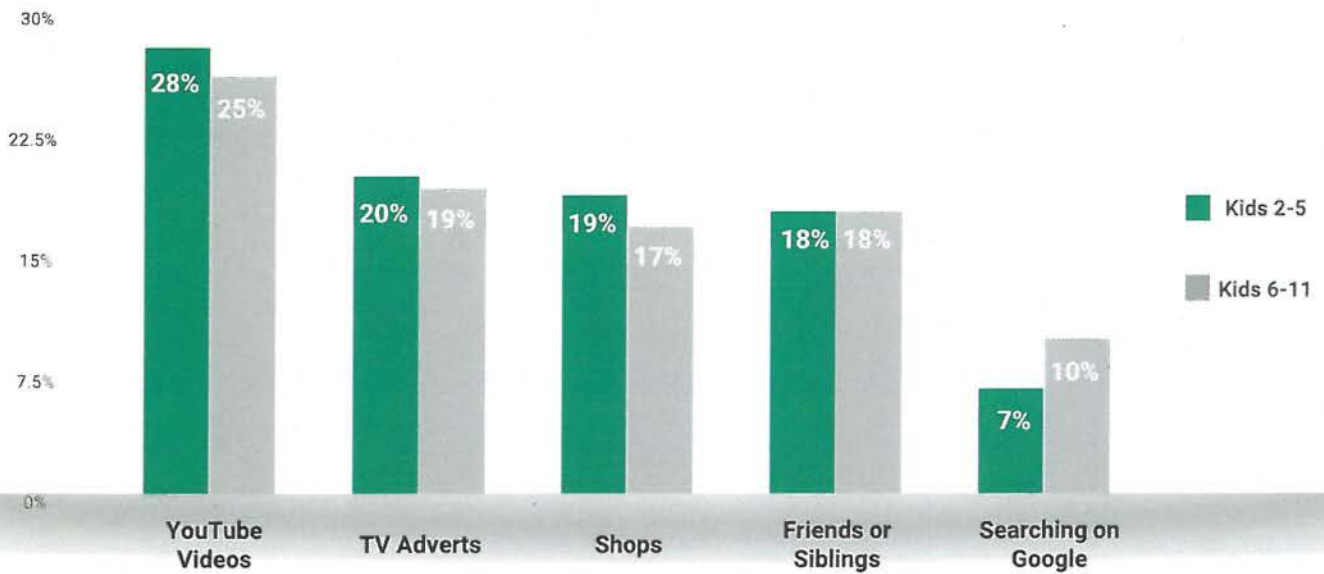
In fact, it's the #1 website regularly visited by kids

INDEXED TO
YOUTUBE REACH

	100		30
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According to parents...

YouTube is the #1 source where children discover new toys + games



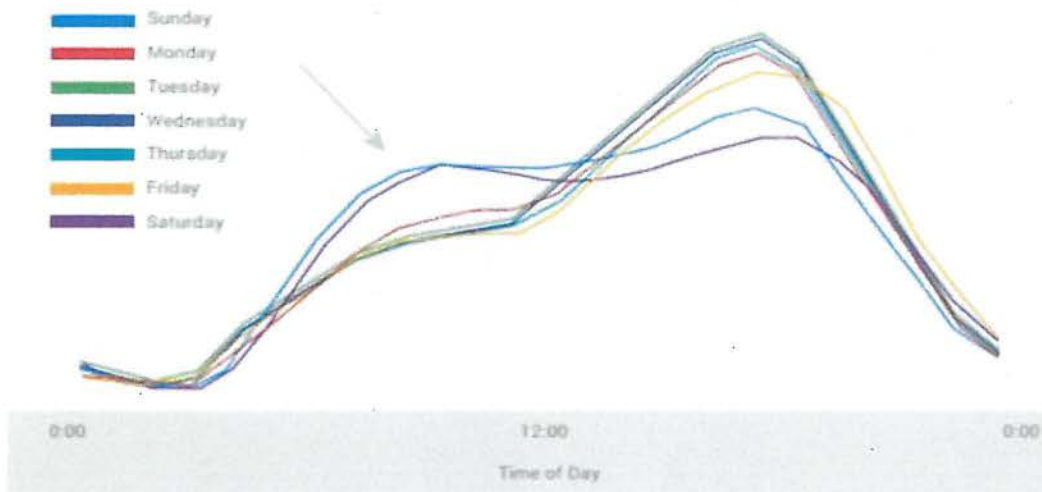
Google

Source: Google Consumer Surveys July 2016, Parents of Children 2-14, 1683 responses

YouTube: The new "Saturday Morning Cartoons"

41% of parents watch family content on YouTube together with their children

W25-49 Watching "Cartoons" on YouTube



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**PLAINTIFFS' UNOPPOSED MOTION
TO ENTER STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”), by and through its undersigned counsel, and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), respectfully move for entry of the attached proposed Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Stipulated Order”) that accompanies this motion. All parties have agreed to the terms of the Stipulated Order, as evidenced by their signatures thereon, to resolve this action. The Commission and the State of New York believe that entry of this Order would most efficiently further the ends of justice in this case. Pursuant to Local Civil Rule 7(m), undersigned counsel conferred with counsel for Google LLC and YouTube, LLC, who indicated that the motion was unopposed prior to filing.

WHEREFORE, Plaintiffs respectfully request that the Court enter the Stipulated Order for Permanent Injunction and Civil Penalty Judgment.

Dated: September 4, 2019

Respectfully Submitted,

LETITIA JAMES
Attorney General of the State of New York

ALDEN F. ABBOTT
General Counsel

Clark P. Russell

CLARK P. RUSSELL
New York Bar No. 2848323
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Attorneys for Plaintiff State of New York

/s/ Kristin Krause Cohen

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Email: pmagee@ftc.gov
Email: tgeorge@ftc.gov

Attorneys for Plaintiff Federal Trade Commission

LOCAL RULE 7(k) CERTIFICATION
Names of Persons to Be Served with Proposed Order

Pursuant to Local Rule 7(k), the following attorneys are entitled to be notified of the entry of the foregoing Stipulated Order:

CHRISTOPHER N. OLSEN
LIBBY J. WEINGARTEN
Wilson Sonsini Goodrich & Rosati
1700 K Street, NW
5th Floor
Washington, DC 20006
(202) 973-8800
(202) 973-8899 (fax)
Email: colsen@wsgr.com
Email: lweingarten@wsgr.com

From: Cohen, Kristin
Sent: 4 Apr 2019 12:54:15 +0000
To: 'Olsen, Chris'; Weingarten, Libby
Cc: Magee, Peder; George, Tiffany
Subject: YouTube

Attachments:

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

[Redacted attachment list]

Hi Chris,

(b)(4);
(b)(3):6(f)

[Redacted body text]

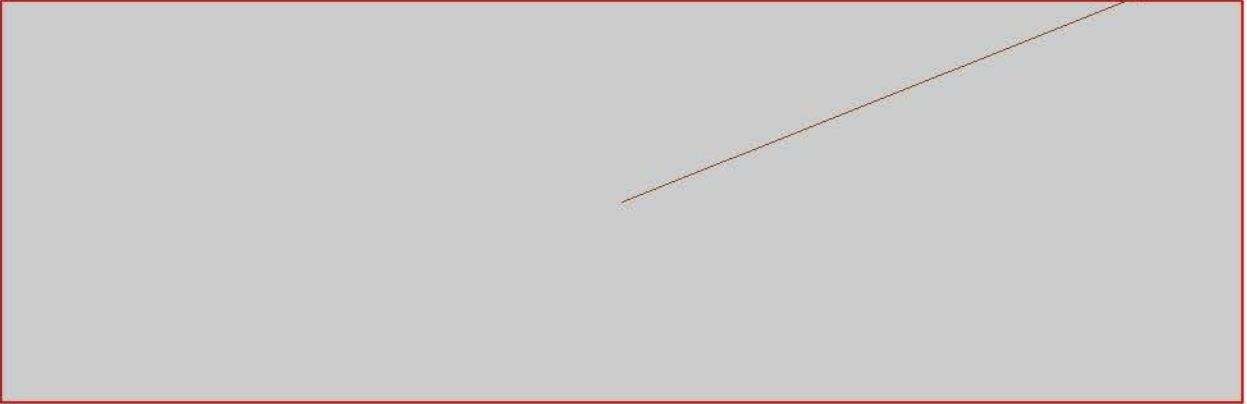
Best,
Kristin

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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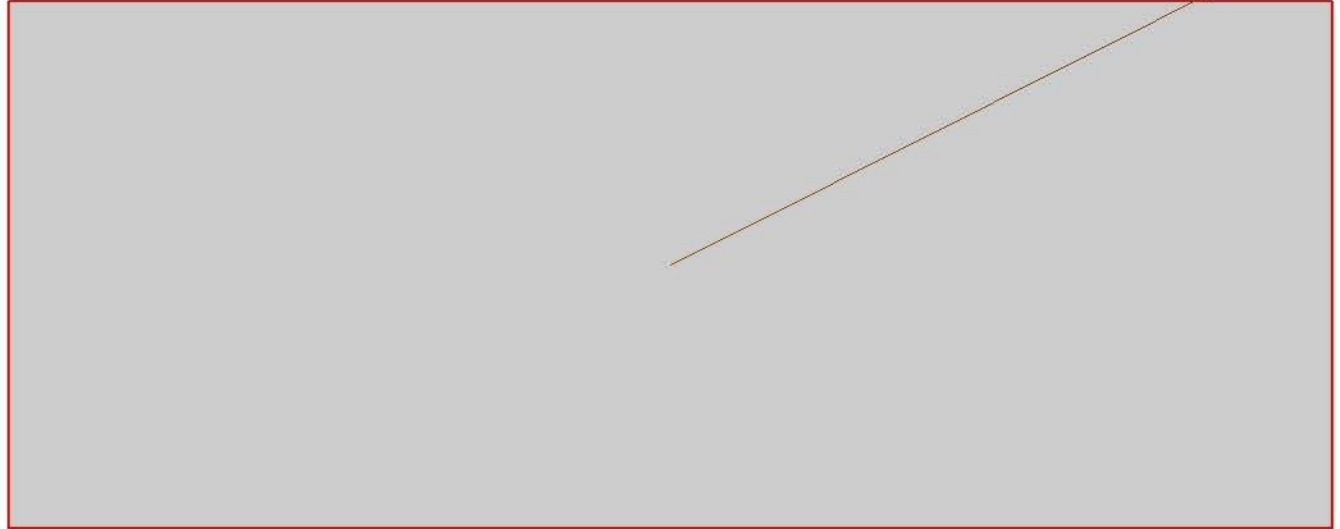
From: Spector, Robin
Sent: 19 Jun 2019 14:55:06 -0400
To: Cohen, Kristin; Magee, Peder
Subject: YouTube

(b)(5)



From: Kaufman, Daniel
Sent: 3 Sep 2019 12:40:51 -0400
To: Crawford, Molly;Meyer, Erie K;King, Austin;Frant, Nina;Delaney, Elizabeth A
Cc: Estrada, Danielle;Cohen, Kristin
Subject: YouTube

(b)(5)

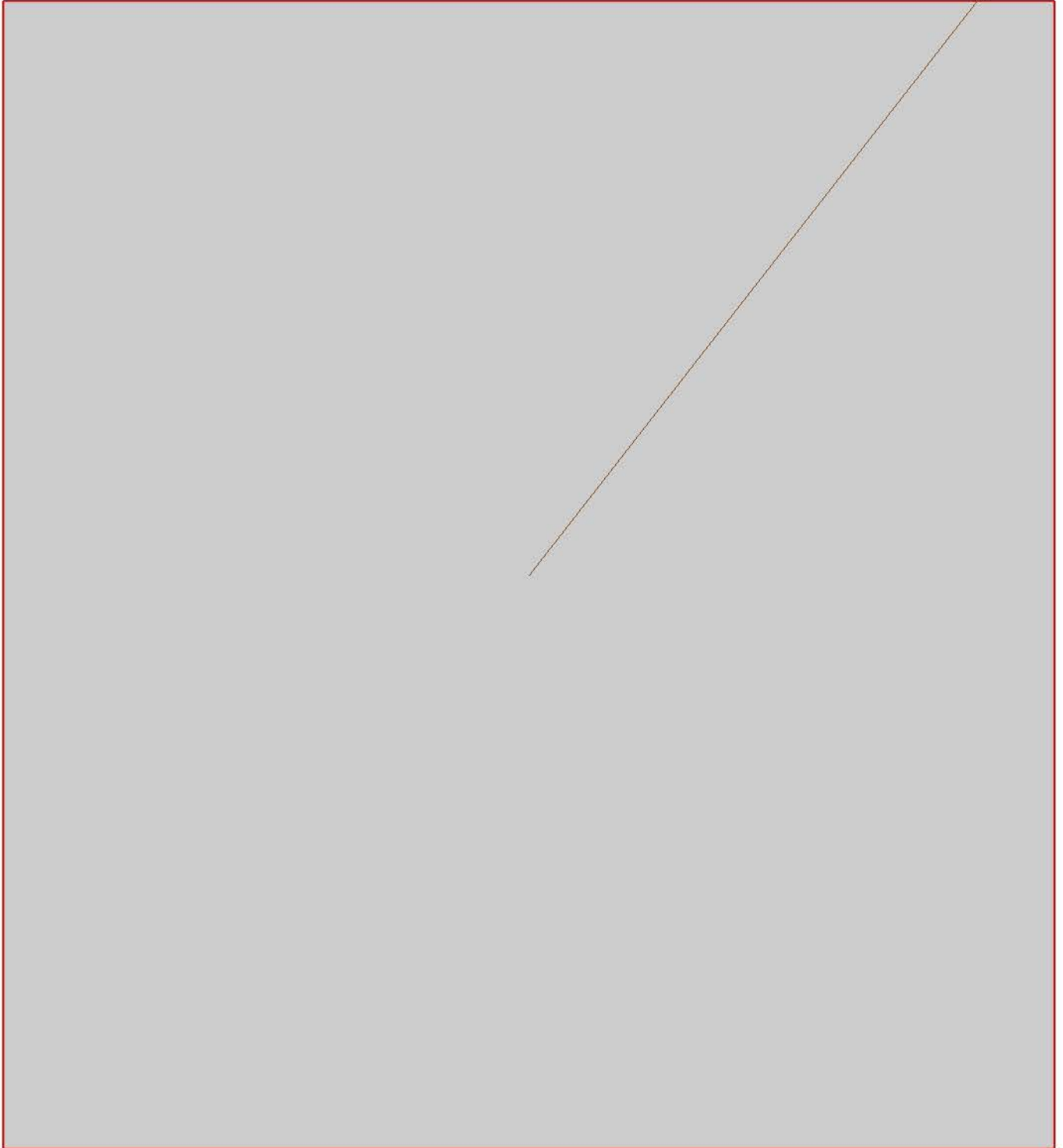


Thanks
Daniel

From: Mithal, Maneesha
Sent: 20 Jun 2019 15:37:17 -0400
To: Slaughter, Rebecca
Cc: King, Austin; Magee, Peder; Cohen, Kristin; Eichorn, Mark
Subject: YouTube

Becca,

(b)(5)



(b)(5)

From: Crawford, Molly
Sent: 25 Jun 2019 11:52:38 -0400
To: Cohen, Kristin; Magee, Peder; Kaufman, Daniel; Mithal, Maneesha
Subject: [REDACTED]

(b)(5)

[REDACTED]

Molly Crawford | Attorney Advisor | Office of Chairman Joseph Simons
Federal Trade Commission | 600 Pennsylvania Avenue, NW, H-448 | Washington, D.C. 20580
Phone: 202.326.3076 | Fax: 202.326.3393 | Email: mcrawford@ftc.gov

From: Cohen, Kristin
Sent: 19 Mar 2019 21:53:07 +0000
To: 'Olsen, Chris'; Weingarten, Libby
Cc: Magee, Peder; George, Tiffany

Subject:

Attachments:

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

Hi Chris,

(b)(4);
(b)(3):6(f)

We look forward to hearing from you this week.

Thanks,
Kristin

(b)(5)

From: Cohen, Kristin
Sent: 19 Jun 2019 13:38:24 +0000
To: Crawford, Molly
Cc: Pesin, Michael; Estrada, Danielle; Magee, Peder

(b)(5)

Subject: [Redacted]
Attachments: [Redacted]

Hi Molly,

[Redacted]

From: LLEWIS@hq1-web-s2.ftc.gov
Sent: 11 Sep 2019 12:48:05 +0000
To: Frisby, Robert M.
Subject: Case Google, LLC and YouTube, LLC - X190037 is assigned to RFRISBY@ftc.gov

Case X190037-Google, LLC and YouTube, LLC has been assigned to RFRISBY@ftc.gov.

The Assistant Director for the case is LKOSS@ftc.gov.

From: LLEWIS@hq1-web-s2.ftc.gov
Sent: 11 Sep 2019 12:46:52 +0000
To: Chaudhry, Sana
Subject: Case Google, LLC and YouTube, LLC - X190037 is assigned to
SCHAUDHRY@ftc.gov

Case X190037-Google, LLC and YouTube, LLC has been assigned to
SCHAUDHRY@ftc.gov.

The Assistant Director for the case is DWOLFE@ftc.gov.

From: LLEWIS@hq1-web-s2.ftc.gov
Sent: 11 Sep 2019 12:48:04 +0000
To: Chaudhry, Sana
Subject: Case Google, LLC and YouTube, LLC - X190037 is revoked from
SCHAUDHRY@ftc.gov

Case X190037-Google, LLC and YouTube, LLC that was previously assigned to you has been assigned to RFRISBY@ftc.gov.

From: Cohen, Kristin
Sent: 10 Jul 2019 12:52:49 +0000
To: Crawford, Molly
Cc: Magee, Peder; Eichorn, Mark; Mithal, Maneesha; Smith, Andrew; Kaufman, Daniel; Estrada, Danielle

Subject: [REDACTED]
Attachments: [REDACTED]

Hi Molly,

[REDACTED]

(b)(4);
(b)(3):6(f)

From: Magee, Peder
Sent: 8 Mar 2019 15:25:54 -0500
To: Olsen, Chris;Weingarten, Libby (lweingarten@wsgr.com)
Cc: George, Tiffany;Cohen, Kristin
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(4);
(b)(3):6(f)

Hi Chris and Libby:

[REDACTED]

Peder

(b)(5)

(b)(5)

From: Cohen, Kristin
Sent: 8 Jul 2019 18:07:37 +0000
To: 'Baron, Rachel E.'
Cc: Magee, Peder
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

I apologize for the delay. [REDACTED] I will call you momentarily to discuss.

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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(b)(5)

(b)(5)

From: Cohen, Kristin
Sent: 8 Jul 2019 18:09:06 +0000
To: 'Baron, Rachel E.'
Cc: Magee, Peder
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(5)

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please delete the email and notify the sender.

From: Cohen, Kristin
Sent: 28 Feb 2019 16:16:09 +0000
To: 'Olsen, Chris'; Weingarten, Libby
Cc: Magee, Peder; George, Tiffany
Subject: [REDACTED]
Attachments: [REDACTED]

Hi Chris,

Let us know if you have any questions or want to discuss further.

Best,
Kristin

From: Olsen, Chris <colsen@wsgr.com>
Sent: Monday, February 25, 2019 9:04 AM
To: Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; Weingarten, Libby <lweingarten@wsgr.com>
Subject: RE: [REDACTED]

Hi guys [REDACTED]

From: Cohen, Kristin [<mailto:kcohen@ftc.gov>]
Sent: Wednesday, January 30, 2019 8:14 AM
To: Olsen, Chris; George, Tiffany
Cc: Magee, Peder; Weingarten, Libby
Subject: [REDACTED]

Thanks, Chris. [REDACTED]

From: Olsen, Chris <colsen@wsgr.com>
Sent: Tuesday, January 29, 2019 5:29 PM
To: George, Tiffany <tgeorge@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Weingarten, Libby <lweingarten@wsgr.com>
Subject: FW [REDACTED]

We look forward to hearing from you.

Thanks. And thanks again, everyone, for the time today.

Chris

(b)(4);
(b)(3):6(f) **From:** George, Tiffany [<mailto:tgeorge@ftc.gov>]
(b)(4);
(b)(3):6(f) **Sent:** Tuesday, September 11, 2018 4:52 PM
(b)(4);
(b)(3):6(f) **To:** Olsen, Chris; Magee, Peder
(b)(4);
(b)(3):6(f) **Cc:** Weingarten, Libby
(b)(4);
(b)(3):6(f) **Subject:** RE [REDACTED]

Hi Chris, [REDACTED] Please let us know if you have any questions.

Thanks,
Tiffany

(b)(4);
(b)(3):6(f) **From:** Olsen, Chris
(b)(4);
(b)(3):6(f) **Sent:** Tuesday, September 11, 2018 1:37 PM
(b)(4);
(b)(3):6(f) **To:** George, Tiffany ; Magee, Peder
(b)(4);
(b)(3):6(f) **Cc:** Weingarten, Libby
(b)(4);
(b)(3):6(f) **Subject:** RE [REDACTED]

Thanks guys [REDACTED] Peder.

(b)(4);
(b)(3):6(f) **From:** George, Tiffany [<mailto:tgeorge@ftc.gov>]
(b)(4);
(b)(3):6(f) **Sent:** Tuesday, September 11, 2018 1:34 PM
(b)(4);
(b)(3):6(f) **To:** Olsen, Chris; Magee, Peder
(b)(4);
(b)(3):6(f) **Cc:** Weingarten, Libby
(b)(4);
(b)(3):6(f) **Subject:** RE [REDACTED]

Hi Chris, [REDACTED] Thanks.

(b)(4);
(b)(3):6(f) **From:** Olsen, Chris <colsen@wsgr.com>
(b)(4);
(b)(3):6(f) **Sent:** Tuesday, September 11, 2018 11:36 AM
(b)(4);
(b)(3):6(f) **To:** Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
(b)(4);
(b)(3):6(f) **Cc:** Weingarten, Libby <lweingarten@wsgr.com>
(b)(4);
(b)(3):6(f) **Subject:** RE [REDACTED]

[REDACTED]

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

[Redacted]

Thanks very much,
Chris

From: Magee, Peder [<mailto:PMAGEE@ftc.gov>]

Sent: Monday, September 10, 2018 4:08 PM

To: Olsen, Chris

Cc: George, Tiffany

Subject: [Redacted]

(b)(4);
(b)(3):6(f)

(b)(4);
(b)(3):6(f)

Hi Chris:

[Redacted]

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(b)(5)

From: Cohen, Kristin
Sent: 8 Jul 2019 20:00:29 +0000
To: 'Baron, Rachel E.'
Cc: Magee, Peder
Subject: [REDACTED]
Attachments: [REDACTED]

(b)(5)

Hi Rachel,

[REDACTED]

Thanks,
Kristin

Kristin Krause Cohen | Division of Privacy and Identity Protection | Federal Trade Commission
202.326.2276

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From: Cohen, Kristin
Sent: 11 Sep 2019 12:21:12 +0000
To: DEbrief
Cc: Magee, Peder;George, Tiffany
Subject: Final order in FTC v. Google, Youtube X190037
Attachments: 2019.09.10 YouTube Order.pdf

Attached please find the final order in FTC v. Google and YouTube in X190037.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”) (collectively, “Plaintiffs”) filed their Complaint for Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312. Defendants have waived service of the summons and the Complaint. Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants violated the COPPA Rule and Section 5 of the FTC Act, 15 U.S.C. § 45, by failing to post a privacy policy on their online service providing clear, understandable, and complete notice of their information practices with respect to the Collection of Personal Information from Children, failing to provide direct notice to Parents of such information practices, and failing to Obtain Verifiable Parental Consent prior to Collecting, using, or Disclosing Personal Information from Children.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. **“Channel Owner”** means individuals or entities who upload videos onto the YouTube Service.
- B. **“Child”** or **“Children”** means an individual or individuals under the age of 13.

C. **“Clear and Conspicuous”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as Children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

D. “**Collects**” or “**Collection**” means the gathering of any Personal Information from a Child by any means, including but not limited to:

1. Requesting, prompting, or encouraging a Child to submit Personal Information online;
2. Enabling a Child to make Personal Information publicly available in identifiable form. An Operator shall not be considered to have Collected Personal Information if it takes reasonable measures to Delete all or virtually all Personal Information from a Child’s postings before they are made public and also to Delete such Personal Information from its records; or
3. Passive tracking of a Child online.

E. “**Compliance Date**” means four months after entry of this Order.

F. “**Content**” means any video or channel page found on the YouTube Service.

G. “**Defendants**” means Google LLC, a Delaware limited liability company, and YouTube, LLC, a Delaware limited liability company, and their successors and assigns.

H. “**Delete**” means to remove Personal Information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

I. “**Disclose**” or “**Disclosure**” means, with respect to Personal Information:

1. The Release of Personal Information Collected by an Operator from a Child in identifiable form for any purpose, except where an Operator provides such information to a Person who provides Support for the Internal Operations of the Website or Online Service; and
2. Making Personal Information Collected by an Operator from a Child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

J. **“Internet”** means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

K. **“Obtaining Verifiable Parental Consent”** means making any reasonable effort (taking into consideration available technology) to ensure that before Personal Information is Collected from a Child, a Parent of the Child:

1. Receives notice of the Operator’s Personal Information Collection, use, and Disclosure practices; and
2. Authorizes any Collection, use, and/or Disclosure of the Personal Information, using a method reasonably calculated, in light of available technology, to ensure that the Person providing consent is the Child’s Parent.

L. **“Online Contact Information”** means an email address or any other substantially similar identifier that permits direct contact with a Person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

M. **“Operator”** means any Person who operates a website located on the Internet or an online service and who Collects or maintains Personal Information from or about the users of or visitors to such website or online service, or on whose behalf such information is Collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with one or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). Personal Information *is Collected or maintained on behalf of* an Operator when:

1. It is Collected or maintained by an agent or service provider of the Operator; or
2. The Operator benefits by allowing another Person to Collect Personal Information directly from users of such website or online service.

N. **“Parent”** includes a legal guardian.

O. **“Person”** means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

P. **“Personal Information”** means individually identifiable information about an individual Collected online, including:

1. A first and last name;
2. A home or other physical address including street name and name of a city or town;
3. Online Contact Information;
4. A screen or user name where it functions in the same manner as Online Contact Information;
5. A telephone number;
6. A Social Security number;
7. A persistent identifier that can be used to recognize a user over time and across different websites or online services, where such persistent identifier is used for functions other than or in addition to Support for the Internal Operations of the Website or Online Service. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;
8. A photograph, video, or audio file where such file contains a Child’s image or voice;
9. Geolocation information sufficient to identify street name and name of a city or town; or
10. Information concerning the Child or the Parents of that Child that the Operator Collects online from the Child and combines with an identifier described in this definition.

Q. **“Release of Personal Information”** means the sharing, selling, renting, or transfer of Personal Information to any Third Party.

R. **“Support for the Internal Operations of the Website or Online Service”** means

1. Those activities necessary to:
 - a) Maintain or analyze the functioning of the website or online service;
 - b) Perform network communications;
 - c) Authenticate users of, or personalize the content on, the website or online service;
 - d) Serve contextual advertising on the website or online service or cap the frequency of advertising;
 - e) Protect the security or integrity of the user, website, or online service;
 - f) Ensure legal or regulatory compliance; or
 - g) Fulfill a request of a Child as permitted by Section 312.5(c)(3) and (4) of the COPPA Rule (attached as Appendix A);
2. So long as the information Collected for these activities listed in 1(a) – (g) is not used or Disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

S. **“Third Party”** means any Person who is not:

1. An Operator with respect to the Collection or maintenance of Personal Information on the website or online service; or
2. A Person who provides Support for the Internal Operations of the Website or Online Service and who does not use or Disclose information protected under the COPPA Rule (attached as Appendix A).

T. **“Website or Online Service Directed to Children”** means a commercial website or online service, or portion thereof, that is targeted to Children.

1. In determining whether a website or online service, or a portion thereof, is directed to Children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to Children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to Children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.
2. A website or online service shall be deemed directed to Children when it has actual knowledge that it is Collecting Personal Information directly from users of another Website or Online Service Directed to Children.
3. A website or online service that is directed to Children under the criteria set forth in paragraph (1) of this definition, but that does not target Children as its primary audience, shall not be deemed directed to Children if it:

- a) Does not Collect Personal Information from any visitor prior to Collecting age information; and
- b) Prevents the Collection, use, or Disclosure of Personal Information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of the COPPA Rule (attached as Appendix A).

4. A website or online service shall not be deemed directed to Children solely because it refers or links to a commercial Website or Online Service Directed to Children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

U. “YouTube Service” means the general audience YouTube user-generated video-sharing platform(s), currently at www.youtube.com and on YouTube mobile application(s), on which, among other things, consumers can view videos or upload videos to share.

ORDER

I. INJUNCTION CONCERNING DESIGNATING CONTENT ON THE YOUTUBE SERVICE AS DIRECTED TO CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating the YouTube Service, are permanently restrained and enjoined from:

A. Failing to develop, implement, and maintain a system for Channel Owners to designate whether their Content on the YouTube Service is directed to Children. Such system

shall include a Clear and Conspicuous notice that Content made available on the YouTube Service that is directed to Children may be subject to the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A) and that Channel Owners are obligated to designate such Content as directed to Children; and

B. Failing to provide annual training regarding complying with the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), for each Person responsible for managing Defendants' relationships with Channel Owners on the YouTube Service.

II. INJUNCTION CONCERNING COLLECTION OF PERSONAL INFORMATION FROM CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating a Website or Online Service Directed to Children on the YouTube Service are hereby permanently restrained and enjoined from:

A. Failing to make reasonable efforts, taking into account available technology, to ensure that a Parent of a Child receives direct notice of Defendants' practices with regard to the Collection, use, or Disclosure of Personal Information from Children, including notice of any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

B. Failing to post a prominent and clearly labeled link to an online notice of its information practices with regard to Children on the home or landing page or screen of its

website or online service, and at each area of the website or online service where Personal Information is Collected from Children, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

C. Failing to Obtain Verifiable Parental Consent before any Collection, use, or Disclosure of Personal Information from Children, including consent to any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to Obtaining Verifiable Parental Consent; and

D. Violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A).

III. INJUNCTION CONCERNING USE OF PREVIOUSLY

COLLECTED PERSONAL INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, are ordered to refrain, within ninety (90) days of the Compliance Date, from Disclosing, using, or benefitting from Personal Information previously Collected from users of Content that is designated as directed to Children by a Channel Owner under the system required under Section I.A. above, as long as such designation occurs within sixty (60) days of the Compliance Date. Provided, however, that such Personal Information may be Disclosed to the extent requested by a government agency or required by law, regulation, or court order.

IV. CIVIL PENALTY AND OTHER MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of one hundred and thirty six million dollars (\$136,000,000) is entered in favor of Plaintiff FTC against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff FTC one hundred thirty six million dollars (\$136,000,000), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within thirty (30) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

C. Judgment in the amount of thirty four million dollars (\$34,000,000) is entered in favor of Plaintiff State of New York against Defendants, jointly and severally, as damages, restitution, or other compensation to its residents.

D. Defendants are ordered to pay to Plaintiff State of New York, by making payment to State of New York Department of Law, thirty four million dollars (\$34,000,000). Such payment must be made within thirty (30) days of entry of this Order by wire transfer in accordance with instructions provided by a representative of Plaintiff State of New York.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission or the State of New York in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission or the State of New York pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers, which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission and the State of New York an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, each Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who have supervisory responsibilities relating to the subject matter of Sections I and II of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission and the State of New York:

A. One year after the Compliance Date, each Defendant must submit a compliance report, sworn under penalty of perjury. In such report, each Defendant must:

1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and the State of New York may use to communicate with that Defendant;
2. Identify all of Defendant's businesses involved in operating the YouTube Service or in Collecting, using, or Disclosing Personal Information from Children on or from the YouTube Service by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. Describe the activities of each such business directly involved with operating the YouTube Service, including the goods and services offered and the means of advertising, marketing, and sales;
4. Describe in detail whether and how Defendants are in compliance with each Section of this Order;
5. Provide a copy of each materially different version of any privacy notice posted on or otherwise applicable to the YouTube Service or sent to users of the YouTube Service;

6. Describe in detail the methods used, if any, to track Child users of the YouTube Service (including methods used for passive tracking and means for users to control or opt out of tracking), and the measures taken to avoid tracking Children;

7. Describe in detail the methods used to Obtain Verifiable Parental Consent prior to any Collection, use, and/or Disclosure of Personal Information from Children through the YouTube Service;

8. Describe in detail the means provided for Parents to review the Personal Information Collected from their Children through the YouTube Service and to refuse to permit its further use or maintenance; and

9. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in: (1) any designated point of contact; or (2) the structure of that Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Each Defendant must submit to the Commission and the State of New York notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission and the State of New York required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

F. Unless otherwise directed by a State of New York representative in writing, all submissions to the State of New York pursuant to this Order must be emailed to ifraud@ag.ny.gov and sent by overnight courier (not the U.S. Postal Service) to: Bureau Chief, Bureau of Internet and Technology, New York State Attorney General’s Office, 28 Liberty Street, New York, New York 10005. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, each Defendant in connection with operating the YouTube Service must create and retain the following records:

A. Accounting records showing the revenues of all goods and services sold;

B. Personnel records showing, for each Person providing services, whether as an employee or otherwise, that Person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission and the State of New York;

D. Records of all consumer complaints relating to the unauthorized Collection, use or Disclosure of Personal Information of Children interacting with the YouTube Service, and any response;

E. A copy of each materially different form, page, or screen created, maintained, or otherwise provided by each Defendant through which Personal Information of Children is Collected through the YouTube Service, and a copy of each materially different document containing any representation regarding Collection, use, and Disclosure practices pertaining to Personal Information from Children Collected through the YouTube Service. Each webpage copy shall be accompanied by the URL of the webpage where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting information on the Internet; and

F. A copy of each unique advertisement, other marketing material, telemarketing script, or other representation related to the Collection of Personal Information of Children that is made in connection with promoting or offering for sale the YouTube Service.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or the State of New York, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and the State of New York are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.


B. For matters concerning this Order, the Commission and the State of New York are authorized to communicate directly with each Defendant. Each Defendant must permit representatives of the Commission and the State of New York to interview any employee or other Person affiliated with Defendant who has agreed to such an interview. The Person interviewed may have counsel present.

C. The Commission and the State of New York may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this 10th day of September, 2019.


UNITED STATES DISTRICT JUDGE

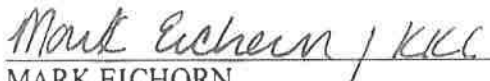
SO STIPULATED AND AGREED:

FOR PLAINTIFFS

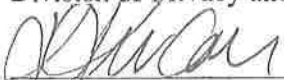
FEDERAL TRADE COMMISSION:




MANEESHA MITHAL
Associate Director
Division of Privacy and Identity Protection



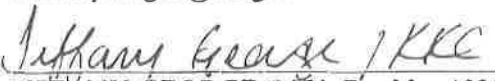
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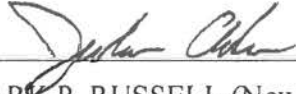


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FOR THE PEOPLE OF THE STATE OF NEW YORK:

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By:  _____

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DEFENDANT: GOOGLE LLC



Name: Kent Walker

Date: April 25, 2019

Title: Senior Vice President, Global Affairs & Chief Legal Officer

DEFENDANT: YOUTUBE, LLC

By: Google LLC, its Managing Member



Name: Kent Walker

Date: April 25, 2019

Title: Senior Vice President, Global Affairs & Chief Legal Officer

APPENDIX A

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, Email, Internet, Online service, Privacy, Record retention, Safety, science and technology, Trade practices, Web site, Youth.

■ Accordingly, for the reasons stated above, the Federal Trade Commission revises part 312 of Title 16 of the Code of Federal Regulations to read as follows:

PART 312—CHILDREN'S ONLINE PRIVACY PROTECTION RULE

Sec.

- 312.1 Scope of regulations in this part.
- 312.2 Definitions.
- 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
- 312.4 Notice.
- 312.5 Parental consent.
- 312.6 Right of parent to review personal information provided by a child.
- 312.7 Prohibition against conditioning a child's participation on collection of personal information.

- 312.8 Confidentiality, security, and integrity of personal information collected from children.
- 312.9 Enforcement.
- 312.10 Data retention and deletion requirements.
- 312.11 Safe harbor programs.
- 312.12 Voluntary Commission Approval Processes.
- 312.13 Severability.

Authority: 15 U.S.C. 6501–6508.

§ 312.1 Scope of regulations in this part.

This part implements the Children's Online Privacy Protection Act of 1998, (15 U.S.C. 6501, *et seq.*) which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information from a child by any means, including but not limited to:

(1) Requesting, prompting, or encouraging a child to submit personal information online;

(2) Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child's postings before they are made public and also to delete such information from its records; or

(3) Passive tracking of a child online.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclose or disclosure means, with respect to personal information:

(1) The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the Web site or online service; and

(2) Making personal information collected by an operator from a child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a Web site or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(1) Receives notice of the operator's personal information collection, use, and disclosure practices; and

(2) Authorizes any collection, use, and/or disclosure of the personal information.

Online contact information means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

Operator means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information is *collected or maintained on behalf of an operator* when:

(1) It is collected or maintained by an agent or service provider of the operator; or

(2) The operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(1) A first and last name;

(2) A home or other physical address including street name and name of a city or town;

(3) Online contact information as defined in this section;

(4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;

(5) A telephone number;

(6) A Social Security number;

(7) A persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;

(8) A photograph, video, or audio file where such file contains a child's image or voice;

(9) Geolocation information sufficient to identify street name and name of a city or town; or

(10) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Release of personal information means the sharing, selling, renting, or transfer of personal information to any third party.

Support for the internal operations of the Web site or online service means:

(1) Those activities necessary to:

(i) Maintain or analyze the functioning of the Web site or online service;

(ii) Perform network communications;

(iii) Authenticate users of, or personalize the content on, the Web site or online service;

(iv) Serve contextual advertising on the Web site or online service or cap the frequency of advertising;

(v) Protect the security or integrity of the user, Web site, or online service;

(vi) Ensure legal or regulatory compliance; or

(vii) Fulfill a request of a child as permitted by § 312.5(c)(3) and (4);

(2) So long as The information collected for the activities listed in paragraphs (1)(i)–(vii) of this definition is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a

profile on a specific individual, or for any other purpose.

Third party means any person who is not:

- (1) An operator with respect to the collection or maintenance of personal information on the Web site or online service; or
- (2) A person who provides support for the internal operations of the Web site or online service and who does not use or disclose information protected under this part for any other purpose.

Web site or online service directed to children means a commercial Web site or online service, or portion thereof, that is targeted to children.

(1) In determining whether a Web site or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising promoting or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.

(2) A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.

(3) A Web site or online service that is directed to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it:

- (i) Does not collect personal information from any visitor prior to collecting age information; and
- (ii) Prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.

(4) A Web site or online service shall not be deemed directed to children solely because it refers or links to a commercial Web site or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

- (a) Provide notice on the Web site or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));
- (b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§ 312.5);
- (c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);
- (d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and
- (e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Direct notice to the parent.* An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(c) *Content of the direct notice to the parent—(1) Content of the direct notice to the parent under § 312.5(c)(1) (Notice*

to Obtain Parent's Affirmative Consent to the Collection, Use, or Disclosure of a Child's Personal Information). This direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child, and, if such is the case, the name of the child or the parent, in order to obtain the parent's consent;

(ii) That the parent's consent is required for the collection, use, or disclosure of such information, and that the operator will not collect, use, or disclose any personal information from the child if the parent does not provide such consent;

(iii) The additional items of personal information the operator intends to collect from the child, or the potential opportunities for the disclosure of personal information, should the parent provide consent;

(iv) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section;

(v) The means by which the parent can provide verifiable consent to the collection, use, and disclosure of the information; and

(vi) That if the parent does not provide consent within a reasonable time from the date the direct notice was sent, the operator will delete the parent's online contact information from its records.

(2) *Content of the direct notice to the parent under § 312.5(c)(2) (Voluntary Notice to Parent of a Child's Online Activities Not Involving the Collection, Use or Disclosure of Personal Information).* Where an operator chooses to notify a parent of a child's participation in a Web site or online service, and where such site or service does not collect any personal information other than the parent's online contact information, the direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child in order to provide notice to, and subsequently update the parent about, a child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information;

(ii) That the parent's online contact information will not be used or disclosed for any other purpose;

(iii) That the parent may refuse to permit the child's participation in the Web site or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and

(iv) A hyperlink to the operator's online notice of its information

practices required under paragraph (d) of this section.

(3) *Content of the direct notice to the parent under § 312.5(c)(4) (Notice to a Parent of Operator's Intent to Communicate with the Child Multiple Times).* This direct notice shall set forth:

(i) That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;

(ii) That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;

(iii) That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;

(iv) That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;

(v) That if the parent fails to respond to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and

(vi) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(4) *Content of the direct notice to the parent required under § 312.5(c)(5) (Notice to a Parent In Order to Protect a Child's Safety).* This direct notice shall set forth:

(i) That the operator has collected the name and the online contact information of the child and the parent in order to protect the safety of a child;

(ii) That the information will not be used or disclosed for any purpose unrelated to the child's safety;

(iii) That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;

(iv) That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) *Notice on the Web site or online service.* In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page or screen of its Web site or online service, and, at each area of the Web site or online service

where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience Web site or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the Web site or online service's information practices must state the following:

(1) The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online service. *Provided that:* The operators of a Web site or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice;

(2) A description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information; and

(3) That the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§ 312.5 Parental consent.

(a) *General requirements.* (1) An operator is required to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

(b) *Methods for verifiable parental consent.* (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated,

in light of available technology, to ensure that the person providing consent is the child's parent. (2) Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:

(i) Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;

(ii) Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

(iii) Having a parent call a toll-free telephone number staffed by trained personnel;

(iv) Having a parent connect to trained personnel via video-conference;

(v) Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete; or

(vi) *Provided that,* an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory email to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier email.

(3) *Safe harbor approval of parental consent methods.* A safe harbor program approved by the Commission under § 312.11 may approve its member operators' use of a parental consent method not currently enumerated in paragraph (b)(2) of this section where the safe harbor program determines that such parental consent method meets the requirements of paragraph (b)(1) of this section.

(c) *Exceptions to prior parental consent.* Verifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child *except* as set forth in this paragraph:

(1) Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1). If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the

operator must delete such information from its records;

(2) Where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(2);

(3) Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;

(4) Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(3). An operator will not be deemed to have made reasonable efforts to ensure that a parent receives notice where the notice to the parent was unable to be delivered;

(5) Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of a child, and where such information is not used or disclosed for any purpose unrelated to the child's safety. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to provide a parent with notice as described in § 312.4(c)(4);

(6) Where the purpose of collecting a child's name and online contact information is to:

(i) Protect the security or integrity of its Web site or online service;

(ii) Take precautions against liability;

(iii) Respond to judicial process; or

(iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety; and where such information is not be used for any other purpose;

(7) Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the Web site or online service. In such case, there also shall be no obligation to provide notice under § 312.4; or

(8) Where an operator covered under paragraph (2) of the definition of *Web site or online service directed to children* in § 312.2 collects a persistent identifier and no other personal information from a user who affirmatively interacts with the operator and whose previous registration with that operator indicates that such user is not a child. In such case, there also shall be no obligation to provide notice under § 312.4.

§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a Web site or online service, the operator of that Web site or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children. The operator must also take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintaining the confidentiality, security and integrity of such information, and who provide assurances that they will maintain the information in such a manner.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502 (a) of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Data retention and deletion requirements.

An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.

§ 312.11 Safe harbor programs.

(a) *In general.* Industry groups or other persons may apply to the Commission for approval of self-regulatory program guidelines ("safe harbor programs"). The application shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the application. The Commission shall issue a written determination within 180 days of the filing of the application.

(b) *Criteria for approval of self-regulatory program guidelines.* Proposed safe harbor programs must demonstrate

that they meet the following performance standards:

(1) Program requirements that ensure operators subject to the self-regulatory program guidelines ("subject operators") provide substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8, and 312.10.

(2) An effective, mandatory mechanism for the independent assessment of subject operators' compliance with the self-regulatory program guidelines. At a minimum, this mechanism must include a comprehensive review by the safe harbor program, to be conducted not less than annually, of each subject operator's information policies, practices, and representations. The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.

(3) Disciplinary actions for subject operators' non-compliance with self-regulatory program guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of any action taken against subject operators by the industry group issuing the self-regulatory guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the self-regulatory guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the self-regulatory guidelines; or

(v) Any other equally effective action.

(c) *Request for Commission approval of self-regulatory program guidelines.* A proposed safe harbor program's request for approval shall be accompanied by the following:

(1) A detailed explanation of the applicant's business model, and the technological capabilities and mechanisms that will be used for initial and continuing assessment of subject operators' fitness for membership in the safe harbor program;

(2) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(3) A comparison of each provision of §§ 312.2 through 312.8, and 312.10 with the corresponding provisions of the guidelines; and

(4) A statement explaining:

(i) How the self-regulatory program guidelines, including the applicable assessment mechanisms, meet the requirements of this part; and

(ii) How the assessment mechanisms and compliance consequences required

under paragraphs (b)(2) and (b)(3) provide effective enforcement of the requirements of this part.

(d) *Reporting and recordkeeping requirements.* Approved safe harbor programs shall:

(1) By July 1, 2014, and annually thereafter, submit a report to the Commission containing, at a minimum, an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section, a description of any disciplinary action taken against any subject operator under paragraph (b)(3) of this section, and a description of any approvals of member operators' use of a parental consent mechanism, pursuant to § 312.5(b)(4);

(2) Promptly respond to Commission requests for additional information; and

(3) Maintain for a period not less than three years, and upon request make available to the Commission for inspection and copying:

(i) Consumer complaints alleging violations of the guidelines by subject operators;

(ii) Records of disciplinary actions taken against subject operators; and

(iii) Results of the independent assessments of subject operators' compliance required under paragraph (b)(2) of this section.

(e) *Post-approval modifications to self-regulatory program guidelines.* Approved safe harbor programs must submit proposed changes to their guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(2) of this section. The statement required under paragraph (c)(4) of this section must describe how the proposed changes affect existing provisions of the guidelines.

(f) *Revocation of approval of self-regulatory program guidelines.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory program guidelines or their implementation do not meet the requirements of this part. Safe harbor programs that were approved prior to the publication of the Final Rule amendments must, by March 1, 2013, submit proposed modifications to their guidelines that would bring them into compliance with such amendments, or their approval shall be revoked.

(g) *Operators' participation in a safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§ 312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or

bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator's participation in the safe harbor program, whether the subject operator has taken action to remedy such non-compliance, and whether the operator's non-compliance resulted in any one of the disciplinary actions set forth in paragraph (b)(3).

§ 312.12 Voluntary Commission Approval Processes.

(a) *Parental consent methods.* An interested party may file a written request for Commission approval of parental consent methods not currently enumerated in § 312.5(b). To be considered for approval, a party must provide a detailed description of the proposed parental consent methods, together with an analysis of how the methods meet § 312.5(b)(1). The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request; and

(b) *Support for internal operations of the Web site or online service.* An interested party may file a written request for Commission approval of additional activities to be included within the definition of support for internal operations. To be considered for approval, a party must provide a detailed justification why such activities should be deemed support for internal operations, and an analysis of their potential effects on children's online privacy. The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

§ 312.13 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

By direction of the Commission, Commissioner Rosch abstaining, and Commissioner Ohlhausen dissenting.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Maureen K. Ohlhausen

I voted against adopting the amendments to the Children's Online Privacy Protection Act (COPPA) Rule because I believe a core provision of the amendments exceeds the scope of the authority granted us by Congress in COPPA, the statute that underlies and authorizes the Rule.⁴⁰¹ Before I explain my concerns, I wish to commend the Commission staff for their careful consideration of the multitude of issues raised by the numerous comments in this proceeding. Much of the language of the amendments is designed to preserve flexibility for the industry while striving to protect children's privacy, a goal I support strongly. The final proposed amendments largely strike the right balance between protecting children's privacy online and avoiding undue burdens on providers of children's online content and services. The staff's great expertise in the area of children's privacy and deep understanding of the values at stake in this matter have been invaluable in my consideration of these important issues.

In COPPA Congress defined who is an operator and thereby set the outer boundary for the statute's and the COPPA Rule's reach.⁴⁰² It is undisputed that COPPA places obligations on operators of Web sites or online services directed to children or operators with actual knowledge that they are collecting personal information from

⁴⁰¹ 15 U.S.C. 6501–6506.

⁴⁰² COPPA, 15 U.S.C. 6501(2), defines the term "operator" as "any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about users of or visitors to such Web site or online service, or on whose behalf such information is collected and maintained * * *." As stated in the Statement of Basis and Purpose for the original COPPA Rule, "The definition of 'operator' is of central importance because it determines who is covered by the Act and the Rule." Children's Online Privacy Protection Rule 64 FR 59888, 59891 (Nov. 3, 1999) (final rule).

children. The statute provides, "It is unlawful for an operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed [by the FTC]."⁴⁰³

The Statement of Basis and Purpose for the amendments (SBP) discusses concerns that the current COPPA Rule may not cover child-directed Web sites or services that do not themselves collect children's personal information but may incorporate third-party plug-ins that collect such information⁴⁰⁴ for the plug-ins' use but do not collect or maintain the information for, or share it with, the child-directed site or service. To address these concerns, the amendments add a new proviso to the definition of operator in the COPPA Rule: "Personal information is collected or maintained on behalf of an operator when: (a) it is collected or maintained by an agent or service provider of the operator; or (b) the operator benefits by allowing another person to collect personal information directly from users of such Web site or online service."⁴⁰⁵

The proposed amendments construe the term "on whose behalf such information is collected and maintained" to reach child-directed Web sites or services that merely derive from a third-party plug-in some kind of benefit, which may well be unrelated to the collection and use of children's

⁴⁰³ 15 U.S.C. 6502(a)(1).

⁴⁰⁴ If the third-party plug-ins are child-directed or have actual knowledge that they are collecting children's personal information they are already expressly covered by the COPPA statute. Thus, as the SBP notes, a behavioral advertising network that targets children under the age of 13 is already deemed an operator. The amendment must therefore be aimed at reaching third-party plug-ins that are either not child-directed or do not have actual knowledge that they are collecting children's personal information, which raises a question about what harm this amendment will address. For example, it appears that this same type of harm could occur through general audience Web sites and online services collecting and using visitors' personal information without knowing whether some of the data is children's personal information, which is a practice that COPPA and the amendments do not prohibit.

⁴⁰⁵ 16 CFR 312.2 (Definitions).

information (e.g., content, functionality, or advertising revenue). I find that this proviso—which would extend COPPA obligations to entities that do not collect personal information from children or have access to or control of such information collected by a third-party does not comport with the plain meaning of the statutory definition of an operator in COPPA, which covers only entities "on whose behalf such information is collected and maintained."⁴⁰⁶ In other words, I do not believe that the fact that a child-directed site or online service receives any kind of benefit from using a plug-in is equivalent to the collection of personal information by the third-party plug-in on behalf of the child-directed site or online service.

As the Supreme Court has directed, an agency "must give effect to the unambiguously expressed intent of Congress."⁴⁰⁷ Thus, regardless of the policy justifications offered, I cannot support expanding the definition of the term "operator" beyond the statutory parameters set by Congress in COPPA.

I therefore respectfully dissent.

[FR Doc. 2012–31341 Filed 1–16–13; 8:45 am]

BILLING CODE 6750–01–P

⁴⁰⁶ This expanded definition of operator reverses the Commission's previous conclusion that the appropriate test for determining an entity's status as an operator is to "look at the entity's relationship to the data collected," using factors such as "who owns and/or controls the information, who pays for its collection and maintenance, the pre-existing contractual relationships regarding collection and maintenance of the information, and the role of the Web site or online service in collecting and/or maintaining the information (i.e., whether the site participates in collection or is merely a conduit through which the information flows to another entity)." Children's Online Privacy Protection Rule 64 FR 59888, 59893, 59891 (Nov. 3, 1999) (final rule).

⁴⁰⁷ *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.").

(b)(5)

From: Cohen, Kristin
Sent: 7 Mar 2019 22:24:50 +0000
To: Magee, Peder; George, Tiffany
Subject: FW: [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

From: George, Tiffany <tgeorge@ftc.gov>
Sent: Thursday, March 07, 2019 5:22 PM
To: Eichorn, Mark <MEICHORN@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

From: Eichorn, Mark <MEICHORN@ftc.gov>
Sent: Thursday, March 07, 2019 5:18 PM
To: Mithal, Maneesha <MMITHAL@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: [REDACTED]

(b)(5)

[REDACTED]

(b)(5)
(b)(5)

From: Cohen, Kristin
Sent: 15 Mar 2019 18:58:37 +0000
To: Magee, Peder;Eichorn, Mark;George, Tiffany
Subject: FW: [REDACTED]
Attachments: [REDACTED]

(b)(5)

[REDACTED]

(b)(4);
(b)(3):6(f)
(b)(4);
(b)(3):6(f)

From: Olsen, Chris <colsen@wsgr.com>
Sent: Friday, March 15, 2019 2:52 PM
To: Magee, Peder <PMAGEE@ftc.gov>; Weingarten, Libby <lweingarten@wsgr.com>
Cc: George, Tiffany <tgeorge@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: [REDACTED]

[REDACTED]

We look forward to discussing on Monday.

Thanks,
Chris

From: Magee, Peder [<mailto:PMAGEE@ftc.gov>]
Sent: Thursday, March 14, 2019 4:34 PM
To: Olsen, Chris; Weingarten, Libby
Cc: George, Tiffany; Cohen, Kristin
Subject: RE: status

1:00 pm works for a call. I'll check on the jurisdiction.

From: Olsen, Chris <colsen@wsgr.com>
Sent: Thursday, March 14, 2019 3:14 PM
To: Magee, Peder <PMAGEE@ftc.gov>; Weingarten, Libby <lweingarten@wsgr.com>
Cc: George, Tiffany <tgeorge@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Subject: RE: status

(b)(4);
(b)(3):6(f)

[REDACTED]

Thanks,
Chris

From: Magee, Peder [<mailto:PMAGEE@ftc.gov>]
Sent: Thursday, March 14, 2019 12:10 PM
To: Olsen, Chris; Weingarten, Libby
Cc: George, Tiffany; Cohen, Kristin
Subject: status

Hi Chris and Libby:



Thanks

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

(b)(4);
(b)(3):6(f)

(b)(5)

(b)(5)

(b)(5)

From: Cohen, Kristin
Sent: 1 Apr 2019 12:59:10 +0000
To: Winter, Brad
Cc: Magee, Peder; George, Tiffany
Subject: FW: [redacted]
Attachments: [redacted]

(b)(5)

Hi Brad,

[redacted]

Thanks again for all your help.

(b)(4);

(b)(3):6(f)

(b)(5)

From: Olsen, Chris <colsen@wsgr.com>
Sent: Friday, March 29, 2019 6:03 PM
To: Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Cc: Weingarten, Libby <lweingarten@wsgr.com>
Subject: [redacted]

[redacted]

We are happy to discuss after you've had a chance to take a look.

Have a nice weekend,
Chris

(b)(6)

Christopher N. Olsen | Privacy and Data Protection
Wilson Sonsini Goodrich & Rosati
 1700 K Street NW | Washington, DC 20006
 202.973.8803 (direct) [redacted] (mobile)
colsen@wsgr.com | www.wsgr.com

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(b)(5) **From:** Cohen, Kristin
(b)(5) **Sent:** 6 Sep 2019 20:12:51 +0000
To: Jordan Adler; Clark Russell
Subject: FW: [redacted] (b)(5)
Attachments: [redacted] (b)(5)

[redacted]

Thanks,
Kristin

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
Sections 5(a), 13(b) and 16(a)(1) of FTC Act, the Children's Online Privacy Protection Act and COPPA Rule

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>September 4, 2019</u>	SIGNATURE OF ATTORNEY OF RECORD <u>Kristin Krause Cohen</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

EXHIBIT A

Google Presentation to Mattel
Insights on Families Online (partial)



INSIGHTS on FAMILIES online



Confidential + Proprietary

Google

YouTube is today's leader in reaching children age 6-11 against top TV channels

63%

You Tube

YouTube.com

63%

nick

TV Properties

57%

Disney
CHANNEL

TV Properties

49%

CN
CARTOON NETWORK

TV Properties

Google

Source: Nielsen MRI 2015 Kids Study
YouTube Reach in the last 30 days, Desktop Only
Mobile not available

Google

EXHIBIT B

Google Presentation to Hasbro,
Stat Pack: Additional insight into mobile usage among parents +
children (partial)

Google

Stat Pack: Additional insight into mobile usage among parents + children

#1

YouTube is unanimously
voted as the favorite
website of kids 2 - 12



Age 2



Age 3



Age 4



Age 5

Age 6

Age 7

Age 8

Age 9

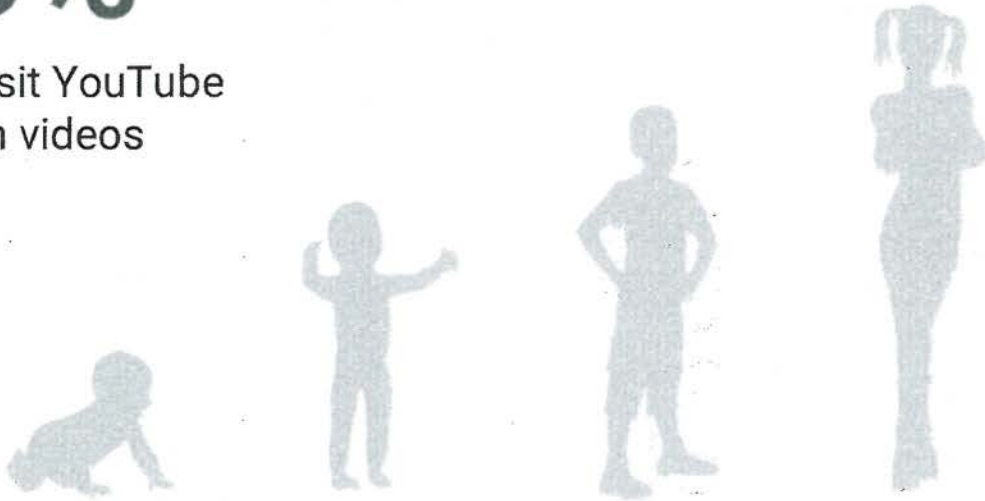
Age 10

Google

Source: The Marketing Store/KidSay, "Global Kids Study", 2014

93%

of tweens visit YouTube
to watch videos



Age 2 Age 3 Age 4 Age 5 Age 6 Age 7 Age 8 Age 9 Age 10

EXHIBIT C

Google Presentation to Hasbro,
2016 Kids + Family Digital Trends (partial)



2016 Kids + Family Digital Trends



In fact, it's the #1 website regularly visited by kids

INDEXED TO
YOUTUBE REACH

 YouTube

100

 CN
CARTOON NETWORK

30

 Google

59

 facebook

28

 Disney
.com

37

 PBS
kids
.com

28

 Disney
CHANNEL
.com

35

 MINECRAFT
.net

26

 a

30

 Disney
XD
.com

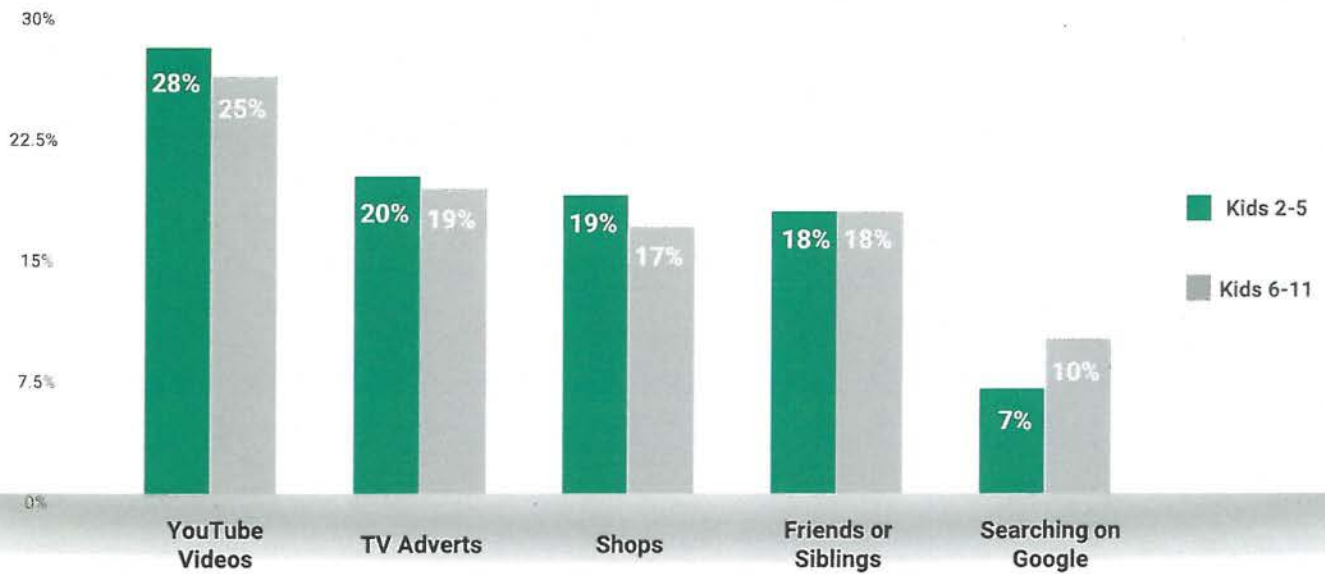
24

Google

Source: LMX 2016

According to parents...

YouTube is the #1 source where children discover new toys + games



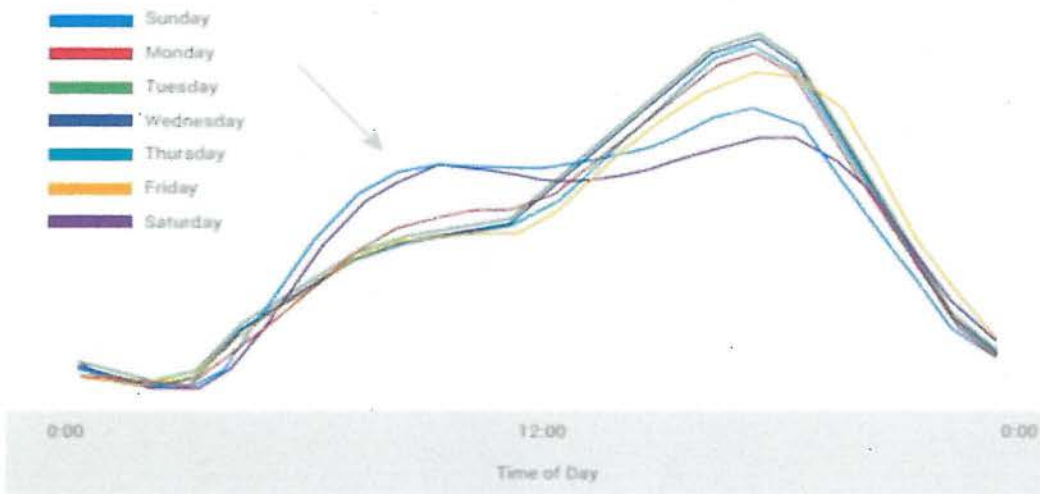
Google

Source: Google Consumer Surveys July 2016, Parents of Children 2-14, 1683 responses

YouTube: The new "Saturday Morning Cartoons"

41% of parents watch family content on YouTube together with their children

W25-49 Watching "Cartoons" on YouTube



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,
600 Pennsylvania Ave., NW
Washington, DC 20580,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,
28 Liberty Street
New York, NY 10005

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,
1600 Amphitheatre Parkway
Mountain View, CA 94043

and

YOUTUBE, LLC,
a Delaware limited liability company,
901 Cherry Ave.
San Bruno, CA 94066

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent

injunction, and other equitable relief for Defendants' violations of the Children's Online Privacy Protection Rule ("Rule" or "COPPA Rule"), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN'S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children's personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained.

Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and

- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.
8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint,

acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

25. In addition to marketing YouTube as a top destination for kids, Defendants have a content rating system that categorizes content into age groups and includes categories for children under 13 years old. In order to align with content policies for advertising, Defendants rate all videos uploaded to YouTube, as well as the channels as a whole. Defendants assign each channel and video a rating of Y (generally intended for ages 0-7); G (intended for any age); PG (generally intended for ages 10+); Teen (generally intended for ages 13+); MA (generally intended for ages 16+); and X (generally intended for ages 18+). Defendants assign these ratings through both automated and manual review. Previously, Defendants also used a classification for certain videos shown on YouTube as "Made for Kids."

26. Defendants do not treat Y rated channels or videos differently for purposes of data collection from other content on YouTube. Defendants continue to allow the channel owner to monetize Y rated content and earn revenue from behavioral advertising. Defendants also had no policy in place to treat content classified as "Made for Kids" differently for purposes of behavioral advertising on YouTube.

27. In 2015, Defendants created a separate mobile application called "YouTube Kids," aimed at children age 2-12, generally using content rated Y or G taken from YouTube on an automated basis. Defendants also specifically curate, through manual review, content that appears on the YouTube Kids home screen, which Defendants refer to as the "home canvas." Content that appears on YouTube Kids continues to be available on YouTube. Unlike Defendants' practices on YouTube, Defendants do not collect persistent identifiers from users of

YouTube Kids in order to serve behavioral advertising. Instead, Defendants monetize YouTube Kids solely through delivery of contextual advertising.

YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Other Documents[1:19-cv-02642 FEDERAL TRADE COMMISSION et al v. GOOGLE LLC et al](#)**U.S. District Court****District of Columbia****Notice of Electronic Filing**

The following transaction was entered by Cohen, Kristin on 9/6/2019 at 3:37 PM and filed on 9/6/2019

Case Name: FEDERAL TRADE COMMISSION et al v. GOOGLE LLC et al

Case Number: [1:19-cv-02642](#)

Filer: FEDERAL TRADE COMMISSION
STATE OF NEW YORK ATTORNEY GENERAL

Document Number: [3](#)

Docket Text:

[ERRATA Complaint for Permanent Injunction, Civil Penalties, and Other Equitable Relief by FEDERAL TRADE COMMISSION, STATE OF NEW YORK ATTORNEY GENERAL. \(Attachments: # \(1\) Exhibit to the Complaint, # \(2\) Civil Cover Sheet\)\(Cohen, Kristin\)](#)

1:19-cv-02642 Notice has been electronically mailed to:

Kristin Krause Cohen kcohen@ftc.gov

1:19-cv-02642 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=9/6/2019] [FileNumber=6187837-0]
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Document description:Exhibit to the Complaint

Original filename:suppressed

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Document description:Civil Cover Sheet

Original filename:suppressed

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”) (collectively, “Plaintiffs”) filed their Complaint for Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312. Defendants have waived service of the summons and the Complaint. Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants violated the COPPA Rule and Section 5 of the FTC Act, 15 U.S.C. § 45, by failing to post a privacy policy on their online service providing clear, understandable, and complete notice of their information practices with respect to the Collection of Personal Information from Children, failing to provide direct notice to Parents of such information practices, and failing to Obtain Verifiable Parental Consent prior to Collecting, using, or Disclosing Personal Information from Children.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. “**Channel Owner**” means individuals or entities who upload videos onto the YouTube Service.
- B. “**Child**” or “**Children**” means an individual or individuals under the age of 13.

C. **“Clear and Conspicuous”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as Children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

D. “**Collects**” or “**Collection**” means the gathering of any Personal Information from a Child by any means, including but not limited to:

1. Requesting, prompting, or encouraging a Child to submit Personal Information online;
2. Enabling a Child to make Personal Information publicly available in identifiable form. An Operator shall not be considered to have Collected Personal Information if it takes reasonable measures to Delete all or virtually all Personal Information from a Child’s postings before they are made public and also to Delete such Personal Information from its records; or
3. Passive tracking of a Child online.

E. “**Compliance Date**” means four months after entry of this Order.

F. “**Content**” means any video or channel page found on the YouTube Service.

G. “**Defendants**” means Google LLC, a Delaware limited liability company, and YouTube, LLC, a Delaware limited liability company, and their successors and assigns.

H. “**Delete**” means to remove Personal Information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

I. “**Disclose**” or “**Disclosure**” means, with respect to Personal Information:

1. The Release of Personal Information Collected by an Operator from a Child in identifiable form for any purpose, except where an Operator provides such information to a Person who provides Support for the Internal Operations of the Website or Online Service; and

2. Making Personal Information Collected by an Operator from a Child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

J. **“Internet”** means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

K. **“Obtaining Verifiable Parental Consent”** means making any reasonable effort (taking into consideration available technology) to ensure that before Personal Information is Collected from a Child, a Parent of the Child:

1. Receives notice of the Operator’s Personal Information Collection, use, and Disclosure practices; and

2. Authorizes any Collection, use, and/or Disclosure of the Personal Information, using a method reasonably calculated, in light of available technology, to ensure that the Person providing consent is the Child’s Parent.

L. “**Online Contact Information**” means an email address or any other substantially similar identifier that permits direct contact with a Person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

M. “**Operator**” means any Person who operates a website located on the Internet or an online service and who Collects or maintains Personal Information from or about the users of or visitors to such website or online service, or on whose behalf such information is Collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with one or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). Personal Information *is Collected or maintained on behalf of* an Operator when:

1. It is Collected or maintained by an agent or service provider of the Operator; or
2. The Operator benefits by allowing another Person to Collect Personal Information directly from users of such website or online service.

N. “**Parent**” includes a legal guardian.

O. “**Person**” means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

P. **“Personal Information”** means individually identifiable information about an individual Collected online, including:

1. A first and last name;
2. A home or other physical address including street name and name of a city or town;
3. Online Contact Information;
4. A screen or user name where it functions in the same manner as Online Contact Information;
5. A telephone number;
6. A Social Security number;
7. A persistent identifier that can be used to recognize a user over time and across different websites or online services, where such persistent identifier is used for functions other than or in addition to Support for the Internal Operations of the Website or Online Service. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;
8. A photograph, video, or audio file where such file contains a Child’s image or voice;
9. Geolocation information sufficient to identify street name and name of a city or town; or
10. Information concerning the Child or the Parents of that Child that the Operator Collects online from the Child and combines with an identifier described in this definition.

Q. **“Release of Personal Information”** means the sharing, selling, renting, or transfer of Personal Information to any Third Party.

R. **“Support for the Internal Operations of the Website or Online Service”** means

1. Those activities necessary to:
 - a) Maintain or analyze the functioning of the website or online service;
 - b) Perform network communications;
 - c) Authenticate users of, or personalize the content on, the website or online service;
 - d) Serve contextual advertising on the website or online service or cap the frequency of advertising;
 - e) Protect the security or integrity of the user, website, or online service;
 - f) Ensure legal or regulatory compliance; or
 - g) Fulfill a request of a Child as permitted by Section 312.5(c)(3) and (4) of the COPPA Rule (attached as Appendix A);
2. So long as the information Collected for these activities listed in 1(a) – (g) is not used or Disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

S. **“Third Party”** means any Person who is not:

1. An Operator with respect to the Collection or maintenance of Personal Information on the website or online service; or
2. A Person who provides Support for the Internal Operations of the Website or Online Service and who does not use or Disclose information protected under the COPPA Rule (attached as Appendix A).

T. **“Website or Online Service Directed to Children”** means a commercial website or online service, or portion thereof, that is targeted to Children.

1. In determining whether a website or online service, or a portion thereof, is directed to Children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to Children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to Children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.
2. A website or online service shall be deemed directed to Children when it has actual knowledge that it is Collecting Personal Information directly from users of another Website or Online Service Directed to Children.
3. A website or online service that is directed to Children under the criteria set forth in paragraph (1) of this definition, but that does not target Children as its primary audience, shall not be deemed directed to Children if it:

- a) Does not Collect Personal Information from any visitor prior to Collecting age information; and
- b) Prevents the Collection, use, or Disclosure of Personal Information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of the COPPA Rule (attached as Appendix A).

4. A website or online service shall not be deemed directed to Children solely because it refers or links to a commercial Website or Online Service Directed to Children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

U. “YouTube Service” means the general audience YouTube user-generated video-sharing platform(s), currently at www.youtube.com and on YouTube mobile application(s), on which, among other things, consumers can view videos or upload videos to share.

ORDER

I. INJUNCTION CONCERNING DESIGNATING CONTENT ON THE YOUTUBE SERVICE AS DIRECTED TO CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating the YouTube Service, are permanently restrained and enjoined from:

A. Failing to develop, implement, and maintain a system for Channel Owners to designate whether their Content on the YouTube Service is directed to Children. Such system

shall include a Clear and Conspicuous notice that Content made available on the YouTube Service that is directed to Children may be subject to the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A) and that Channel Owners are obligated to designate such Content as directed to Children; and

B. Failing to provide annual training regarding complying with the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), for each Person responsible for managing Defendants' relationships with Channel Owners on the YouTube Service.

**II. INJUNCTION CONCERNING COLLECTION OF PERSONAL INFORMATION
FROM CHILDREN**

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating a Website or Online Service Directed to Children on the YouTube Service are hereby permanently restrained and enjoined from:

A. Failing to make reasonable efforts, taking into account available technology, to ensure that a Parent of a Child receives direct notice of Defendants' practices with regard to the Collection, use, or Disclosure of Personal Information from Children, including notice of any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

B. Failing to post a prominent and clearly labeled link to an online notice of its information practices with regard to Children on the home or landing page or screen of its

website or online service, and at each area of the website or online service where Personal Information is Collected from Children, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

C. Failing to Obtain Verifiable Parental Consent before any Collection, use, or Disclosure of Personal Information from Children, including consent to any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to Obtaining Verifiable Parental Consent; and

D. Violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A).

III. INJUNCTION CONCERNING USE OF PREVIOUSLY

COLLECTED PERSONAL INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, are ordered to refrain, within ninety (90) days of the Compliance Date, from Disclosing, using, or benefitting from Personal Information previously Collected from users of Content that is designated as directed to Children by a Channel Owner under the system required under Section I.A. above, as long as such designation occurs within sixty (60) days of the Compliance Date. Provided, however, that such Personal Information may be Disclosed to the extent requested by a government agency or required by law, regulation, or court order.

IV. CIVIL PENALTY AND OTHER MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of one hundred and thirty six million dollars (\$136,000,000) is entered in favor of Plaintiff FTC against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff FTC one hundred thirty six million dollars (\$136,000,000), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within thirty (30) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

C. Judgment in the amount of thirty four million dollars (\$34,000,000) is entered in favor of Plaintiff State of New York against Defendants, jointly and severally, as damages, restitution, or other compensation to its residents.

D. Defendants are ordered to pay to Plaintiff State of New York, by making payment to State of New York Department of Law, thirty four million dollars (\$34,000,000). Such payment must be made within thirty (30) days of entry of this Order by wire transfer in accordance with instructions provided by a representative of Plaintiff State of New York.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission or the State of New York in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission or the State of New York pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers, which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission and the State of New York an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, each Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who have supervisory responsibilities relating to the subject matter of Sections I and II of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission and the State of New York:

A. One year after the Compliance Date, each Defendant must submit a compliance report, sworn under penalty of perjury. In such report, each Defendant must:

1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and the State of New York may use to communicate with that Defendant;
2. Identify all of Defendant's businesses involved in operating the YouTube Service or in Collecting, using, or Disclosing Personal Information from Children on or from the YouTube Service by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. Describe the activities of each such business directly involved with operating the YouTube Service, including the goods and services offered and the means of advertising, marketing, and sales;
4. Describe in detail whether and how Defendants are in compliance with each Section of this Order;
5. Provide a copy of each materially different version of any privacy notice posted on or otherwise applicable to the YouTube Service or sent to users of the YouTube Service;

6. Describe in detail the methods used, if any, to track Child users of the YouTube Service (including methods used for passive tracking and means for users to control or opt out of tracking), and the measures taken to avoid tracking Children;

7. Describe in detail the methods used to Obtain Verifiable Parental Consent prior to any Collection, use, and/or Disclosure of Personal Information from Children through the YouTube Service;

8. Describe in detail the means provided for Parents to review the Personal Information Collected from their Children through the YouTube Service and to refuse to permit its further use or maintenance; and

9. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in: (1) any designated point of contact; or (2) the structure of that Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Each Defendant must submit to the Commission and the State of New York notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission and the State of New York required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

F. Unless otherwise directed by a State of New York representative in writing, all submissions to the State of New York pursuant to this Order must be emailed to ifraud@ag.ny.gov and sent by overnight courier (not the U.S. Postal Service) to: Bureau Chief, Bureau of Internet and Technology, New York State Attorney General’s Office, 28 Liberty Street, New York, New York 10005. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, each Defendant in connection with operating the YouTube Service must create and retain the following records:

A. Accounting records showing the revenues of all goods and services sold;

B. Personnel records showing, for each Person providing services, whether as an employee or otherwise, that Person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission and the State of New York;

D. Records of all consumer complaints relating to the unauthorized Collection, use or Disclosure of Personal Information of Children interacting with the YouTube Service, and any response;

E. A copy of each materially different form, page, or screen created, maintained, or otherwise provided by each Defendant through which Personal Information of Children is Collected through the YouTube Service, and a copy of each materially different document containing any representation regarding Collection, use, and Disclosure practices pertaining to Personal Information from Children Collected through the YouTube Service. Each webpage copy shall be accompanied by the URL of the webpage where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting information on the Internet; and

F. A copy of each unique advertisement, other marketing material, telemarketing script, or other representation related to the Collection of Personal Information of Children that is made in connection with promoting or offering for sale the YouTube Service.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or the State of New York, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and the State of New York are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and the State of New York are authorized to communicate directly with each Defendant. Each Defendant must permit representatives of the Commission and the State of New York to interview any employee or other Person affiliated with Defendant who has agreed to such an interview. The Person interviewed may have counsel present.

C. The Commission and the State of New York may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.


SO ORDERED this ___ day of _____, 2019.

UNITED STATES DISTRICT JUDGE


SO STIPULATED AND AGREED:

FOR PLAINTIFFS

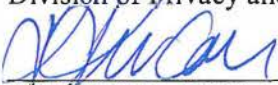
FEDERAL TRADE COMMISSION:




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FOR THE PEOPLE OF THE STATE OF NEW YORK:

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FOR DEFENDANTS:



Date: April 25, 2019

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DEFENDANT: GOOGLE LLC



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

DEFENDANT: YOUTUBE, LLC
By: Google LLC, its Managing Member



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

APPENDIX A

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, Email, Internet, Online service, Privacy, Record retention, Safety, science and technology, Trade practices, Web site, Youth.

■ Accordingly, for the reasons stated above, the Federal Trade Commission revises part 312 of Title 16 of the Code of Federal Regulations to read as follows:

**PART 312—CHILDREN'S ONLINE
PRIVACY PROTECTION RULE**

Sec.

- 312.1 Scope of regulations in this part.
- 312.2 Definitions.
- 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
- 312.4 Notice.
- 312.5 Parental consent.
- 312.6 Right of parent to review personal information provided by a child.
- 312.7 Prohibition against conditioning a child's participation on collection of personal information.

312.8 Confidentiality, security, and integrity of personal information collected from children.

312.9 Enforcement.

312.10 Data retention and deletion requirements.

312.11 Safe harbor programs.

312.12 Voluntary Commission Approval Processes.

312.13 Severability.

Authority: 15 U.S.C. 6501–6508.

§ 312.1 Scope of regulations in this part.

This part implements the Children's Online Privacy Protection Act of 1998, (15 U.S.C. 6501, *et seq.*) which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information from a child by any means, including but not limited to:

(1) Requesting, prompting, or encouraging a child to submit personal information online;

(2) Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child's postings before they are made public and also to delete such information from its records; or

(3) Passive tracking of a child online.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclose or disclosure means, with respect to personal information:

(1) The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the Web site or online service; and

(2) Making personal information collected by an operator from a child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a Web site or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(1) Receives notice of the operator's personal information collection, use, and disclosure practices; and

(2) Authorizes any collection, use, and/or disclosure of the personal information.

Online contact information means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

Operator means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information is *collected or maintained on behalf of* an operator when:

(1) It is collected or maintained by an agent or service provider of the operator; or

(2) The operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(1) A first and last name;

(2) A home or other physical address including street name and name of a city or town;

(3) Online contact information as defined in this section;

(4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;

(5) A telephone number;

(6) A Social Security number;

(7) A persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;

(8) A photograph, video, or audio file where such file contains a child's image or voice;

(9) Geolocation information sufficient to identify street name and name of a city or town; or

(10) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Release of personal information means the sharing, selling, renting, or transfer of personal information to any third party.

Support for the internal operations of the Web site or online service means:

(1) Those activities necessary to:

(i) Maintain or analyze the functioning of the Web site or online service;

(ii) Perform network communications;

(iii) Authenticate users of, or personalize the content on, the Web site or online service;

(iv) Serve contextual advertising on the Web site or online service or cap the frequency of advertising;

(v) Protect the security or integrity of the user, Web site, or online service;

(vi) Ensure legal or regulatory compliance; or

(vii) Fulfill a request of a child as permitted by § 312.5(c)(3) and (4);

(2) So long as The information collected for the activities listed in paragraphs (1)(i)–(vii) of this definition is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a

profile on a specific individual, or for any other purpose.

Third party means any person who is not:

(1) An operator with respect to the collection or maintenance of personal information on the Web site or online service; or

(2) A person who provides support for the internal operations of the Web site or online service and who does not use or disclose information protected under this part for any other purpose.

Web site or online service directed to children means a commercial Web site or online service, or portion thereof, that is targeted to children.

(1) In determining whether a Web site or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising promoting or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.

(2) A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.

(3) A Web site or online service that is directed to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it:

(i) Does not collect personal information from any visitor prior to collecting age information; and

(ii) Prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.

(4) A Web site or online service shall not be deemed directed to children solely because it refers or links to a commercial Web site or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

(a) Provide notice on the Web site or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));

(b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§ 312.5);

(c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);

(d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and

(e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Direct notice to the parent.* An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(c) *Content of the direct notice to the parent—(1) Content of the direct notice to the parent under § 312.5(c)(1) (Notice*

to Obtain Parent's Affirmative Consent to the Collection, Use, or Disclosure of a Child's Personal Information). This direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child, and, if such is the case, the name of the child or the parent, in order to obtain the parent's consent;

(ii) That the parent's consent is required for the collection, use, or disclosure of such information, and that the operator will not collect, use, or disclose any personal information from the child if the parent does not provide such consent;

(iii) The additional items of personal information the operator intends to collect from the child, or the potential opportunities for the disclosure of personal information, should the parent provide consent;

(iv) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section;

(v) The means by which the parent can provide verifiable consent to the collection, use, and disclosure of the information; and

(vi) That if the parent does not provide consent within a reasonable time from the date the direct notice was sent, the operator will delete the parent's online contact information from its records.

(2) *Content of the direct notice to the parent under § 312.5(c)(2) (Voluntary Notice to Parent of a Child's Online Activities Not Involving the Collection, Use or Disclosure of Personal Information).* Where an operator chooses to notify a parent of a child's participation in a Web site or online service, and where such site or service does not collect any personal information other than the parent's online contact information, the direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child in order to provide notice to, and subsequently update the parent about, a child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information;

(ii) That the parent's online contact information will not be used or disclosed for any other purpose;

(iii) That the parent may refuse to permit the child's participation in the Web site or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and

(iv) A hyperlink to the operator's online notice of its information

practices required under paragraph (d) of this section.

(3) *Content of the direct notice to the parent under § 312.5(c)(4) (Notice to a Parent of Operator's Intent to Communicate with the Child Multiple Times)*. This direct notice shall set forth:

(i) That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;

(ii) That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;

(iii) That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;

(iv) That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;

(v) That if the parent fails to respond to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and

(vi) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(4) *Content of the direct notice to the parent required under § 312.5(c)(5) (Notice to a Parent In Order to Protect a Child's Safety)*. This direct notice shall set forth:

(i) That the operator has collected the name and the online contact information of the child and the parent in order to protect the safety of a child;

(ii) That the information will not be used or disclosed for any purpose unrelated to the child's safety;

(iii) That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;

(iv) That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) *Notice on the Web site or online service*. In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page or screen of its Web site or online service, and, at each area of the Web site or online service

where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience Web site or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the Web site or online service's information practices must state the following:

(1) The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online service. *Provided that:* The operators of a Web site or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice;

(2) A description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information; and

(3) That the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§ 312.5 Parental consent.

(a) *General requirements*. (1) An operator is required to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

(b) *Methods for verifiable parental consent*. (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated,

in light of available technology, to ensure that the person providing consent is the child's parent. (2) Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:

(i) Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;

(ii) Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

(iii) Having a parent call a toll-free telephone number staffed by trained personnel;

(iv) Having a parent connect to trained personnel via video-conference;

(v) Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete; or

(vi) *Provided that*, an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory email to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier email.

(3) *Safe harbor approval of parental consent methods*. A safe harbor program approved by the Commission under § 312.11 may approve its member operators' use of a parental consent method not currently enumerated in paragraph (b)(2) of this section where the safe harbor program determines that such parental consent method meets the requirements of paragraph (b)(1) of this section.

(c) *Exceptions to prior parental consent*. Verifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child *except* as set forth in this paragraph:

(1) Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1). If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the

operator must delete such information from its records;

(2) Where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(2);

(3) Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;

(4) Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(3). An operator will not be deemed to have made reasonable efforts to ensure that a parent receives notice where the notice to the parent was unable to be delivered;

(5) Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of a child, and where such information is not used or disclosed for any purpose unrelated to the child's safety. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to provide a parent with notice as described in § 312.4(c)(4);

(6) Where the purpose of collecting a child's name and online contact information is to:

- (i) Protect the security or integrity of its Web site or online service;
- (ii) Take precautions against liability;
- (iii) Respond to judicial process; or
- (iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety; and where such information is not be used for any other purpose;

(7) Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the Web site or online service. In such case, there also shall be no obligation to provide notice under § 312.4; or

(8) Where an operator covered under paragraph (2) of the definition of *Web site or online service directed to children* in § 312.2 collects a persistent identifier and no other personal information from a user who affirmatively interacts with the operator and whose previous registration with that operator indicates that such user is not a child. In such case, there also shall be no obligation to provide notice under § 312.4.

§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a Web site or online service, the operator of that Web site or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children. The operator must also take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintaining the confidentiality, security and integrity of such information, and who provide assurances that they will maintain the information in such a manner.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502 (a) of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Data retention and deletion requirements.

An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.

§ 312.11 Safe harbor programs.

(a) *In general.* Industry groups or other persons may apply to the Commission for approval of self-regulatory program guidelines ("safe harbor programs"). The application shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the application. The Commission shall issue a written determination within 180 days of the filing of the application.

(b) *Criteria for approval of self-regulatory program guidelines.* Proposed safe harbor programs must demonstrate

that they meet the following performance standards:

(1) Program requirements that ensure operators subject to the self-regulatory program guidelines (“subject operators”) provide substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8, and 312.10.

(2) An effective, mandatory mechanism for the independent assessment of subject operators’ compliance with the self-regulatory program guidelines. At a minimum, this mechanism must include a comprehensive review by the safe harbor program, to be conducted not less than annually, of each subject operator’s information policies, practices, and representations. The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.

(3) Disciplinary actions for subject operators’ non-compliance with self-regulatory program guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of any action taken against subject operators by the industry group issuing the self-regulatory guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the self-regulatory guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the self-regulatory guidelines; or

(v) Any other equally effective action.

(c) *Request for Commission approval of self-regulatory program guidelines.* A proposed safe harbor program’s request for approval shall be accompanied by the following:

(1) A detailed explanation of the applicant’s business model, and the technological capabilities and mechanisms that will be used for initial and continuing assessment of subject operators’ fitness for membership in the safe harbor program;

(2) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(3) A comparison of each provision of §§ 312.2 through 312.8, and 312.10 with the corresponding provisions of the guidelines; and

(4) A statement explaining:

(i) How the self-regulatory program guidelines, including the applicable assessment mechanisms, meet the requirements of this part; and

(ii) How the assessment mechanisms and compliance consequences required

under paragraphs (b)(2) and (b)(3) provide effective enforcement of the requirements of this part.

(d) *Reporting and recordkeeping requirements.* Approved safe harbor programs shall:

(1) By July 1, 2014, and annually thereafter, submit a report to the Commission containing, at a minimum, an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section, a description of any disciplinary action taken against any subject operator under paragraph (b)(3) of this section, and a description of any approvals of member operators’ use of a parental consent mechanism, pursuant to § 312.5(b)(4);

(2) Promptly respond to Commission requests for additional information; and

(3) Maintain for a period not less than three years, and upon request make available to the Commission for inspection and copying:

(i) Consumer complaints alleging violations of the guidelines by subject operators;

(ii) Records of disciplinary actions taken against subject operators; and

(iii) Results of the independent assessments of subject operators’ compliance required under paragraph (b)(2) of this section.

(e) *Post-approval modifications to self-regulatory program guidelines.* Approved safe harbor programs must submit proposed changes to their guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(2) of this section. The statement required under paragraph (c)(4) of this section must describe how the proposed changes affect existing provisions of the guidelines.

(f) *Revocation of approval of self-regulatory program guidelines.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory program guidelines or their implementation do not meet the requirements of this part. Safe harbor programs that were approved prior to the publication of the Final Rule amendments must, by March 1, 2013, submit proposed modifications to their guidelines that would bring them into compliance with such amendments, or their approval shall be revoked.

(g) *Operators’ participation in a safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§ 312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or

bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator’s participation in the safe harbor program, whether the subject operator has taken action to remedy such non-compliance, and whether the operator’s non-compliance resulted in any one of the disciplinary actions set forth in paragraph (b)(3).

§ 312.12 Voluntary Commission Approval Processes.

(a) *Parental consent methods.* An interested party may file a written request for Commission approval of parental consent methods not currently enumerated in § 312.5(b). To be considered for approval, a party must provide a detailed description of the proposed parental consent methods, together with an analysis of how the methods meet § 312.5(b)(1). The request shall be filed with the Commission’s Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request; and

(b) *Support for internal operations of the Web site or online service.* An interested party may file a written request for Commission approval of additional activities to be included within the definition of support for internal operations. To be considered for approval, a party must provide a detailed justification why such activities should be deemed support for internal operations, and an analysis of their potential effects on children’s online privacy. The request shall be filed with the Commission’s Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

§ 312.13 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission’s intention that the remaining provisions shall continue in effect.

By direction of the Commission, Commissioner Rosch abstaining, and Commissioner Ohlhausen dissenting.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Maureen K. Ohlhausen

I voted against adopting the amendments to the Children's Online Privacy Protection Act (COPPA) Rule because I believe a core provision of the amendments exceeds the scope of the authority granted us by Congress in COPPA, the statute that underlies and authorizes the Rule.⁴⁰¹ Before I explain my concerns, I wish to commend the Commission staff for their careful consideration of the multitude of issues raised by the numerous comments in this proceeding. Much of the language of the amendments is designed to preserve flexibility for the industry while striving to protect children's privacy, a goal I support strongly. The final proposed amendments largely strike the right balance between protecting children's privacy online and avoiding undue burdens on providers of children's online content and services. The staff's great expertise in the area of children's privacy and deep understanding of the values at stake in this matter have been invaluable in my consideration of these important issues.

In COPPA Congress defined who is an operator and thereby set the outer boundary for the statute's and the COPPA Rule's reach.⁴⁰² It is undisputed that COPPA places obligations on operators of Web sites or online services directed to children or operators with actual knowledge that they are collecting personal information from

children. The statute provides, "It is unlawful for an operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed [by the FTC]." ⁴⁰³

The Statement of Basis and Purpose for the amendments (SBP) discusses concerns that the current COPPA Rule may not cover child-directed Web sites or services that do not themselves collect children's personal information but may incorporate third-party plug-ins that collect such information ⁴⁰⁴ for the plug-ins' use but do not collect or maintain the information for, or share it with, the child-directed site or service. To address these concerns, the amendments add a new proviso to the definition of operator in the COPPA Rule: "Personal information is collected or maintained on behalf of an operator when: (a) it is collected or maintained by an agent or service provider of the operator; or (b) the operator benefits by allowing another person to collect personal information directly from users of such Web site or online service." ⁴⁰⁵

The proposed amendments construe the term "on whose behalf such information is collected and maintained" to reach child-directed Web sites or services that merely derive from a third-party plug-in some kind of benefit, which may well be unrelated to the collection and use of children's

information (e.g., content, functionality, or advertising revenue). I find that this proviso—which would extend COPPA obligations to entities that do not collect personal information from children or have access to or control of such information collected by a third-party does not comport with the plain meaning of the statutory definition of an operator in COPPA, which covers only entities "on whose behalf such information is collected and maintained." ⁴⁰⁶ In other words, I do not believe that the fact that a child-directed site or online service receives any kind of benefit from using a plug-in is equivalent to the collection of personal information by the third-party plug-in on behalf of the child-directed site or online service.

As the Supreme Court has directed, an agency "must give effect to the unambiguously expressed intent of Congress." ⁴⁰⁷ Thus, regardless of the policy justifications offered, I cannot support expanding the definition of the term "operator" beyond the statutory parameters set by Congress in COPPA.

I therefore respectfully dissent.

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⁴⁰⁶ This expanded definition of operator reverses the Commission's previous conclusion that the appropriate test for determining an entity's status as an operator is to "look at the entity's relationship to the data collected," using factors such as "who owns and/or controls the information, who pays for its collection and maintenance, the pre-existing contractual relationships regarding collection and maintenance of the information, and the role of the Web site or online service in collecting and/or maintaining the information (i.e., whether the site participates in collection or is merely a conduit through which the information flows to another entity)." Children's Online Privacy Protection Rule 64 FR 59888, 59893, 59891 (Nov. 3, 1999) (final rule).

⁴⁰⁷ *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.").

⁴⁰¹ 15 U.S.C. 6501–6506.

⁴⁰² COPPA, 15 U.S.C. 6501(2), defines the term "operator" as "any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about users of or visitors to such Web site or online service, or on whose behalf such information is collected and maintained * * *" As stated in the Statement of Basis and Purpose for the original COPPA Rule, "The definition of 'operator' is of central importance because it determines who is covered by the Act and the Rule." Children's Online Privacy Protection Rule 64 FR 59888, 59891 (Nov. 3, 1999) (final rule).

⁴⁰³ 15 U.S.C. 6502(a)(1).

⁴⁰⁴ If the third-party plug-ins are child-directed or have actual knowledge that they are collecting children's personal information they are already expressly covered by the COPPA statute. Thus, as the SBP notes, a behavioral advertising network that targets children under the age of 13 is already deemed an operator. The amendment must therefore be aimed at reaching third-party plug-ins that are either not child-directed or do not have actual knowledge that they are collecting children's personal information, which raises a question about what harm this amendment will address. For example, it appears that this same type of harm could occur through general audience Web sites and online services collecting and using visitors' personal information without knowing whether some of the data is children's personal information, which is a practice that COPPA and the amendments do not prohibit.

⁴⁰⁵ 16 CFR 312.2 (Definitions).

EXHIBIT A

Google Presentation to Mattel
Insights on Families Online (partial)



INSIGHTS on FAMILIES online



Confidential • Proprietary

Google

YouTube is today's leader in reaching children age 6-11 against top TV channels

63%



YouTube.com

63%



TV Properties

57%



TV Properties

49%



TV Properties

Google

Source: Nielsen MRI 2015 Kids Study
YouTube Reach in the last 30 days, Desktop Only
Mobile not available

Google

EXHIBIT B

Google Presentation to Hasbro,
Stat Pack: Additional insight into mobile usage among parents +
children (partial)

Google

Stat Pack: Additional insight into mobile usage among parents + children

#1

YouTube is unanimously
voted as the favorite
website of kids 2 - 12



Age 2



Age 3



Age 4



Age 5

Age 6

Age 7

Age 8

Age 9

Age 10

93%

of tweens visit YouTube
to watch videos

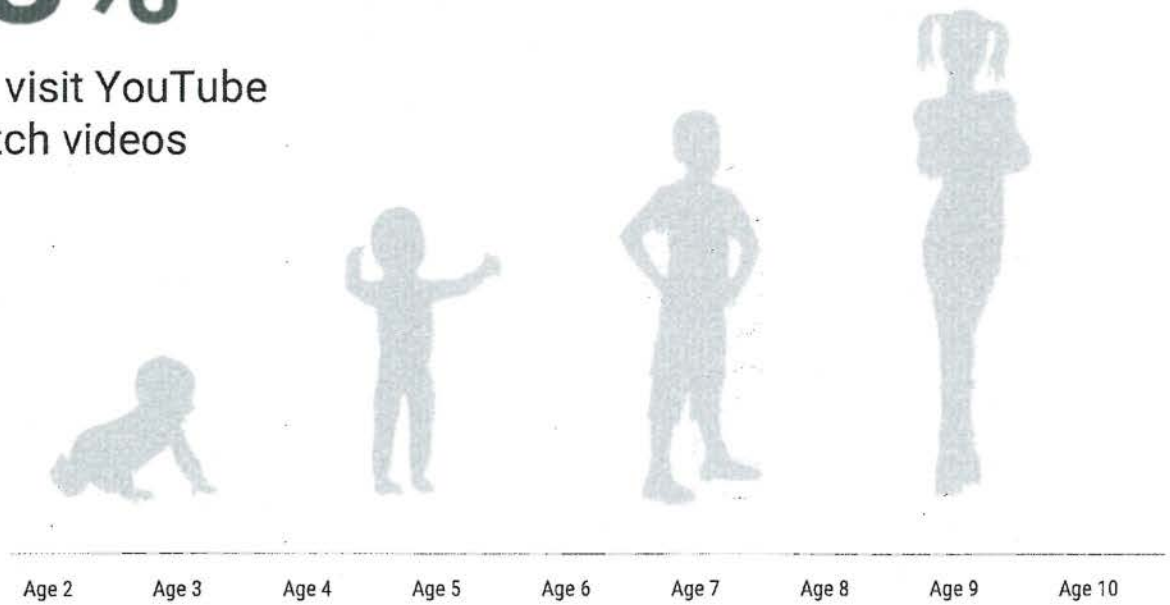


EXHIBIT C

Google Presentation to Hasbro,
2016 Kids + Family Digital Trends (partial)

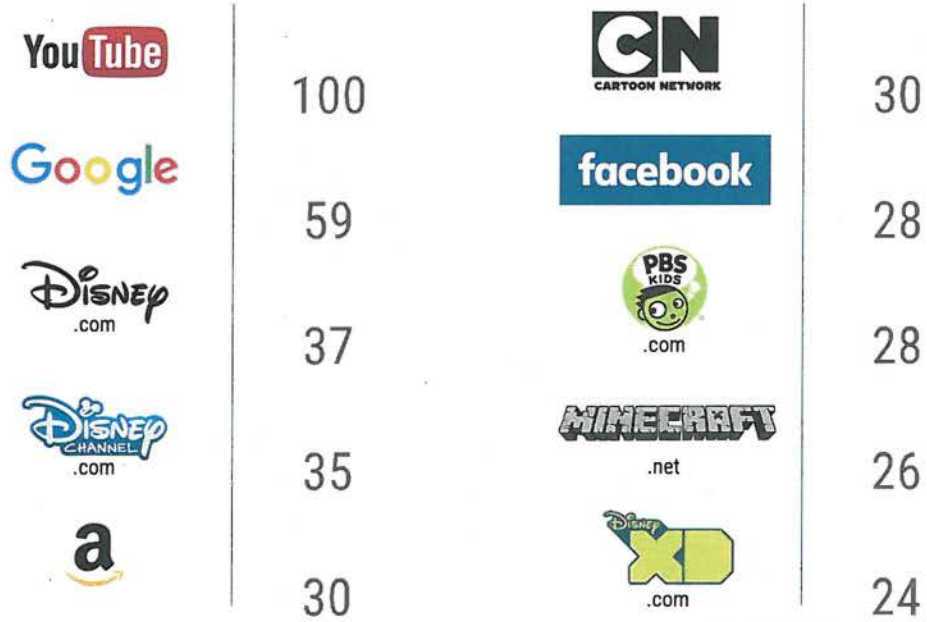


2016 Kids + Family Digital Trends



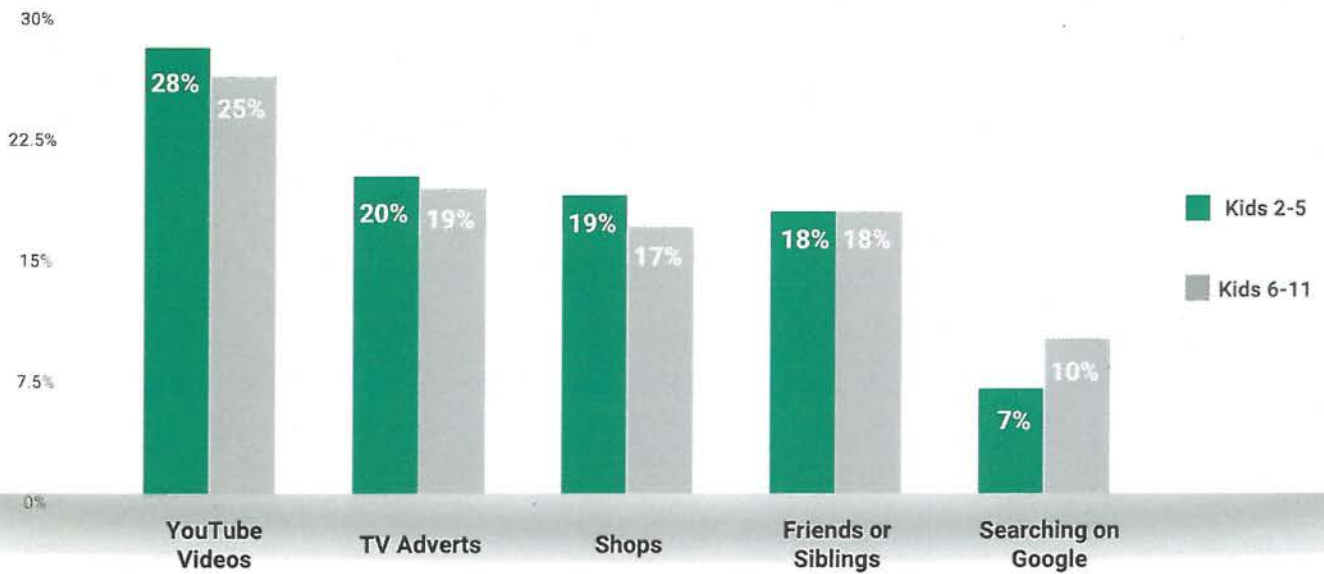
In fact, it's the #1 website regularly visited by kids

INDEXED TO
YOUTUBE REACH



According to parents...

YouTube is the #1 source where children discover new toys + games



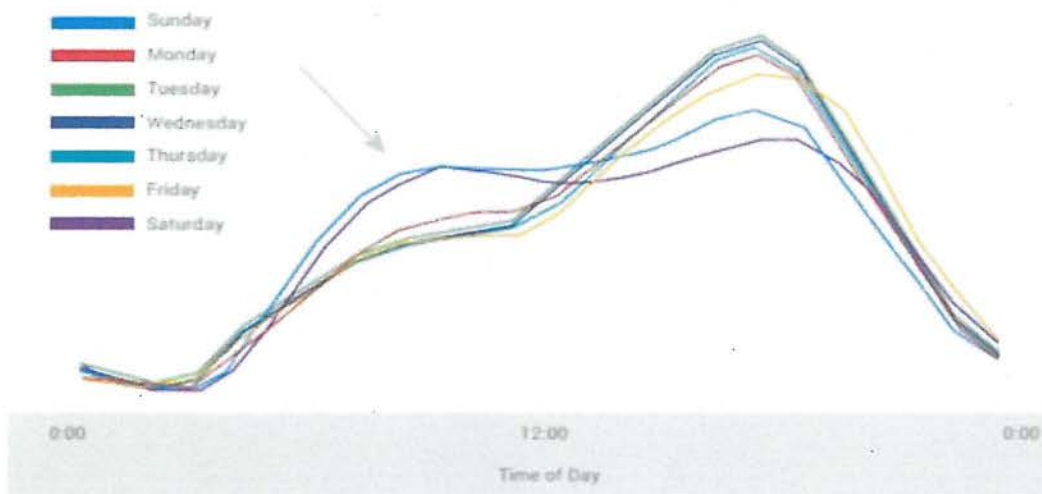
Google

Source: Google Consumer Surveys July 2016, Parents of Children 2-14, 1683 responses

YouTube: The new "Saturday Morning Cartoons"

41% of parents watch family content on YouTube together with their children

W25-49 Watching "Cartoons" on YouTube



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**PLAINTIFFS' UNOPPOSED MOTION
TO ENTER STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”), by and through its undersigned counsel, and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), respectfully move for entry of the attached proposed Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Stipulated Order”) that accompanies this motion. All parties have agreed to the terms of the Stipulated Order, as evidenced by their signatures thereon, to resolve this action. The Commission and the State of New York believe that entry of this Order would most efficiently further the ends of justice in this case. Pursuant to Local Civil Rule 7(m), undersigned counsel conferred with counsel for Google LLC and YouTube, LLC, who indicated that the motion was unopposed prior to filing.

WHEREFORE, Plaintiffs respectfully request that the Court enter the Stipulated Order for Permanent Injunction and Civil Penalty Judgment.

Dated: September 4, 2019

Respectfully Submitted,

LETITIA JAMES
Attorney General of the State of New York

ALDEN F. ABBOTT
General Counsel

Clark P. Russell

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Email: kcohen@ftc.gov
Email: pmagee@ftc.gov
Email: tgeorge@ftc.gov

Attorneys for Plaintiff Federal Trade Commission

LOCAL RULE 7(k) CERTIFICATION
Names of Persons to Be Served with Proposed Order

Pursuant to Local Rule 7(k), the following attorneys are entitled to be notified of the entry of the foregoing Stipulated Order:

CHRISTOPHER N. OLSEN
LIBBY J. WEINGARTEN
Wilson Sonsini Goodrich & Rosati
1700 K Street, NW
5th Floor
Washington, DC 20006
(202) 973-8800
(202) 973-8899 (fax)
Email: colsen@wsgr.com
Email: lweingarten@wsgr.com

CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

<p>I. (a) PLAINTIFFS FEDERAL TRADE COMMISSION PEOPLE OF THE STATE OF NEW YORK</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>DEFENDANTS GOOGLE LLC YOUTUBE, LLC</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>Santa Clara</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p>																								
<p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Kristin Cohen, Peder Magee, Tiffany George, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326-2276; Clark Russell, Jordan Adler, New York State Attorney General, 28 Liberty St., NY, NY 10005 (212) 416 8422</p>	<p>ATTORNEYS (IF KNOWN) Christopher N. Olsen, Libby Weingarten, Wilson Sonsini Goodrich & Rosata, 1700 K Street, NW, Washington, DC 20006 (202) 973-8800</p>																								
<p>II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)</p> <p><input checked="" type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border: none;"> <thead> <tr> <th></th> <th>PTF</th> <th>DFT</th> <th></th> <th>PTF</th> <th>DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td><input type="radio"/> 1</td> <td><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="radio"/> 4</td> <td><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="radio"/> 2</td> <td><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="radio"/> 5</td> <td><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="radio"/> 3</td> <td><input type="radio"/> 3</td> <td>Foreign Nation</td> <td><input type="radio"/> 6</td> <td><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																				
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
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E. General Civil (Other) OR **F. Pro Se General Civil**

<p><u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark</p>	<p><u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation</p>	<p><input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>
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<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Sections 5(a), 13(b) and 16(a)(1) of FTC Act, the Children's Online Privacy Protection Act and COPPA Rule

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>September 4, 2019</u>	SIGNATURE OF ATTORNEY OF RECORD <u>Kristin Krause Cohen</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent injunction, and other equitable relief for Defendants’ violations of the Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN’S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children’s personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained. Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such

Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and
- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.

8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times

material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

25. In addition to marketing YouTube as a top destination for kids, Defendants have a content rating system that categorizes content into age groups and includes categories for children under 13 years old. In order to align with content policies for advertising, Defendants rate all videos uploaded to YouTube, as well as the channels as a whole. Defendants assign each channel and video a rating of Y (generally intended for ages 0-7); G (intended for any age); PG (generally intended for ages 10+); Teen (generally intended for ages 13+); MA (generally intended for ages 16+); and X (generally intended for ages 18+). Defendants assign these ratings through both automated and manual review. Previously, Defendants also used a classification for certain videos shown on YouTube as "Made for Kids."

26. Defendants do not treat Y rated channels or videos differently for purposes of data collection from other content on YouTube. Defendants continue to allow the channel owner to monetize Y rated content and earn revenue from behavioral advertising. Defendants also had no policy in place to treat content classified as "Made for Kids" differently for purposes of behavioral advertising on YouTube.

27. In 2015, Defendants created a separate mobile application called "YouTube Kids," aimed at children age 2-12, generally using content rated Y or G taken from YouTube on an automated basis. Defendants also specifically curate, through manual review, content that appears on the YouTube Kids home screen, which Defendants refer to as the "home canvas." Content that appears on YouTube Kids continues to be available on YouTube. Unlike Defendants' practices on YouTube, Defendants do not collect persistent identifiers from users of

YouTube Kids in order to serve behavioral advertising. Instead, Defendants monetize YouTube Kids solely through delivery of contextual advertising.

YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent injunction, and other equitable relief for Defendants’ violations of the Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN’S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children’s personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained. Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such

Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and
- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.

8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times

material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

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YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**STIPULATION AND ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”) (collectively, “Plaintiffs”) filed their Complaint for Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312. Defendants have waived service of the summons and the Complaint. Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants violated the COPPA Rule and Section 5 of the FTC Act, 15 U.S.C. § 45, by failing to post a privacy policy on their online service providing clear, understandable, and complete notice of their information practices with respect to the Collection of Personal Information from Children, failing to provide direct notice to Parents of such information practices, and failing to Obtain Verifiable Parental Consent prior to Collecting, using, or Disclosing Personal Information from Children.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. **“Channel Owner”** means individuals or entities who upload videos onto the YouTube Service.
- B. **“Child”** or **“Children”** means an individual or individuals under the age of 13.

C. **“Clear and Conspicuous”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as Children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

D. “**Collects**” or “**Collection**” means the gathering of any Personal Information from a Child by any means, including but not limited to:

1. Requesting, prompting, or encouraging a Child to submit Personal Information online;
2. Enabling a Child to make Personal Information publicly available in identifiable form. An Operator shall not be considered to have Collected Personal Information if it takes reasonable measures to Delete all or virtually all Personal Information from a Child’s postings before they are made public and also to Delete such Personal Information from its records; or
3. Passive tracking of a Child online.

E. “**Compliance Date**” means four months after entry of this Order.

F. “**Content**” means any video or channel page found on the YouTube Service.

G. “**Defendants**” means Google LLC, a Delaware limited liability company, and YouTube, LLC, a Delaware limited liability company, and their successors and assigns.

H. “**Delete**” means to remove Personal Information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

I. “**Disclose**” or “**Disclosure**” means, with respect to Personal Information:

1. The Release of Personal Information Collected by an Operator from a Child in identifiable form for any purpose, except where an Operator provides such information to a Person who provides Support for the Internal Operations of the Website or Online Service; and

2. Making Personal Information Collected by an Operator from a Child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

J. **“Internet”** means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

K. **“Obtaining Verifiable Parental Consent”** means making any reasonable effort (taking into consideration available technology) to ensure that before Personal Information is Collected from a Child, a Parent of the Child:

1. Receives notice of the Operator’s Personal Information Collection, use, and Disclosure practices; and

2. Authorizes any Collection, use, and/or Disclosure of the Personal Information, using a method reasonably calculated, in light of available technology, to ensure that the Person providing consent is the Child’s Parent.

L. **“Online Contact Information”** means an email address or any other substantially similar identifier that permits direct contact with a Person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

M. **“Operator”** means any Person who operates a website located on the Internet or an online service and who Collects or maintains Personal Information from or about the users of or visitors to such website or online service, or on whose behalf such information is Collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with one or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). Personal Information *is Collected or maintained on behalf of* an Operator when:

1. It is Collected or maintained by an agent or service provider of the Operator; or
2. The Operator benefits by allowing another Person to Collect Personal Information directly from users of such website or online service.

N. **“Parent”** includes a legal guardian.

O. **“Person”** means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

P. **“Personal Information”** means individually identifiable information about an individual Collected online, including:

1. A first and last name;
2. A home or other physical address including street name and name of a city or town;
3. Online Contact Information;
4. A screen or user name where it functions in the same manner as Online Contact Information;
5. A telephone number;
6. A Social Security number;
7. A persistent identifier that can be used to recognize a user over time and across different websites or online services, where such persistent identifier is used for functions other than or in addition to Support for the Internal Operations of the Website or Online Service. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;
8. A photograph, video, or audio file where such file contains a Child’s image or voice;
9. Geolocation information sufficient to identify street name and name of a city or town; or
10. Information concerning the Child or the Parents of that Child that the Operator Collects online from the Child and combines with an identifier described in this definition.

Q. **“Release of Personal Information”** means the sharing, selling, renting, or transfer of Personal Information to any Third Party.

R. **“Support for the Internal Operations of the Website or Online Service”** means

1. Those activities necessary to:
 - a) Maintain or analyze the functioning of the website or online service;
 - b) Perform network communications;
 - c) Authenticate users of, or personalize the content on, the website or online service;
 - d) Serve contextual advertising on the website or online service or cap the frequency of advertising;
 - e) Protect the security or integrity of the user, website, or online service;
 - f) Ensure legal or regulatory compliance; or
 - g) Fulfill a request of a Child as permitted by Section 312.5(c)(3) and (4) of the COPPA Rule (attached as Appendix A);
2. So long as the information Collected for these activities listed in 1(a) – (g) is not used or Disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

S. **“Third Party”** means any Person who is not:

1. An Operator with respect to the Collection or maintenance of Personal Information on the website or online service; or
2. A Person who provides Support for the Internal Operations of the Website or Online Service and who does not use or Disclose information protected under the COPPA Rule (attached as Appendix A).

T. **“Website or Online Service Directed to Children”** means a commercial website or online service, or portion thereof, that is targeted to Children.

1. In determining whether a website or online service, or a portion thereof, is directed to Children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to Children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to Children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.
2. A website or online service shall be deemed directed to Children when it has actual knowledge that it is Collecting Personal Information directly from users of another Website or Online Service Directed to Children.
3. A website or online service that is directed to Children under the criteria set forth in paragraph (1) of this definition, but that does not target Children as its primary audience, shall not be deemed directed to Children if it:

- a) Does not Collect Personal Information from any visitor prior to Collecting age information; and
- b) Prevents the Collection, use, or Disclosure of Personal Information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of the COPPA Rule (attached as Appendix A).

4. A website or online service shall not be deemed directed to Children solely because it refers or links to a commercial Website or Online Service Directed to Children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

U. “YouTube Service” means the general audience YouTube user-generated video-sharing platform(s), currently at www.youtube.com and on YouTube mobile application(s), on which, among other things, consumers can view videos or upload videos to share.

ORDER

I. INJUNCTION CONCERNING DESIGNATING CONTENT ON THE YOUTUBE SERVICE AS DIRECTED TO CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating the YouTube Service, are permanently restrained and enjoined from:

A. Failing to develop, implement, and maintain a system for Channel Owners to designate whether their Content on the YouTube Service is directed to Children. Such system

shall include a Clear and Conspicuous notice that Content made available on the YouTube Service that is directed to Children may be subject to the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A) and that Channel Owners are obligated to designate such Content as directed to Children; and

B. Failing to provide annual training regarding complying with the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), for each Person responsible for managing Defendants' relationships with Channel Owners on the YouTube Service.

II. INJUNCTION CONCERNING COLLECTION OF PERSONAL INFORMATION FROM CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating a Website or Online Service Directed to Children on the YouTube Service are hereby permanently restrained and enjoined from:

A. Failing to make reasonable efforts, taking into account available technology, to ensure that a Parent of a Child receives direct notice of Defendants' practices with regard to the Collection, use, or Disclosure of Personal Information from Children, including notice of any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

B. Failing to post a prominent and clearly labeled link to an online notice of its information practices with regard to Children on the home or landing page or screen of its

website or online service, and at each area of the website or online service where Personal Information is Collected from Children, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

C. Failing to Obtain Verifiable Parental Consent before any Collection, use, or Disclosure of Personal Information from Children, including consent to any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to Obtaining Verifiable Parental Consent; and

D. Violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A).

III. INJUNCTION CONCERNING USE OF PREVIOUSLY

COLLECTED PERSONAL INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, are ordered to refrain, within ninety (90) days of the Compliance Date, from Disclosing, using, or benefitting from Personal Information previously Collected from users of Content that is designated as directed to Children by a Channel Owner under the system required under Section I.A. above, as long as such designation occurs within sixty (60) days of the Compliance Date. Provided, however, that such Personal Information may be Disclosed to the extent requested by a government agency or required by law, regulation, or court order.

IV. CIVIL PENALTY AND OTHER MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of one hundred and thirty six million dollars (\$136,000,000) is entered in favor of Plaintiff FTC against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff FTC one hundred thirty six million dollars (\$136,000,000), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within thirty (30) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

C. Judgment in the amount of thirty four million dollars (\$34,000,000) is entered in favor of Plaintiff State of New York against Defendants, jointly and severally, as damages, restitution, or other compensation to its residents.

D. Defendants are ordered to pay to Plaintiff State of New York, by making payment to State of New York Department of Law, thirty four million dollars (\$34,000,000). Such payment must be made within thirty (30) days of entry of this Order by wire transfer in accordance with instructions provided by a representative of Plaintiff State of New York.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission or the State of New York in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission or the State of New York pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers, which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission and the State of New York an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, each Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who have supervisory responsibilities relating to the subject matter of Sections I and II of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission and the State of New York:

A. One year after the Compliance Date, each Defendant must submit a compliance report, sworn under penalty of perjury. In such report, each Defendant must:

1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and the State of New York may use to communicate with that Defendant;
2. Identify all of Defendant's businesses involved in operating the YouTube Service or in Collecting, using, or Disclosing Personal Information from Children on or from the YouTube Service by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. Describe the activities of each such business directly involved with operating the YouTube Service, including the goods and services offered and the means of advertising, marketing, and sales;
4. Describe in detail whether and how Defendants are in compliance with each Section of this Order;
5. Provide a copy of each materially different version of any privacy notice posted on or otherwise applicable to the YouTube Service or sent to users of the YouTube Service;

6. Describe in detail the methods used, if any, to track Child users of the YouTube Service (including methods used for passive tracking and means for users to control or opt out of tracking), and the measures taken to avoid tracking Children;

7. Describe in detail the methods used to Obtain Verifiable Parental Consent prior to any Collection, use, and/or Disclosure of Personal Information from Children through the YouTube Service;

8. Describe in detail the means provided for Parents to review the Personal Information Collected from their Children through the YouTube Service and to refuse to permit its further use or maintenance; and

9. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in: (1) any designated point of contact; or (2) the structure of that Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Each Defendant must submit to the Commission and the State of New York notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission and the State of New York required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

F. Unless otherwise directed by a State of New York representative in writing, all submissions to the State of New York pursuant to this Order must be emailed to ifraud@ag.ny.gov and sent by overnight courier (not the U.S. Postal Service) to: Bureau Chief, Bureau of Internet and Technology, New York State Attorney General’s Office, 28 Liberty Street, New York, New York 10005. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, each Defendant in connection with operating the YouTube Service must create and retain the following records:

A. Accounting records showing the revenues of all goods and services sold;

B. Personnel records showing, for each Person providing services, whether as an employee or otherwise, that Person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission and the State of New York;

D. Records of all consumer complaints relating to the unauthorized Collection, use or Disclosure of Personal Information of Children interacting with the YouTube Service, and any response;

E. A copy of each materially different form, page, or screen created, maintained, or otherwise provided by each Defendant through which Personal Information of Children is Collected through the YouTube Service, and a copy of each materially different document containing any representation regarding Collection, use, and Disclosure practices pertaining to Personal Information from Children Collected through the YouTube Service. Each webpage copy shall be accompanied by the URL of the webpage where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting information on the Internet; and

F. A copy of each unique advertisement, other marketing material, telemarketing script, or other representation related to the Collection of Personal Information of Children that is made in connection with promoting or offering for sale the YouTube Service.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or the State of New York, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and the State of New York are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and the State of New York are authorized to communicate directly with each Defendant. Each Defendant must permit representatives of the Commission and the State of New York to interview any employee or other Person affiliated with Defendant who has agreed to such an interview. The Person interviewed may have counsel present.

C. The Commission and the State of New York may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this ___ day of _____, 2019.

UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFFS

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FOR THE PEOPLE OF THE STATE OF NEW YORK:

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DEFENDANT: GOOGLE LLC



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

DEFENDANT: YOUTUBE, LLC
By: Google LLC, its Managing Member



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

APPENDIX A

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, Email, Internet, Online service, Privacy, Record retention, Safety, science and technology, Trade practices, Web site, Youth.

■ Accordingly, for the reasons stated above, the Federal Trade Commission revises part 312 of Title 16 of the Code of Federal Regulations to read as follows:

**PART 312—CHILDREN'S ONLINE
PRIVACY PROTECTION RULE**

Sec.

- 312.1 Scope of regulations in this part.
- 312.2 Definitions.
- 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
- 312.4 Notice.
- 312.5 Parental consent.
- 312.6 Right of parent to review personal information provided by a child.
- 312.7 Prohibition against conditioning a child's participation on collection of personal information.

312.8 Confidentiality, security, and integrity of personal information collected from children.

312.9 Enforcement.

312.10 Data retention and deletion requirements.

312.11 Safe harbor programs.

312.12 Voluntary Commission Approval Processes.

312.13 Severability.

Authority: 15 U.S.C. 6501–6508.

§ 312.1 Scope of regulations in this part.

This part implements the Children's Online Privacy Protection Act of 1998, (15 U.S.C. 6501, *et seq.*) which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information from a child by any means, including but not limited to:

(1) Requesting, prompting, or encouraging a child to submit personal information online;

(2) Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child's postings before they are made public and also to delete such information from its records; or

(3) Passive tracking of a child online.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclose or disclosure means, with respect to personal information:

(1) The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the Web site or online service; and

(2) Making personal information collected by an operator from a child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a Web site or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(1) Receives notice of the operator's personal information collection, use, and disclosure practices; and

(2) Authorizes any collection, use, and/or disclosure of the personal information.

Online contact information means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

Operator means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information is *collected or maintained on behalf of* an operator when:

(1) It is collected or maintained by an agent or service provider of the operator; or

(2) The operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(1) A first and last name;

(2) A home or other physical address including street name and name of a city or town;

(3) Online contact information as defined in this section;

(4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;

(5) A telephone number;

(6) A Social Security number;

(7) A persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;

(8) A photograph, video, or audio file where such file contains a child's image or voice;

(9) Geolocation information sufficient to identify street name and name of a city or town; or

(10) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Release of personal information means the sharing, selling, renting, or transfer of personal information to any third party.

Support for the internal operations of the Web site or online service means:

(1) Those activities necessary to:

(i) Maintain or analyze the functioning of the Web site or online service;

(ii) Perform network communications;

(iii) Authenticate users of, or personalize the content on, the Web site or online service;

(iv) Serve contextual advertising on the Web site or online service or cap the frequency of advertising;

(v) Protect the security or integrity of the user, Web site, or online service;

(vi) Ensure legal or regulatory compliance; or

(vii) Fulfill a request of a child as permitted by § 312.5(c)(3) and (4);

(2) So long as The information collected for the activities listed in paragraphs (1)(i)–(vii) of this definition is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a

profile on a specific individual, or for any other purpose.

Third party means any person who is not:

(1) An operator with respect to the collection or maintenance of personal information on the Web site or online service; or

(2) A person who provides support for the internal operations of the Web site or online service and who does not use or disclose information protected under this part for any other purpose.

Web site or online service directed to children means a commercial Web site or online service, or portion thereof, that is targeted to children.

(1) In determining whether a Web site or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising promoting or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.

(2) A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.

(3) A Web site or online service that is directed to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it:

(i) Does not collect personal information from any visitor prior to collecting age information; and

(ii) Prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.

(4) A Web site or online service shall not be deemed directed to children solely because it refers or links to a commercial Web site or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

(a) Provide notice on the Web site or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));

(b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§ 312.5);

(c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);

(d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and

(e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Direct notice to the parent.* An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(c) *Content of the direct notice to the parent—(1) Content of the direct notice to the parent under § 312.5(c)(1) (Notice*

to Obtain Parent's Affirmative Consent to the Collection, Use, or Disclosure of a Child's Personal Information). This direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child, and, if such is the case, the name of the child or the parent, in order to obtain the parent's consent;

(ii) That the parent's consent is required for the collection, use, or disclosure of such information, and that the operator will not collect, use, or disclose any personal information from the child if the parent does not provide such consent;

(iii) The additional items of personal information the operator intends to collect from the child, or the potential opportunities for the disclosure of personal information, should the parent provide consent;

(iv) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section;

(v) The means by which the parent can provide verifiable consent to the collection, use, and disclosure of the information; and

(vi) That if the parent does not provide consent within a reasonable time from the date the direct notice was sent, the operator will delete the parent's online contact information from its records.

(2) *Content of the direct notice to the parent under § 312.5(c)(2) (Voluntary Notice to Parent of a Child's Online Activities Not Involving the Collection, Use or Disclosure of Personal Information).* Where an operator chooses to notify a parent of a child's participation in a Web site or online service, and where such site or service does not collect any personal information other than the parent's online contact information, the direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child in order to provide notice to, and subsequently update the parent about, a child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information;

(ii) That the parent's online contact information will not be used or disclosed for any other purpose;

(iii) That the parent may refuse to permit the child's participation in the Web site or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and

(iv) A hyperlink to the operator's online notice of its information

practices required under paragraph (d) of this section.

(3) *Content of the direct notice to the parent under § 312.5(c)(4) (Notice to a Parent of Operator's Intent to Communicate with the Child Multiple Times)*. This direct notice shall set forth:

(i) That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;

(ii) That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;

(iii) That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;

(iv) That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;

(v) That if the parent fails to respond to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and

(vi) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(4) *Content of the direct notice to the parent required under § 312.5(c)(5) (Notice to a Parent In Order to Protect a Child's Safety)*. This direct notice shall set forth:

(i) That the operator has collected the name and the online contact information of the child and the parent in order to protect the safety of a child;

(ii) That the information will not be used or disclosed for any purpose unrelated to the child's safety;

(iii) That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;

(iv) That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) *Notice on the Web site or online service*. In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page or screen of its Web site or online service, and, at each area of the Web site or online service

where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience Web site or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the Web site or online service's information practices must state the following:

(1) The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online service. *Provided that:* The operators of a Web site or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice;

(2) A description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information; and

(3) That the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§ 312.5 Parental consent.

(a) *General requirements*. (1) An operator is required to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

(b) *Methods for verifiable parental consent*. (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated,

in light of available technology, to ensure that the person providing consent is the child's parent. (2) Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:

(i) Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;

(ii) Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

(iii) Having a parent call a toll-free telephone number staffed by trained personnel;

(iv) Having a parent connect to trained personnel via video-conference;

(v) Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete; or

(vi) *Provided that*, an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory email to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier email.

(3) *Safe harbor approval of parental consent methods*. A safe harbor program approved by the Commission under § 312.11 may approve its member operators' use of a parental consent method not currently enumerated in paragraph (b)(2) of this section where the safe harbor program determines that such parental consent method meets the requirements of paragraph (b)(1) of this section.

(c) *Exceptions to prior parental consent*. Verifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child *except* as set forth in this paragraph:

(1) Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1). If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the

operator must delete such information from its records;

(2) Where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(2);

(3) Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;

(4) Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(3). An operator will not be deemed to have made reasonable efforts to ensure that a parent receives notice where the notice to the parent was unable to be delivered;

(5) Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of a child, and where such information is not used or disclosed for any purpose unrelated to the child's safety. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to provide a parent with notice as described in § 312.4(c)(4);

(6) Where the purpose of collecting a child's name and online contact information is to:

- (i) Protect the security or integrity of its Web site or online service;
- (ii) Take precautions against liability;
- (iii) Respond to judicial process; or
- (iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety; and where such information is not be used for any other purpose;

(7) Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the Web site or online service. In such case, there also shall be no obligation to provide notice under § 312.4; or

(8) Where an operator covered under paragraph (2) of the definition of *Web site or online service directed to children* in § 312.2 collects a persistent identifier and no other personal information from a user who affirmatively interacts with the operator and whose previous registration with that operator indicates that such user is not a child. In such case, there also shall be no obligation to provide notice under § 312.4.

§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a Web site or online service, the operator of that Web site or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

- (i) Ensure that the requestor is a parent of that child, taking into account available technology; and
- (ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children. The operator must also take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintaining the confidentiality, security and integrity of such information, and who provide assurances that they will maintain the information in such a manner.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502 (a) of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Data retention and deletion requirements.

An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.

§ 312.11 Safe harbor programs.

(a) *In general.* Industry groups or other persons may apply to the Commission for approval of self-regulatory program guidelines ("safe harbor programs"). The application shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the application. The Commission shall issue a written determination within 180 days of the filing of the application.

(b) *Criteria for approval of self-regulatory program guidelines.* Proposed safe harbor programs must demonstrate

that they meet the following performance standards:

(1) Program requirements that ensure operators subject to the self-regulatory program guidelines ("subject operators") provide substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8, and 312.10.

(2) An effective, mandatory mechanism for the independent assessment of subject operators' compliance with the self-regulatory program guidelines. At a minimum, this mechanism must include a comprehensive review by the safe harbor program, to be conducted not less than annually, of each subject operator's information policies, practices, and representations. The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.

(3) Disciplinary actions for subject operators' non-compliance with self-regulatory program guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of any action taken against subject operators by the industry group issuing the self-regulatory guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the self-regulatory guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the self-regulatory guidelines; or

(v) Any other equally effective action.

(c) *Request for Commission approval of self-regulatory program guidelines.* A proposed safe harbor program's request for approval shall be accompanied by the following:

(1) A detailed explanation of the applicant's business model, and the technological capabilities and mechanisms that will be used for initial and continuing assessment of subject operators' fitness for membership in the safe harbor program;

(2) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(3) A comparison of each provision of §§ 312.2 through 312.8, and 312.10 with the corresponding provisions of the guidelines; and

(4) A statement explaining:

(i) How the self-regulatory program guidelines, including the applicable assessment mechanisms, meet the requirements of this part; and

(ii) How the assessment mechanisms and compliance consequences required

under paragraphs (b)(2) and (b)(3) provide effective enforcement of the requirements of this part.

(d) *Reporting and recordkeeping requirements.* Approved safe harbor programs shall:

(1) By July 1, 2014, and annually thereafter, submit a report to the Commission containing, at a minimum, an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section, a description of any disciplinary action taken against any subject operator under paragraph (b)(3) of this section, and a description of any approvals of member operators' use of a parental consent mechanism, pursuant to § 312.5(b)(4);

(2) Promptly respond to Commission requests for additional information; and

(3) Maintain for a period not less than three years, and upon request make available to the Commission for inspection and copying:

(i) Consumer complaints alleging violations of the guidelines by subject operators;

(ii) Records of disciplinary actions taken against subject operators; and

(iii) Results of the independent assessments of subject operators' compliance required under paragraph (b)(2) of this section.

(e) *Post-approval modifications to self-regulatory program guidelines.* Approved safe harbor programs must submit proposed changes to their guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(2) of this section. The statement required under paragraph (c)(4) of this section must describe how the proposed changes affect existing provisions of the guidelines.

(f) *Revocation of approval of self-regulatory program guidelines.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory program guidelines or their implementation do not meet the requirements of this part. Safe harbor programs that were approved prior to the publication of the Final Rule amendments must, by March 1, 2013, submit proposed modifications to their guidelines that would bring them into compliance with such amendments, or their approval shall be revoked.

(g) *Operators' participation in a safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§ 312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or

bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator's participation in the safe harbor program, whether the subject operator has taken action to remedy such non-compliance, and whether the operator's non-compliance resulted in any one of the disciplinary actions set forth in paragraph (b)(3).

§ 312.12 Voluntary Commission Approval Processes.

(a) *Parental consent methods.* An interested party may file a written request for Commission approval of parental consent methods not currently enumerated in § 312.5(b). To be considered for approval, a party must provide a detailed description of the proposed parental consent methods, together with an analysis of how the methods meet § 312.5(b)(1). The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request; and

(b) *Support for internal operations of the Web site or online service.* An interested party may file a written request for Commission approval of additional activities to be included within the definition of support for internal operations. To be considered for approval, a party must provide a detailed justification why such activities should be deemed support for internal operations, and an analysis of their potential effects on children's online privacy. The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

§ 312.13 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

By direction of the Commission, Commissioner Rosch abstaining, and Commissioner Ohlhausen dissenting.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Maureen K. Ohlhausen

I voted against adopting the amendments to the Children's Online Privacy Protection Act (COPPA) Rule because I believe a core provision of the amendments exceeds the scope of the authority granted us by Congress in COPPA, the statute that underlies and authorizes the Rule.⁴⁰¹ Before I explain my concerns, I wish to commend the Commission staff for their careful consideration of the multitude of issues raised by the numerous comments in this proceeding. Much of the language of the amendments is designed to preserve flexibility for the industry while striving to protect children's privacy, a goal I support strongly. The final proposed amendments largely strike the right balance between protecting children's privacy online and avoiding undue burdens on providers of children's online content and services. The staff's great expertise in the area of children's privacy and deep understanding of the values at stake in this matter have been invaluable in my consideration of these important issues.

In COPPA Congress defined who is an operator and thereby set the outer boundary for the statute's and the COPPA Rule's reach.⁴⁰² It is undisputed that COPPA places obligations on operators of Web sites or online services directed to children or operators with actual knowledge that they are collecting personal information from

children. The statute provides, "It is unlawful for an operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed [by the FTC]." ⁴⁰³

The Statement of Basis and Purpose for the amendments (SBP) discusses concerns that the current COPPA Rule may not cover child-directed Web sites or services that do not themselves collect children's personal information but may incorporate third-party plug-ins that collect such information ⁴⁰⁴ for the plug-ins' use but do not collect or maintain the information for, or share it with, the child-directed site or service. To address these concerns, the amendments add a new proviso to the definition of operator in the COPPA Rule: "Personal information is collected or maintained on behalf of an operator when: (a) it is collected or maintained by an agent or service provider of the operator; or (b) the operator benefits by allowing another person to collect personal information directly from users of such Web site or online service." ⁴⁰⁵

The proposed amendments construe the term "on whose behalf such information is collected and maintained" to reach child-directed Web sites or services that merely derive from a third-party plug-in some kind of benefit, which may well be unrelated to the collection and use of children's

information (e.g., content, functionality, or advertising revenue). I find that this proviso—which would extend COPPA obligations to entities that do not collect personal information from children or have access to or control of such information collected by a third-party does not comport with the plain meaning of the statutory definition of an operator in COPPA, which covers only entities "on whose behalf such information is collected and maintained." ⁴⁰⁶ In other words, I do not believe that the fact that a child-directed site or online service receives any kind of benefit from using a plug-in is equivalent to the collection of personal information by the third-party plug-in on behalf of the child-directed site or online service.

As the Supreme Court has directed, an agency "must give effect to the unambiguously expressed intent of Congress." ⁴⁰⁷ Thus, regardless of the policy justifications offered, I cannot support expanding the definition of the term "operator" beyond the statutory parameters set by Congress in COPPA.

I therefore respectfully dissent.

[FR Doc. 2012–31341 Filed 1–16–13; 8:45 am]

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⁴⁰⁶ This expanded definition of operator reverses the Commission's previous conclusion that the appropriate test for determining an entity's status as an operator is to "look at the entity's relationship to the data collected," using factors such as "who owns and/or controls the information, who pays for its collection and maintenance, the pre-existing contractual relationships regarding collection and maintenance of the information, and the role of the Web site or online service in collecting and/or maintaining the information (i.e., whether the site participates in collection or is merely a conduit through which the information flows to another entity)." Children's Online Privacy Protection Rule 64 FR 59888, 59893, 59891 (Nov. 3, 1999) (final rule).

⁴⁰⁷ *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.").

⁴⁰¹ 15 U.S.C. 6501–6506.

⁴⁰² COPPA, 15 U.S.C. 6501(2), defines the term "operator" as "any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about users of or visitors to such Web site or online service, or on whose behalf such information is collected and maintained * * *" As stated in the Statement of Basis and Purpose for the original COPPA Rule, "The definition of 'operator' is of central importance because it determines who is covered by the Act and the Rule." Children's Online Privacy Protection Rule 64 FR 59888, 59891 (Nov. 3, 1999) (final rule).

⁴⁰³ 15 U.S.C. 6502(a)(1).

⁴⁰⁴ If the third-party plug-ins are child-directed or have actual knowledge that they are collecting children's personal information they are already expressly covered by the COPPA statute. Thus, as the SBP notes, a behavioral advertising network that targets children under the age of 13 is already deemed an operator. The amendment must therefore be aimed at reaching third-party plug-ins that are either not child-directed or do not have actual knowledge that they are collecting children's personal information, which raises a question about what harm this amendment will address. For example, it appears that this same type of harm could occur through general audience Web sites and online services collecting and using visitors' personal information without knowing whether some of the data is children's personal information, which is a practice that COPPA and the amendments do not prohibit.

⁴⁰⁵ 16 CFR 312.2 (Definitions).

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”) (collectively, “Plaintiffs”) filed their Complaint for Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312. Defendants have waived service of the summons and the Complaint. Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants violated the COPPA Rule and Section 5 of the FTC Act, 15 U.S.C. § 45, by failing to post a privacy policy on their online service providing clear, understandable, and complete notice of their information practices with respect to the Collection of Personal Information from Children, failing to provide direct notice to Parents of such information practices, and failing to Obtain Verifiable Parental Consent prior to Collecting, using, or Disclosing Personal Information from Children.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. **“Channel Owner”** means individuals or entities who upload videos onto the YouTube Service.
- B. **“Child”** or **“Children”** means an individual or individuals under the age of 13.

C. **“Clear and Conspicuous”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as Children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

D. “**Collects**” or “**Collection**” means the gathering of any Personal Information from a Child by any means, including but not limited to:

1. Requesting, prompting, or encouraging a Child to submit Personal Information online;
2. Enabling a Child to make Personal Information publicly available in identifiable form. An Operator shall not be considered to have Collected Personal Information if it takes reasonable measures to Delete all or virtually all Personal Information from a Child’s postings before they are made public and also to Delete such Personal Information from its records; or
3. Passive tracking of a Child online.

E. “**Compliance Date**” means four months after entry of this Order.

F. “**Content**” means any video or channel page found on the YouTube Service.

G. “**Defendants**” means Google LLC, a Delaware limited liability company, and YouTube, LLC, a Delaware limited liability company, and their successors and assigns.

H. “**Delete**” means to remove Personal Information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

I. “**Disclose**” or “**Disclosure**” means, with respect to Personal Information:

1. The Release of Personal Information Collected by an Operator from a Child in identifiable form for any purpose, except where an Operator provides such information to a Person who provides Support for the Internal Operations of the Website or Online Service; and

2. Making Personal Information Collected by an Operator from a Child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

J. **“Internet”** means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

K. **“Obtaining Verifiable Parental Consent”** means making any reasonable effort (taking into consideration available technology) to ensure that before Personal Information is Collected from a Child, a Parent of the Child:

1. Receives notice of the Operator’s Personal Information Collection, use, and Disclosure practices; and

2. Authorizes any Collection, use, and/or Disclosure of the Personal Information, using a method reasonably calculated, in light of available technology, to ensure that the Person providing consent is the Child’s Parent.

L. **“Online Contact Information”** means an email address or any other substantially similar identifier that permits direct contact with a Person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

M. **“Operator”** means any Person who operates a website located on the Internet or an online service and who Collects or maintains Personal Information from or about the users of or visitors to such website or online service, or on whose behalf such information is Collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with one or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). Personal Information *is Collected or maintained on behalf of* an Operator when:

1. It is Collected or maintained by an agent or service provider of the Operator; or
2. The Operator benefits by allowing another Person to Collect Personal Information directly from users of such website or online service.

N. **“Parent”** includes a legal guardian.

O. **“Person”** means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

P. **“Personal Information”** means individually identifiable information about an individual Collected online, including:

1. A first and last name;
2. A home or other physical address including street name and name of a city or town;
3. Online Contact Information;
4. A screen or user name where it functions in the same manner as Online Contact Information;
5. A telephone number;
6. A Social Security number;
7. A persistent identifier that can be used to recognize a user over time and across different websites or online services, where such persistent identifier is used for functions other than or in addition to Support for the Internal Operations of the Website or Online Service. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;
8. A photograph, video, or audio file where such file contains a Child’s image or voice;
9. Geolocation information sufficient to identify street name and name of a city or town; or
10. Information concerning the Child or the Parents of that Child that the Operator Collects online from the Child and combines with an identifier described in this definition.

Q. **“Release of Personal Information”** means the sharing, selling, renting, or transfer of Personal Information to any Third Party.

R. **“Support for the Internal Operations of the Website or Online Service”** means

1. Those activities necessary to:
 - a) Maintain or analyze the functioning of the website or online service;
 - b) Perform network communications;
 - c) Authenticate users of, or personalize the content on, the website or online service;
 - d) Serve contextual advertising on the website or online service or cap the frequency of advertising;
 - e) Protect the security or integrity of the user, website, or online service;
 - f) Ensure legal or regulatory compliance; or
 - g) Fulfill a request of a Child as permitted by Section 312.5(c)(3) and (4) of the COPPA Rule (attached as Appendix A);
2. So long as the information Collected for these activities listed in 1(a) – (g) is not used or Disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

S. **“Third Party”** means any Person who is not:

1. An Operator with respect to the Collection or maintenance of Personal Information on the website or online service; or
2. A Person who provides Support for the Internal Operations of the Website or Online Service and who does not use or Disclose information protected under the COPPA Rule (attached as Appendix A).

T. **“Website or Online Service Directed to Children”** means a commercial website or online service, or portion thereof, that is targeted to Children.

1. In determining whether a website or online service, or a portion thereof, is directed to Children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to Children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to Children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.
2. A website or online service shall be deemed directed to Children when it has actual knowledge that it is Collecting Personal Information directly from users of another Website or Online Service Directed to Children.
3. A website or online service that is directed to Children under the criteria set forth in paragraph (1) of this definition, but that does not target Children as its primary audience, shall not be deemed directed to Children if it:

- a) Does not Collect Personal Information from any visitor prior to Collecting age information; and
- b) Prevents the Collection, use, or Disclosure of Personal Information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of the COPPA Rule (attached as Appendix A).

4. A website or online service shall not be deemed directed to Children solely because it refers or links to a commercial Website or Online Service Directed to Children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

U. “YouTube Service” means the general audience YouTube user-generated video-sharing platform(s), currently at www.youtube.com and on YouTube mobile application(s), on which, among other things, consumers can view videos or upload videos to share.

ORDER

I. INJUNCTION CONCERNING DESIGNATING CONTENT ON THE YOUTUBE SERVICE AS DIRECTED TO CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating the YouTube Service, are permanently restrained and enjoined from:

A. Failing to develop, implement, and maintain a system for Channel Owners to designate whether their Content on the YouTube Service is directed to Children. Such system

shall include a Clear and Conspicuous notice that Content made available on the YouTube Service that is directed to Children may be subject to the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A) and that Channel Owners are obligated to designate such Content as directed to Children; and

B. Failing to provide annual training regarding complying with the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), for each Person responsible for managing Defendants' relationships with Channel Owners on the YouTube Service.

II. INJUNCTION CONCERNING COLLECTION OF PERSONAL INFORMATION FROM CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating a Website or Online Service Directed to Children on the YouTube Service are hereby permanently restrained and enjoined from:

A. Failing to make reasonable efforts, taking into account available technology, to ensure that a Parent of a Child receives direct notice of Defendants' practices with regard to the Collection, use, or Disclosure of Personal Information from Children, including notice of any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

B. Failing to post a prominent and clearly labeled link to an online notice of its information practices with regard to Children on the home or landing page or screen of its

website or online service, and at each area of the website or online service where Personal Information is Collected from Children, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

C. Failing to Obtain Verifiable Parental Consent before any Collection, use, or Disclosure of Personal Information from Children, including consent to any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to Obtaining Verifiable Parental Consent; and

D. Violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A).

III. INJUNCTION CONCERNING USE OF PREVIOUSLY

COLLECTED PERSONAL INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, are ordered to refrain, within ninety (90) days of the Compliance Date, from Disclosing, using, or benefitting from Personal Information previously Collected from users of Content that is designated as directed to Children by a Channel Owner under the system required under Section I.A. above, as long as such designation occurs within sixty (60) days of the Compliance Date. Provided, however, that such Personal Information may be Disclosed to the extent requested by a government agency or required by law, regulation, or court order.

IV. CIVIL PENALTY AND OTHER MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of one hundred and thirty six million dollars (\$136,000,000) is entered in favor of Plaintiff FTC against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff FTC one hundred thirty six million dollars (\$136,000,000), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within thirty (30) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

C. Judgment in the amount of thirty four million dollars (\$34,000,000) is entered in favor of Plaintiff State of New York against Defendants, jointly and severally, as damages, restitution, or other compensation to its residents.

D. Defendants are ordered to pay to Plaintiff State of New York, by making payment to State of New York Department of Law, thirty four million dollars (\$34,000,000). Such payment must be made within thirty (30) days of entry of this Order by wire transfer in accordance with instructions provided by a representative of Plaintiff State of New York.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission or the State of New York in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission or the State of New York pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers, which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission and the State of New York an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, each Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who have supervisory responsibilities relating to the subject matter of Sections I and II of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission and the State of New York:

A. One year after the Compliance Date, each Defendant must submit a compliance report, sworn under penalty of perjury. In such report, each Defendant must:

1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and the State of New York may use to communicate with that Defendant;
2. Identify all of Defendant's businesses involved in operating the YouTube Service or in Collecting, using, or Disclosing Personal Information from Children on or from the YouTube Service by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. Describe the activities of each such business directly involved with operating the YouTube Service, including the goods and services offered and the means of advertising, marketing, and sales;
4. Describe in detail whether and how Defendants are in compliance with each Section of this Order;
5. Provide a copy of each materially different version of any privacy notice posted on or otherwise applicable to the YouTube Service or sent to users of the YouTube Service;

6. Describe in detail the methods used, if any, to track Child users of the YouTube Service (including methods used for passive tracking and means for users to control or opt out of tracking), and the measures taken to avoid tracking Children;

7. Describe in detail the methods used to Obtain Verifiable Parental Consent prior to any Collection, use, and/or Disclosure of Personal Information from Children through the YouTube Service;

8. Describe in detail the means provided for Parents to review the Personal Information Collected from their Children through the YouTube Service and to refuse to permit its further use or maintenance; and

9. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in: (1) any designated point of contact; or (2) the structure of that Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Each Defendant must submit to the Commission and the State of New York notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission and the State of New York required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

F. Unless otherwise directed by a State of New York representative in writing, all submissions to the State of New York pursuant to this Order must be emailed to ifraud@ag.ny.gov and sent by overnight courier (not the U.S. Postal Service) to: Bureau Chief, Bureau of Internet and Technology, New York State Attorney General’s Office, 28 Liberty Street, New York, New York 10005. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, each Defendant in connection with operating the YouTube Service must create and retain the following records:

A. Accounting records showing the revenues of all goods and services sold;

B. Personnel records showing, for each Person providing services, whether as an employee or otherwise, that Person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission and the State of New York;

D. Records of all consumer complaints relating to the unauthorized Collection, use or Disclosure of Personal Information of Children interacting with the YouTube Service, and any response;

E. A copy of each materially different form, page, or screen created, maintained, or otherwise provided by each Defendant through which Personal Information of Children is Collected through the YouTube Service, and a copy of each materially different document containing any representation regarding Collection, use, and Disclosure practices pertaining to Personal Information from Children Collected through the YouTube Service. Each webpage copy shall be accompanied by the URL of the webpage where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting information on the Internet; and

F. A copy of each unique advertisement, other marketing material, telemarketing script, or other representation related to the Collection of Personal Information of Children that is made in connection with promoting or offering for sale the YouTube Service.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or the State of New York, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and the State of New York are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and the State of New York are authorized to communicate directly with each Defendant. Each Defendant must permit representatives of the Commission and the State of New York to interview any employee or other Person affiliated with Defendant who has agreed to such an interview. The Person interviewed may have counsel present.

C. The Commission and the State of New York may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this ___ day of _____, 2019.

UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFFS

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FOR THE PEOPLE OF THE STATE OF NEW YORK:

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DEFENDANT: GOOGLE LLC



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

DEFENDANT: YOUTUBE, LLC
By: Google LLC, its Managing Member



Date: April 25, 2019

Name: Kent Walker
Title: Senior Vice President, Global Affairs & Chief Legal Officer

APPENDIX A

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, Email, Internet, Online service, Privacy, Record retention, Safety, science and technology, Trade practices, Web site, Youth.

■ Accordingly, for the reasons stated above, the Federal Trade Commission revises part 312 of Title 16 of the Code of Federal Regulations to read as follows:

**PART 312—CHILDREN'S ONLINE
PRIVACY PROTECTION RULE**

Sec.

- 312.1 Scope of regulations in this part.
- 312.2 Definitions.
- 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
- 312.4 Notice.
- 312.5 Parental consent.
- 312.6 Right of parent to review personal information provided by a child.
- 312.7 Prohibition against conditioning a child's participation on collection of personal information.

312.8 Confidentiality, security, and integrity of personal information collected from children.

312.9 Enforcement.

312.10 Data retention and deletion requirements.

312.11 Safe harbor programs.

312.12 Voluntary Commission Approval Processes.

312.13 Severability.

Authority: 15 U.S.C. 6501–6508.

§ 312.1 Scope of regulations in this part.

This part implements the Children's Online Privacy Protection Act of 1998, (15 U.S.C. 6501, *et seq.*) which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information from a child by any means, including but not limited to:

(1) Requesting, prompting, or encouraging a child to submit personal information online;

(2) Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child's postings before they are made public and also to delete such information from its records; or

(3) Passive tracking of a child online.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclose or disclosure means, with respect to personal information:

(1) The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the Web site or online service; and

(2) Making personal information collected by an operator from a child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a Web site or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(1) Receives notice of the operator's personal information collection, use, and disclosure practices; and

(2) Authorizes any collection, use, and/or disclosure of the personal information.

Online contact information means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

Operator means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information is *collected or maintained on behalf of* an operator when:

(1) It is collected or maintained by an agent or service provider of the operator; or

(2) The operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(1) A first and last name;

(2) A home or other physical address including street name and name of a city or town;

(3) Online contact information as defined in this section;

(4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;

(5) A telephone number;

(6) A Social Security number;

(7) A persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;

(8) A photograph, video, or audio file where such file contains a child's image or voice;

(9) Geolocation information sufficient to identify street name and name of a city or town; or

(10) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Release of personal information means the sharing, selling, renting, or transfer of personal information to any third party.

Support for the internal operations of the Web site or online service means:

(1) Those activities necessary to:

(i) Maintain or analyze the functioning of the Web site or online service;

(ii) Perform network communications;

(iii) Authenticate users of, or personalize the content on, the Web site or online service;

(iv) Serve contextual advertising on the Web site or online service or cap the frequency of advertising;

(v) Protect the security or integrity of the user, Web site, or online service;

(vi) Ensure legal or regulatory compliance; or

(vii) Fulfill a request of a child as permitted by § 312.5(c)(3) and (4);

(2) So long as The information collected for the activities listed in paragraphs (1)(i)–(vii) of this definition is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a

profile on a specific individual, or for any other purpose.

Third party means any person who is not:

(1) An operator with respect to the collection or maintenance of personal information on the Web site or online service; or

(2) A person who provides support for the internal operations of the Web site or online service and who does not use or disclose information protected under this part for any other purpose.

Web site or online service directed to children means a commercial Web site or online service, or portion thereof, that is targeted to children.

(1) In determining whether a Web site or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising promoting or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.

(2) A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.

(3) A Web site or online service that is directed to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it:

(i) Does not collect personal information from any visitor prior to collecting age information; and

(ii) Prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.

(4) A Web site or online service shall not be deemed directed to children solely because it refers or links to a commercial Web site or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

(a) Provide notice on the Web site or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));

(b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§ 312.5);

(c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);

(d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and

(e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Direct notice to the parent.* An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(c) *Content of the direct notice to the parent—(1) Content of the direct notice to the parent under § 312.5(c)(1) (Notice*

to Obtain Parent's Affirmative Consent to the Collection, Use, or Disclosure of a Child's Personal Information). This direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child, and, if such is the case, the name of the child or the parent, in order to obtain the parent's consent;

(ii) That the parent's consent is required for the collection, use, or disclosure of such information, and that the operator will not collect, use, or disclose any personal information from the child if the parent does not provide such consent;

(iii) The additional items of personal information the operator intends to collect from the child, or the potential opportunities for the disclosure of personal information, should the parent provide consent;

(iv) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section;

(v) The means by which the parent can provide verifiable consent to the collection, use, and disclosure of the information; and

(vi) That if the parent does not provide consent within a reasonable time from the date the direct notice was sent, the operator will delete the parent's online contact information from its records.

(2) *Content of the direct notice to the parent under § 312.5(c)(2) (Voluntary Notice to Parent of a Child's Online Activities Not Involving the Collection, Use or Disclosure of Personal Information).* Where an operator chooses to notify a parent of a child's participation in a Web site or online service, and where such site or service does not collect any personal information other than the parent's online contact information, the direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child in order to provide notice to, and subsequently update the parent about, a child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information;

(ii) That the parent's online contact information will not be used or disclosed for any other purpose;

(iii) That the parent may refuse to permit the child's participation in the Web site or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and

(iv) A hyperlink to the operator's online notice of its information

practices required under paragraph (d) of this section.

(3) *Content of the direct notice to the parent under § 312.5(c)(4) (Notice to a Parent of Operator's Intent to Communicate with the Child Multiple Times)*. This direct notice shall set forth:

(i) That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;

(ii) That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;

(iii) That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;

(iv) That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;

(v) That if the parent fails to respond to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and

(vi) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(4) *Content of the direct notice to the parent required under § 312.5(c)(5) (Notice to a Parent In Order to Protect a Child's Safety)*. This direct notice shall set forth:

(i) That the operator has collected the name and the online contact information of the child and the parent in order to protect the safety of a child;

(ii) That the information will not be used or disclosed for any purpose unrelated to the child's safety;

(iii) That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;

(iv) That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) *Notice on the Web site or online service*. In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page or screen of its Web site or online service, and, at each area of the Web site or online service

where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience Web site or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the Web site or online service's information practices must state the following:

(1) The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online service. *Provided that:* The operators of a Web site or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice;

(2) A description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information; and

(3) That the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§ 312.5 Parental consent.

(a) *General requirements*. (1) An operator is required to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

(b) *Methods for verifiable parental consent*. (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated,

in light of available technology, to ensure that the person providing consent is the child's parent. (2) Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:

(i) Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;

(ii) Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

(iii) Having a parent call a toll-free telephone number staffed by trained personnel;

(iv) Having a parent connect to trained personnel via video-conference;

(v) Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete; or

(vi) *Provided that*, an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory email to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier email.

(3) *Safe harbor approval of parental consent methods*. A safe harbor program approved by the Commission under § 312.11 may approve its member operators' use of a parental consent method not currently enumerated in paragraph (b)(2) of this section where the safe harbor program determines that such parental consent method meets the requirements of paragraph (b)(1) of this section.

(c) *Exceptions to prior parental consent*. Verifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child *except* as set forth in this paragraph:

(1) Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1). If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the

operator must delete such information from its records;

(2) Where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(2);

(3) Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;

(4) Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(3). An operator will not be deemed to have made reasonable efforts to ensure that a parent receives notice where the notice to the parent was unable to be delivered;

(5) Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of a child, and where such information is not used or disclosed for any purpose unrelated to the child's safety. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to provide a parent with notice as described in § 312.4(c)(4);

(6) Where the purpose of collecting a child's name and online contact information is to:

(i) Protect the security or integrity of its Web site or online service;

(ii) Take precautions against liability;

(iii) Respond to judicial process; or

(iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety; and where such information is not be used for any other purpose;

(7) Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the Web site or online service. In such case, there also shall be no obligation to provide notice under § 312.4; or

(8) Where an operator covered under paragraph (2) of the definition of *Web site or online service directed to children* in § 312.2 collects a persistent identifier and no other personal information from a user who affirmatively interacts with the operator and whose previous registration with that operator indicates that such user is not a child. In such case, there also shall be no obligation to provide notice under § 312.4.

§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a Web site or online service, the operator of that Web site or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children. The operator must also take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintaining the confidentiality, security and integrity of such information, and who provide assurances that they will maintain the information in such a manner.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502 (a) of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Data retention and deletion requirements.

An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.

§ 312.11 Safe harbor programs.

(a) *In general.* Industry groups or other persons may apply to the Commission for approval of self-regulatory program guidelines ("safe harbor programs"). The application shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the application. The Commission shall issue a written determination within 180 days of the filing of the application.

(b) *Criteria for approval of self-regulatory program guidelines.* Proposed safe harbor programs must demonstrate

that they meet the following performance standards:

(1) Program requirements that ensure operators subject to the self-regulatory program guidelines ("subject operators") provide substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8, and 312.10.

(2) An effective, mandatory mechanism for the independent assessment of subject operators' compliance with the self-regulatory program guidelines. At a minimum, this mechanism must include a comprehensive review by the safe harbor program, to be conducted not less than annually, of each subject operator's information policies, practices, and representations. The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.

(3) Disciplinary actions for subject operators' non-compliance with self-regulatory program guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of any action taken against subject operators by the industry group issuing the self-regulatory guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the self-regulatory guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the self-regulatory guidelines; or

(v) Any other equally effective action.

(c) *Request for Commission approval of self-regulatory program guidelines.* A proposed safe harbor program's request for approval shall be accompanied by the following:

(1) A detailed explanation of the applicant's business model, and the technological capabilities and mechanisms that will be used for initial and continuing assessment of subject operators' fitness for membership in the safe harbor program;

(2) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(3) A comparison of each provision of §§ 312.2 through 312.8, and 312.10 with the corresponding provisions of the guidelines; and

(4) A statement explaining:

(i) How the self-regulatory program guidelines, including the applicable assessment mechanisms, meet the requirements of this part; and

(ii) How the assessment mechanisms and compliance consequences required

under paragraphs (b)(2) and (b)(3) provide effective enforcement of the requirements of this part.

(d) *Reporting and recordkeeping requirements.* Approved safe harbor programs shall:

(1) By July 1, 2014, and annually thereafter, submit a report to the Commission containing, at a minimum, an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section, a description of any disciplinary action taken against any subject operator under paragraph (b)(3) of this section, and a description of any approvals of member operators' use of a parental consent mechanism, pursuant to § 312.5(b)(4);

(2) Promptly respond to Commission requests for additional information; and

(3) Maintain for a period not less than three years, and upon request make available to the Commission for inspection and copying:

(i) Consumer complaints alleging violations of the guidelines by subject operators;

(ii) Records of disciplinary actions taken against subject operators; and

(iii) Results of the independent assessments of subject operators' compliance required under paragraph (b)(2) of this section.

(e) *Post-approval modifications to self-regulatory program guidelines.* Approved safe harbor programs must submit proposed changes to their guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(2) of this section. The statement required under paragraph (c)(4) of this section must describe how the proposed changes affect existing provisions of the guidelines.

(f) *Revocation of approval of self-regulatory program guidelines.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory program guidelines or their implementation do not meet the requirements of this part. Safe harbor programs that were approved prior to the publication of the Final Rule amendments must, by March 1, 2013, submit proposed modifications to their guidelines that would bring them into compliance with such amendments, or their approval shall be revoked.

(g) *Operators' participation in a safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§ 312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or

bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator's participation in the safe harbor program, whether the subject operator has taken action to remedy such non-compliance, and whether the operator's non-compliance resulted in any one of the disciplinary actions set forth in paragraph (b)(3).

§ 312.12 Voluntary Commission Approval Processes.

(a) *Parental consent methods.* An interested party may file a written request for Commission approval of parental consent methods not currently enumerated in § 312.5(b). To be considered for approval, a party must provide a detailed description of the proposed parental consent methods, together with an analysis of how the methods meet § 312.5(b)(1). The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request; and

(b) *Support for internal operations of the Web site or online service.* An interested party may file a written request for Commission approval of additional activities to be included within the definition of support for internal operations. To be considered for approval, a party must provide a detailed justification why such activities should be deemed support for internal operations, and an analysis of their potential effects on children's online privacy. The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

§ 312.13 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

By direction of the Commission, Commissioner Rosch abstaining, and Commissioner Ohlhausen dissenting.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Maureen K. Ohlhausen

I voted against adopting the amendments to the Children's Online Privacy Protection Act (COPPA) Rule because I believe a core provision of the amendments exceeds the scope of the authority granted us by Congress in COPPA, the statute that underlies and authorizes the Rule.⁴⁰¹ Before I explain my concerns, I wish to commend the Commission staff for their careful consideration of the multitude of issues raised by the numerous comments in this proceeding. Much of the language of the amendments is designed to preserve flexibility for the industry while striving to protect children's privacy, a goal I support strongly. The final proposed amendments largely strike the right balance between protecting children's privacy online and avoiding undue burdens on providers of children's online content and services. The staff's great expertise in the area of children's privacy and deep understanding of the values at stake in this matter have been invaluable in my consideration of these important issues.

In COPPA Congress defined who is an operator and thereby set the outer boundary for the statute's and the COPPA Rule's reach.⁴⁰² It is undisputed that COPPA places obligations on operators of Web sites or online services directed to children or operators with actual knowledge that they are collecting personal information from

children. The statute provides, "It is unlawful for an operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed [by the FTC]." ⁴⁰³

The Statement of Basis and Purpose for the amendments (SBP) discusses concerns that the current COPPA Rule may not cover child-directed Web sites or services that do not themselves collect children's personal information but may incorporate third-party plug-ins that collect such information ⁴⁰⁴ for the plug-ins' use but do not collect or maintain the information for, or share it with, the child-directed site or service. To address these concerns, the amendments add a new proviso to the definition of operator in the COPPA Rule: "Personal information is collected or maintained on behalf of an operator when: (a) it is collected or maintained by an agent or service provider of the operator; or (b) the operator benefits by allowing another person to collect personal information directly from users of such Web site or online service." ⁴⁰⁵

The proposed amendments construe the term "on whose behalf such information is collected and maintained" to reach child-directed Web sites or services that merely derive from a third-party plug-in some kind of benefit, which may well be unrelated to the collection and use of children's

information (e.g., content, functionality, or advertising revenue). I find that this proviso—which would extend COPPA obligations to entities that do not collect personal information from children or have access to or control of such information collected by a third-party does not comport with the plain meaning of the statutory definition of an operator in COPPA, which covers only entities "on whose behalf such information is collected and maintained." ⁴⁰⁶ In other words, I do not believe that the fact that a child-directed site or online service receives any kind of benefit from using a plug-in is equivalent to the collection of personal information by the third-party plug-in on behalf of the child-directed site or online service.

As the Supreme Court has directed, an agency "must give effect to the unambiguously expressed intent of Congress." ⁴⁰⁷ Thus, regardless of the policy justifications offered, I cannot support expanding the definition of the term "operator" beyond the statutory parameters set by Congress in COPPA.

I therefore respectfully dissent.

[FR Doc. 2012–31341 Filed 1–16–13; 8:45 am]

BILLING CODE 6750–01–P

⁴⁰⁶ This expanded definition of operator reverses the Commission's previous conclusion that the appropriate test for determining an entity's status as an operator is to "look at the entity's relationship to the data collected," using factors such as "who owns and/or controls the information, who pays for its collection and maintenance, the pre-existing contractual relationships regarding collection and maintenance of the information, and the role of the Web site or online service in collecting and/or maintaining the information (i.e., whether the site participates in collection or is merely a conduit through which the information flows to another entity)." Children's Online Privacy Protection Rule 64 FR 59888, 59893, 59891 (Nov. 3, 1999) (final rule).

⁴⁰⁷ *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.").

⁴⁰¹ 15 U.S.C. 6501–6506.

⁴⁰² COPPA, 15 U.S.C. 6501(2), defines the term "operator" as "any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about users of or visitors to such Web site or online service, or on whose behalf such information is collected and maintained * * *" As stated in the Statement of Basis and Purpose for the original COPPA Rule, "The definition of 'operator' is of central importance because it determines who is covered by the Act and the Rule." Children's Online Privacy Protection Rule 64 FR 59888, 59891 (Nov. 3, 1999) (final rule).

⁴⁰³ 15 U.S.C. 6502(a)(1).

⁴⁰⁴ If the third-party plug-ins are child-directed or have actual knowledge that they are collecting children's personal information they are already expressly covered by the COPPA statute. Thus, as the SBP notes, a behavioral advertising network that targets children under the age of 13 is already deemed an operator. The amendment must therefore be aimed at reaching third-party plug-ins that are either not child-directed or do not have actual knowledge that they are collecting children's personal information, which raises a question about what harm this amendment will address. For example, it appears that this same type of harm could occur through general audience Web sites and online services collecting and using visitors' personal information without knowing whether some of the data is children's personal information, which is a practice that COPPA and the amendments do not prohibit.

⁴⁰⁵ 16 CFR 312.2 (Definitions).

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**PLAINTIFFS' UNOPPOSED MOTION
TO ENTER STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”), by and through its undersigned counsel, and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), respectfully move for entry of the attached proposed Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Stipulated Order”) that accompanies this motion. All parties have agreed to the terms of the Stipulated Order, as evidenced by their signatures thereon, to resolve this action. The Commission and the State of New York believe that entry of this Order would most efficiently further the ends of justice in this case. Pursuant to Local Civil Rule 7(m), undersigned counsel conferred with counsel for Google LLC and YouTube, LLC, who indicated that the motion was unopposed prior to filing.

WHEREFORE, Plaintiffs respectfully request that the Court enter the Stipulated Order for Permanent Injunction and Civil Penalty Judgment.

Dated: September 4, 2019

Respectfully Submitted,

LETITIA JAMES
Attorney General of the State of New York

ALDEN F. ABBOTT
General Counsel

Clark P. Russell

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Deputy Bureau Chief
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Email: pmagee@ftc.gov
Email: tgeorge@ftc.gov

Attorneys for Plaintiff Federal Trade Commission

LOCAL RULE 7(k) CERTIFICATION
Names of Persons to Be Served with Proposed Order

Pursuant to Local Rule 7(k), the following attorneys are entitled to be notified of the entry of the foregoing Stipulated Order:

CHRISTOPHER N. OLSEN
LIBBY J. WEINGARTEN
Wilson Sonsini Goodrich & Rosati
1700 K Street, NW
5th Floor
Washington, DC 20006
(202) 973-8800
(202) 973-8899 (fax)
Email: colsen@wsgr.com
Email: lweingarten@wsgr.com

CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

I. (a) PLAINTIFFS FEDERAL TRADE COMMISSION PEOPLE OF THE STATE OF NEW YORK (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS GOOGLE LLC YOUTUBE, LLC COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>Santa Clara</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
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(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Kristin Cohen, Peder Magee, Tiffany George, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326-2276; Clark Russell, Jordan Adler, New York State Attorney General, 28 Liberty St., NY, NY 10005 (212) 416 8422	ATTORNEYS (IF KNOWN) Christopher N. Olsen, Libby Weingarten, Wilson Sonsini Goodrich & Rosata, 1700 K Street, NW, Washington, DC 20006 (202) 973-8800
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II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																								
<input checked="" type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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<input checked="" type="radio"/> E. General Civil (Other)		OR	<input type="radio"/> F. Pro Se General Civil	
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)	

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
Sections 5(a), 13(b) and 16(a)(1) of FTC Act, the Children's Online Privacy Protection Act and COPPA Rule

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>September 4, 2019</u>	SIGNATURE OF ATTORNEY OF RECORD <u>Kristin Krause Cohen</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

EXHIBIT A

Google Presentation to Mattel
Insights on Families Online (partial)



INSIGHTS on FAMILIES online



Confidential + Proprietary

Google

YouTube is today's leader in reaching children age 6-11 against top TV channels

63%

You Tube

YouTube.com

63%

nick

TV Properties

57%

Disney
CHANNEL

TV Properties

49%

CN
CARTOON NETWORK

TV Properties

Google

Source: Nielsen MRI 2015 Kids Study
YouTube Reach in the last 30 days, Desktop Only
Mobile not available

Google

EXHIBIT B

Google Presentation to Hasbro,
Stat Pack: Additional insight into mobile usage among parents +
children (partial)

Google

Stat Pack: Additional insight into mobile usage among parents + children

#1

YouTube is unanimously
voted as the favorite
website of kids 2 - 12



Age 2



Age 3



Age 4



Age 5

Age 6

Age 7

Age 8

Age 9

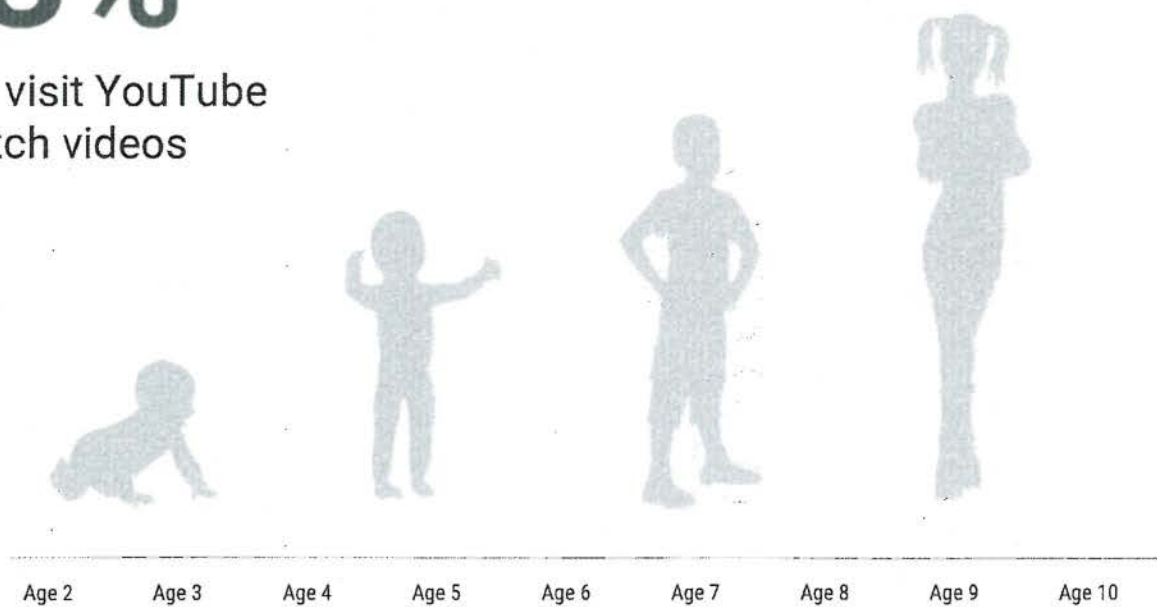
Age 10

Google

Source: The Marketing Store/KidSay, "Global Kids Study", 2014

93%

of tweens visit YouTube
to watch videos



Google

Source: The Marketing Store/Ki/Say, "Global Kids Study", 2014

EXHIBIT C











Google Presentation to Hasbro,
2016 Kids + Family Digital Trends (partial)



2016 Kids + Family Digital Trends

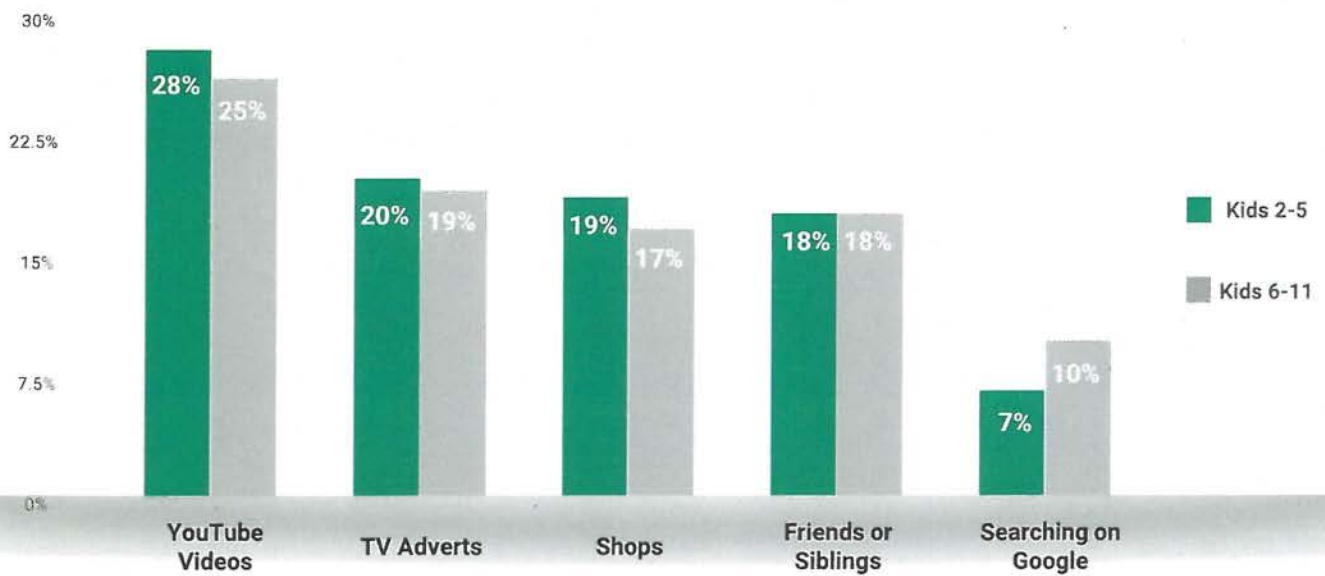
In fact, it's the #1 website regularly visited by kids

INDEXED TO
YOUTUBE REACH

	100		30
	59		28
	37		28
	35		26
	30		24

According to parents...

YouTube is the #1 source where children discover new toys + games



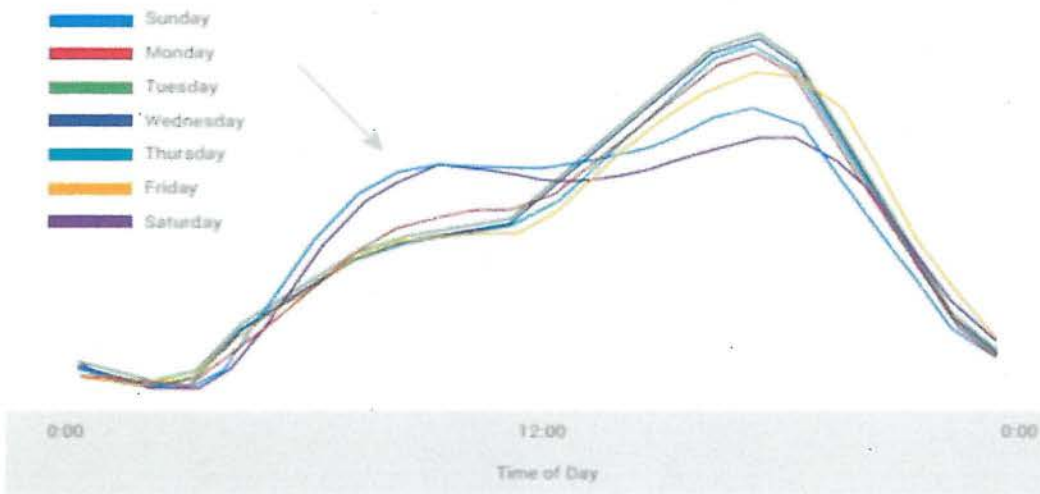
Google

Source: Google Consumer Surveys July 2016, Parents of Children 2-14, 1683 responses

YouTube: The new "Saturday Morning Cartoons"

41% of parents watch family content on YouTube together with their children

W25-49 Watching "Cartoons" on YouTube



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,
600 Pennsylvania Ave., NW
Washington, DC 20580,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,
28 Liberty Street
New York, NY 10005

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,
1600 Amphitheatre Parkway
Mountain View, CA 94043

and

YOUTUBE, LLC,
a Delaware limited liability company,
901 Cherry Ave.
San Bruno, CA 94066

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent

injunction, and other equitable relief for Defendants' violations of the Children's Online Privacy Protection Rule ("Rule" or "COPPA Rule"), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN'S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children's personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained.

Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and

- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.
8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint,

acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

25. In addition to marketing YouTube as a top destination for kids, Defendants have a content rating system that categorizes content into age groups and includes categories for children under 13 years old. In order to align with content policies for advertising, Defendants rate all videos uploaded to YouTube, as well as the channels as a whole. Defendants assign each channel and video a rating of Y (generally intended for ages 0-7); G (intended for any age); PG (generally intended for ages 10+); Teen (generally intended for ages 13+); MA (generally intended for ages 16+); and X (generally intended for ages 18+). Defendants assign these ratings through both automated and manual review. Previously, Defendants also used a classification for certain videos shown on YouTube as "Made for Kids."

26. Defendants do not treat Y rated channels or videos differently for purposes of data collection from other content on YouTube. Defendants continue to allow the channel owner to monetize Y rated content and earn revenue from behavioral advertising. Defendants also had no policy in place to treat content classified as "Made for Kids" differently for purposes of behavioral advertising on YouTube.

27. In 2015, Defendants created a separate mobile application called "YouTube Kids," aimed at children age 2-12, generally using content rated Y or G taken from YouTube on an automated basis. Defendants also specifically curate, through manual review, content that appears on the YouTube Kids home screen, which Defendants refer to as the "home canvas." Content that appears on YouTube Kids continues to be available on YouTube. Unlike Defendants' practices on YouTube, Defendants do not collect persistent identifiers from users of

YouTube Kids in order to serve behavioral advertising. Instead, Defendants monetize YouTube Kids solely through delivery of contextual advertising.

YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
Sections 5(a), 13(b) and 16(a)(1) of FTC Act, the Children's Online Privacy Protection Act and COPPA Rule

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>September 4, 2019</u>	SIGNATURE OF ATTORNEY OF RECORD <u>Kristin Krause Cohen</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

EXHIBIT A

Google Presentation to Mattel
Insights on Families Online (partial)



INSIGHTS on FAMILIES online



Confidential + Proprietary

Google

YouTube is today's leader in reaching children age 6-11 against top TV channels

63%

You Tube

YouTube.com

63%

nick

TV Properties

57%

Disney
CHANNEL

TV Properties

49%

CN
CARTOON NETWORK

TV Properties

Google

Source: Nielsen MRI 2015 Kids Study
YouTube Reach in the last 30 days, Desktop Only
Mobile not available

Google

EXHIBIT B

Google Presentation to Hasbro,
Stat Pack: Additional insight into mobile usage among parents +
children (partial)

Google

Stat Pack: Additional insight into mobile usage among parents + children

#1

YouTube is unanimously
voted as the favorite
website of kids 2 - 12



Age 2



Age 3



Age 4



Age 5

Age 6

Age 7

Age 8

Age 9

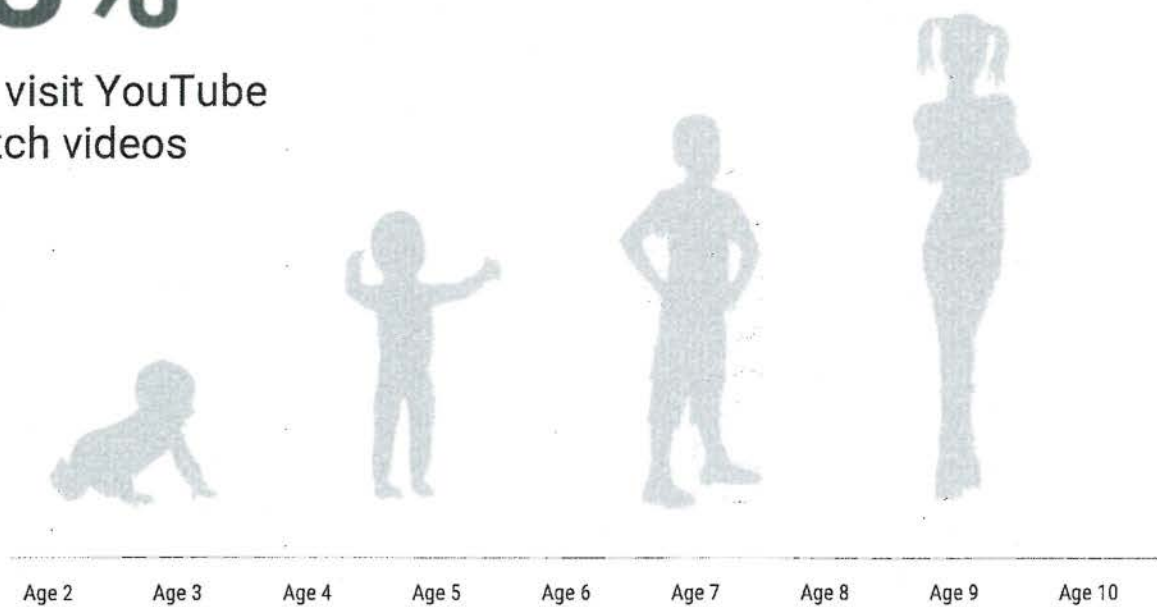
Age 10

Google

Source: The Marketing Store/KidSay, "Global Kids Study", 2014

93%

of tweens visit YouTube
to watch videos



Google

Source: The Marketing Store/Ki/Say, "Global Kids Study", 2014

EXHIBIT C

Google Presentation to Hasbro,
2016 Kids + Family Digital Trends (partial)













2016 Kids + Family Digital Trends



In fact, it's the #1 website regularly visited by kids

INDEXED TO
YOUTUBE REACH

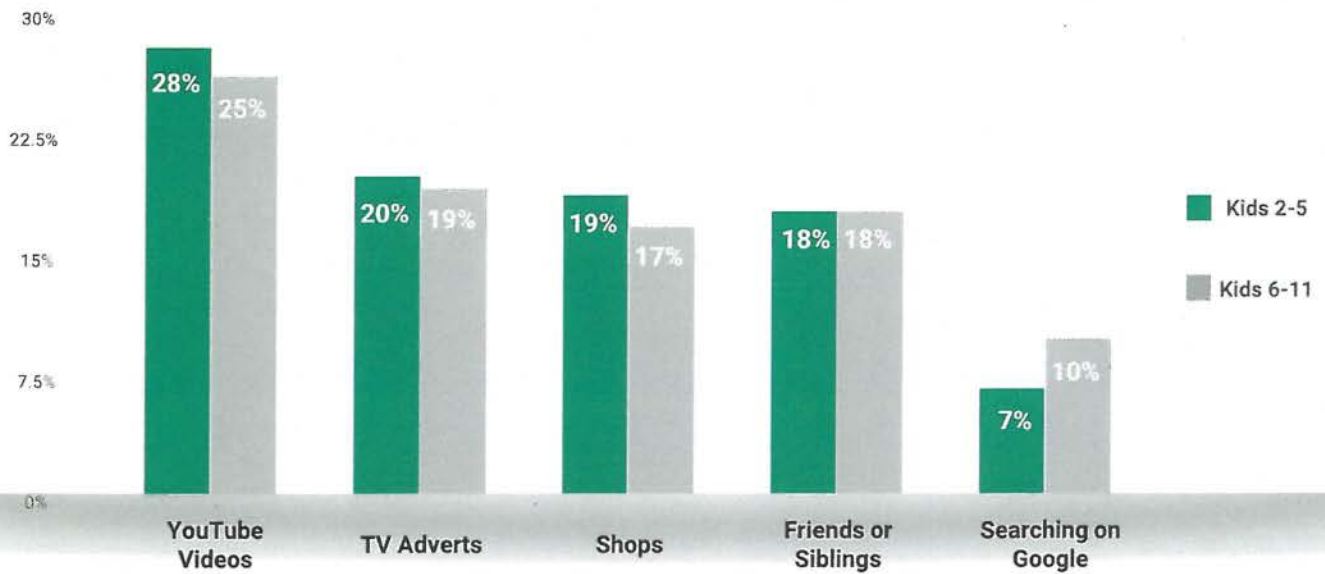
	100		30
	59		28
	37		28
	35		26
	30		24

Google

Source: LMX 2016

According to parents...

YouTube is the #1 source where children discover new toys + games



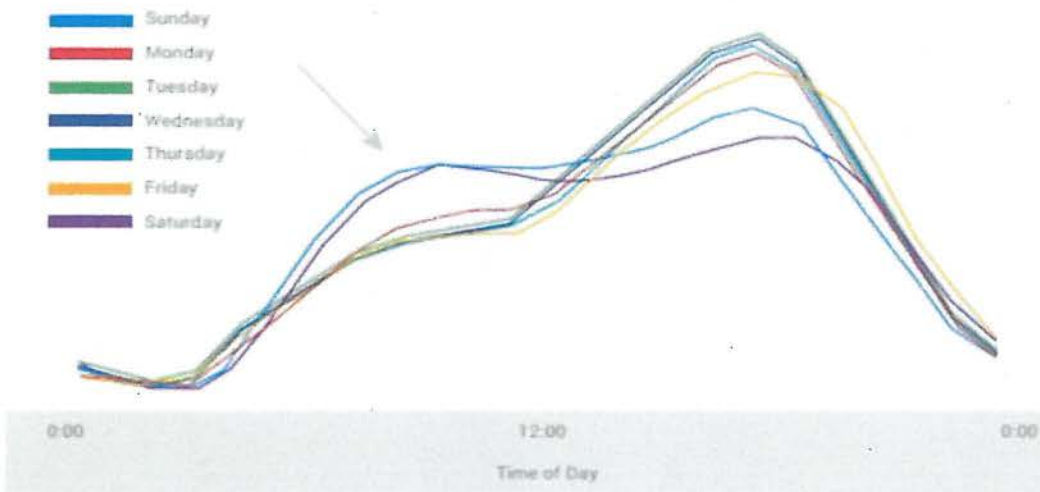
Google

Source: Google Consumer Surveys July 2016, Parents of Children 2-14, 1683 responses

YouTube: The new "Saturday Morning Cartoons"

41% of parents watch family content on YouTube together with their children

W25-49 Watching "Cartoons" on YouTube



Other Documents[1:19-cv-02642 FEDERAL TRADE COMMISSION et al v. GOOGLE LLC et al](#)**U.S. District Court****District of Columbia****Notice of Electronic Filing**

The following transaction was entered by Cohen, Kristin on 9/6/2019 at 3:37 PM and filed on 9/6/2019

Case Name: FEDERAL TRADE COMMISSION et al v. GOOGLE LLC et al

Case Number: [1:19-cv-02642](#)

Filer: FEDERAL TRADE COMMISSION
STATE OF NEW YORK ATTORNEY GENERAL

Document Number: [3](#)

Docket Text:

[ERRATA Complaint for Permanent Injunction, Civil Penalties, and Other Equitable Relief by FEDERAL TRADE COMMISSION, STATE OF NEW YORK ATTORNEY GENERAL. \(Attachments: # \(1\) Exhibit to the Complaint, # \(2\) Civil Cover Sheet\)\(Cohen, Kristin\)](#)

1:19-cv-02642 Notice has been electronically mailed to:

Kristin Krause Cohen kcohen@ftc.gov

1:19-cv-02642 Notice will be delivered by other means to::

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=9/6/2019] [FileNumber=6187837-0]
[5a1e3fc7f0c3acd3664eb355a4a59691e1a30870cd2e892b6b9d579fb54058d2bbf2d
0ac890740d7e377151d09158868f320c8c36acd393f7ef8858d57006694]]

Document description:Exhibit to the Complaint

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=9/6/2019] [FileNumber=6187837-1]
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6b4be7dc7b4768e40ba3846cb1f9f2ce6b8a8db16a54da4e4c227bcc615]]

Document description:Civil Cover Sheet

Original filename:suppressed

Electronic document Stamp:

[STAMP dcecfStamp_ID=973800458 [Date=9/6/2019] [FileNumber=6187837-2]
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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,
600 Pennsylvania Ave., NW
Washington, DC 20580,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,
28 Liberty Street
New York, NY 10005

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,
1600 Amphitheatre Parkway
Mountain View, CA 94043

and

YOUTUBE, LLC,
a Delaware limited liability company,
901 Cherry Ave.
San Bruno, CA 94066

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent

injunction, and other equitable relief for Defendants' violations of the Children's Online Privacy Protection Rule ("Rule" or "COPPA Rule"), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN'S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children's personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained.

Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and

- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.

8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint,

acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

25. In addition to marketing YouTube as a top destination for kids, Defendants have a content rating system that categorizes content into age groups and includes categories for children under 13 years old. In order to align with content policies for advertising, Defendants rate all videos uploaded to YouTube, as well as the channels as a whole. Defendants assign each channel and video a rating of Y (generally intended for ages 0-7); G (intended for any age); PG (generally intended for ages 10+); Teen (generally intended for ages 13+); MA (generally intended for ages 16+); and X (generally intended for ages 18+). Defendants assign these ratings through both automated and manual review. Previously, Defendants also used a classification for certain videos shown on YouTube as "Made for Kids."

26. Defendants do not treat Y rated channels or videos differently for purposes of data collection from other content on YouTube. Defendants continue to allow the channel owner to monetize Y rated content and earn revenue from behavioral advertising. Defendants also had no policy in place to treat content classified as "Made for Kids" differently for purposes of behavioral advertising on YouTube.

27. In 2015, Defendants created a separate mobile application called "YouTube Kids," aimed at children age 2-12, generally using content rated Y or G taken from YouTube on an automated basis. Defendants also specifically curate, through manual review, content that appears on the YouTube Kids home screen, which Defendants refer to as the "home canvas." Content that appears on YouTube Kids continues to be available on YouTube. Unlike Defendants' practices on YouTube, Defendants do not collect persistent identifiers from users of

YouTube Kids in order to serve behavioral advertising. Instead, Defendants monetize YouTube Kids solely through delivery of contextual advertising.

YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff the Federal Trade Commission, pursuant to Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the FTC Act, 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a), and Plaintiff State of New York, pursuant to 15 U.S.C. § 6504(a)(1), and as authorized by the Court's own equitable powers, request that the Court:

A. Enter a permanent injunction to prevent future violations of the FTC Act and the COPPA Rule by Defendants;

B. Award Plaintiff the Federal Trade Commission monetary civil penalties from Defendants for each violation of the COPPA Rule alleged in this Complaint and award Plaintiff State of New York damage, restitution, or other compensation; and

C. Award other and additional relief the Court may determine to be just and proper.

Dated:

Respectfully Submitted,

LETITIA JAMES
Attorney General of the State of New York

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Attorneys for Plaintiff State of New York

Attorneys for Plaintiff Federal Trade Commission

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,
600 Pennsylvania Ave., NW
Washington, DC 20580,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,
28 Liberty Street
New York, NY 10005

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,
1600 Amphitheatre Parkway
Mountain View, CA 94043

and

YOUTUBE, LLC,
a Delaware limited liability company,
901 Cherry Ave.
San Bruno, CA 94066

Defendants.

Case No.: 1:19-cv-2642

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”), by their attorney Letitia James, Attorney General of the State of New York (collectively, “Plaintiffs”), for their Complaint allege that:

1. Plaintiffs bring this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a)(1), and Sections 1303(c), 1305(a)(1), and 1306(d) of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), to obtain monetary civil penalties and damages, restitution, or other compensation, a permanent

injunction, and other equitable relief for Defendants' violations of the Children's Online Privacy Protection Rule ("Rule" or "COPPA Rule"), 16 C.F.R. Part 312, and Section 5 of the FTC Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a), and 15 U.S.C. § 6504(a)(1).

3. Venue is proper in the United States District Court for the District of Columbia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

THE CHILDREN'S ONLINE PRIVACY PROTECTION ACT RULE

4. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children's personal information online by operators of Internet websites and online services. COPPA directed the Commission to promulgate a rule implementing COPPA. The Commission promulgated the COPPA Rule on November 3, 1999, under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57(a)(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

5. The Rule applies to any operator of a commercial website or online service directed to children under 13 years of age that collects, uses, and/or discloses personal information from children, or on whose behalf such information is collected or maintained.

Personal information is “collected or maintained on behalf of an operator when . . . [t]he operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.” 16 C.F.R. § 312.2. The definition of “personal information” includes, among other things, “first and last name,” “online contact information,” and a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services,” such as a “customer number held in a cookie . . . or unique device identifier.” 16 C.F.R. § 312.2.

6. The Rule can also apply to websites or online services that collect personal information from users of other child-directed websites or online services. Under the Rule, a website or online service is “deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.” 16 C.F.R. § 312.2.

7. Among other things, the Rule requires a covered operator to give notice to parents and obtain their verifiable consent before collecting children’s personal information online. 16 C.F.R. §§ 312.4 and 312.5. This includes but is not limited to:

- a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
- b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures directly to parents; and

- c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children.
8. The Rule prohibits the collection of persistent identifiers for behavioral advertising absent notice and verifiable parental consent. 16 C.F.R. §§ 312.5(c)(7), 312.2. Behavioral advertising, which also is referred to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online activities in order to deliver tailored advertising based on the consumer's inferred interests.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 56(a)(2)(A). The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations of the COPPA Rule, if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. §§ 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and failed to initiate the proceeding within 45 days.

10. Plaintiff the People of the State of New York is represented by and through its Attorney General Letitia James.

DEFENDANTS

11. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California. Google LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint,

acting alone or in concert with others, Google LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant YouTube, LLC, Google LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

12. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California and is a wholly owned subsidiary of Google LLC. YouTube, LLC transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google LLC, YouTube, LLC formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

14. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “obtaining verifiable consent,” “third party,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

OVERVIEW

15. As described below, commercial entities operating child-directed “channels” on Defendants’ YouTube platform are “operators” under the COPPA Rule, as they permit Defendants to collect personal information, such as persistent identifiers for use in behavioral advertising, on behalf of those commercial entities. In numerous instances, Defendants have actual knowledge they are collecting personal information directly from users of these child-directed channels. Through this actual knowledge, Defendants are deemed to be operators of a website or online service directed to children. At no time have Defendants attempted to provide parents with the COPPA-specified notice of their information practices or obtain verifiable parental consent.

DEFENDANTS’ BUSINESS PRACTICES

16. Defendants provide a video-sharing platform on the Internet at www.youtube.com and on mobile applications (collectively, “YouTube”) on which, among other things, consumers can view videos or upload video content to share.

17. In general, Defendants do not require users to register or create an account in order to view videos on YouTube. As a result, anyone can view most content on YouTube regardless of age. Defendants do limit certain activities on the platform, such as commenting on videos, to users that are logged in to a Google account. Comments can display the user’s name and are publicly available for others to view.

18. In order to create a Google account, Defendants require the user to provide first and last name, e-mail address, and date of birth. A user can create an account by linking to an account “set up” page from any video or channel on YouTube, including videos and channels that are directed to children. Defendants prevent users who identify as under 13 from creating an

account. Users are not automatically logged off when they exit YouTube; as a result, many users are logged in for extended periods of time.

19. In order to upload content on YouTube, users must have a Google account and then can create a “channel” to display their content. These users (“channel owners”) can set “key words” for their channel that help other users searching for videos on YouTube find their channel. Channel owners can also set key words for individual videos they upload and choose whether to enable comments.

20. Eligible channel owners, which include commercial entities, can “monetize” their channel by allowing Defendants to serve advertisements to viewers, for which the channel owners and the Defendants earn revenue. Defendants enable behavioral advertising by default on monetized channels. When a channel owner monetizes a channel, Defendants collect information associated with a viewer’s cookie or mobile advertising identifier in order to track the viewer’s online activities and serve advertising that is specifically tailored to the viewer’s inferred interests.

21. Beginning in January 2016, Defendants offered channel owners the option to disable behavioral advertising on their monetized channels. To turn off behavioral ads, the channel owners are required to actively check a box in the “Advertisements” section of YouTube’s “Advanced Video Manager Options” menu. The checkbox that allows the channel owner to opt out of behavioral advertising contains text stating that doing so “may significantly reduce [the] channel’s revenue.” When a channel owner opts out of behavioral advertisements on a monetized channel, Defendants serve contextual advertising on the channel, which generates less revenue for the channel owner and Defendants.

22. Defendants provide additional options for channel owners to earn revenue through remarketing to viewers of their channels when they visit other websites and online services. For example, a toy company with a YouTube channel can set its account so that it serves advertisements for its toys to viewers of its channel when they visit other websites. Defendants also earn revenue when channel owners remarket to viewers of their channels.

YouTube and Kids

23. Defendants market YouTube to popular brands of children's products and services as a top destination for kids. For example, in a presentation to toy brand Mattel, maker of Barbie and Monster High, entitled "Insights on Families Online," Defendants stated, "YouTube is today's leader in reaching children age 6-11 against top TV channels." *See* Exhibit A (Google Presentation to Mattel, Insights on Families Online (partial)). In a presentation provided to toy brand, Hasbro, maker of My Little Pony and Play-Doh, Defendants claimed that "YouTube was unanimously voted as the favorite website for kids 2-12," and that "93% of tweens visit YouTube to watch videos." *See* Exhibit B (Google Presentation to Hasbro, Stat Pack: Additional insight into mobile usage among parents + children (partial)). In another presentation to Hasbro, Defendants referred to YouTube as "[t]he new 'Saturday Morning Cartoons.'" *See* Exhibit C (Google Presentation to Hasbro, 2016 Kids + Family Digital Trends (partial)). That presentation also claimed that YouTube was the "#1 website regularly visited by kids" and "the #1 source where children discover new toys + games." *Id.*

24. Despite marketing YouTube as the "favorite website for kids 2-12," Defendants asserted on other occasions in email exchanges that channels on the platform did not need to comply with COPPA. For example, in response to one advertising company's questions regarding advertising on YouTube as it relates to a toy company and COPPA, Defendant

Google's employee responded, "we don't have users that are below 13 on YouTube and platform/site is general audience, so there is no channel/content that is child-directed and no COPPA compliance is needed."

25. In addition to marketing YouTube as a top destination for kids, Defendants have a content rating system that categorizes content into age groups and includes categories for children under 13 years old. In order to align with content policies for advertising, Defendants rate all videos uploaded to YouTube, as well as the channels as a whole. Defendants assign each channel and video a rating of Y (generally intended for ages 0-7); G (intended for any age); PG (generally intended for ages 10+); Teen (generally intended for ages 13+); MA (generally intended for ages 16+); and X (generally intended for ages 18+). Defendants assign these ratings through both automated and manual review. Previously, Defendants also used a classification for certain videos shown on YouTube as "Made for Kids."

26. Defendants do not treat Y rated channels or videos differently for purposes of data collection from other content on YouTube. Defendants continue to allow the channel owner to monetize Y rated content and earn revenue from behavioral advertising. Defendants also had no policy in place to treat content classified as "Made for Kids" differently for purposes of behavioral advertising on YouTube.

27. In 2015, Defendants created a separate mobile application called "YouTube Kids," aimed at children age 2-12, generally using content rated Y or G taken from YouTube on an automated basis. Defendants also specifically curate, through manual review, content that appears on the YouTube Kids home screen, which Defendants refer to as the "home canvas." Content that appears on YouTube Kids continues to be available on YouTube. Unlike Defendants' practices on YouTube, Defendants do not collect persistent identifiers from users of

YouTube Kids in order to serve behavioral advertising. Instead, Defendants monetize YouTube Kids solely through delivery of contextual advertising.

YouTube Hosts Numerous Child-Directed Channels

28. YouTube hosts numerous channels that are “directed to children” under the COPPA Rule. Pursuant to Section 312.2 of the COPPA Rule, the determination of whether a website or online service is directed to children depends on factors such as the subject matter, visual content, language, and use of animated characters or child-oriented activities and incentives. An assessment of these factors demonstrates that numerous channels on YouTube have content directed to children under the age of 13, including those described below in Paragraphs 29-40. Many of these channels self-identify as being for children as they specifically state, for example in the “About” section of their YouTube channel webpage or in communications with Defendants, that they are intended for children. In addition, many of the channels include other indicia of child-directed content, such as the use of animated characters and/or depictions of children playing with toys and engaging in other child-oriented activities. Moreover, Defendants’ automated system selected content from each of the channels described in Paragraphs 29-40 to appear in YouTube Kids, and in many cases, Defendants manually curated content from these channels to feature on the YouTube Kids home canvas.

29. Toy brand Mattel has several popular YouTube channels, including Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels regularly appears on YouTube Kids and has been featured on its home canvas. These channels each show videos related to popular children’s toys. For example, the Barbie YouTube channel has animated videos with Barbie and her friends, including, for example, “Meet the Junior Rainbow Princesses.” The channel also includes episodes of “Barbie Dreamtopia,” a show the

channel owner describes as “targeting 3-6 year olds.” The key words the channel owner set that help viewers find the Barbie channel on YouTube include “Barbie doll” and “Malibu Dreamhouse.” According to Mattel, the target demographic for Monster High is girls ages 6-10. Defendants gave the Thomas & Friends channel a rating of Y.

30. Cartoon Network is a popular YouTube channel that shows animated kids television shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Defendants selected a clip from the Cartoon Network YouTube channel in a “Creating for Kids Playbook,” as a resource for other channels looking to make family-friendly content. In one marketing presentation, Defendants referred to the channel as a “popular YouTube Channel[] kids are watching.”

31. Hasbro’s popular YouTube channel shows episodes of many animated kids programs, including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. According to the channel owner, the target demographic for My Little Pony is children ages 5-8 and the Hanazuki show is aimed at children ages 8-10.

32. Dreamworks TV is a popular YouTube channel that shows several animated children’s shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The “About” section of its YouTube channel webpage describes the channel as “made just for kids!” The channel owner uses key words for its channel that include “kung fu panda,” “how to train your dragon,” and “YouTube Kids.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

33. YouTube channel Masha and the Bear shows animated videos about a girl named Masha and her friend, a bear. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The popular YouTube channel's "About" section on its YouTube channel webpage says the channel is "entertaining and educating both [for] children and parents." In a presentation provided to Defendants, the show's creator describes the target audience for Masha and the Bear as children ages 3-9. Defendants gave the channel a rating of Y, both through their automated and manual review. The channel uses key words that include "kids cartoons." In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids for a 90-day period in 2016.

34. YouTube channel Bratayley is a popular channel featuring children engaging in a variety of scenarios with their parents. The channel's content regularly appears on YouTube Kids and is featured on its home canvas. The "About" section of its YouTube channel webpage states: "Family friendly content EVERYDAY? Yep. That's right. Watch these crazy kids as they make everyday an adventure." Episodes of the show include "Epic Pillow Fight" and "Annie's Hair is Purple?!" In one email, Defendants' employee lists Bratayley as targeting children ages 8-10, based on Defendants' Age Classifier tool. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

35. YouTube channel CookieSwirlC is a popular children's unboxing channel, which includes videos with titles such as, "Giant Rainbow Castle! Barbie Princess + Fairy Tea Party – Toy Video." Unboxing videos feature products, often toys, being removed from boxes and a demonstration of how the products work. The channel's content regularly appears on YouTube Kids and has been featured on its home canvas. In the "About" section on its YouTube channel

webpage, CookieSwirlC describes itself as a “unique toy channel bursting with . . . family friendly videos inspired by sugary cute toys . . .” Although Defendants rated the CookieSwirlC channel as G, Defendants also rated several of the videos appearing on the channel as Y, meaning those videos were generally intended for viewers age 0-7. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

36. YouTube channel Sandaroo Kids is a popular channel showing “family friendly parodies and skits for kids.” The channel’s content regularly appears on YouTube Kids. The “About” section on its YouTube channel webpage says, “We love dressing in Disney Princess Costumes, playing pranks and teaching kids how to learn colors.” The channel includes videos with titles such as “Barbie & Ken Dolls Fashion Show Party With Doll Ambulance.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

37. YouTube channel EvanTubeHD is a popular channel in which Evan, currently 13 years old, reviews toys and video games. Evan’s first YouTube video was posted in 2011, when he was just 5 years old. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. The channel says in the “About” section on its YouTube channel webpage that it is for those viewers “looking for fun family-friendly YouTube content,” and that the channel “is all about KID FUN.” In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

38. YouTube channel Little Baby Bum is a popular channel, showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and has been featured on its home canvas. Video titles on the channel include, “Bath Song” and “New Baby

Brother & Sister.” The “About” section on its YouTube channel webpage describes it as “[t]he best nursery rhyme videos for children on YouTube.” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

39. YouTube channel Mother Goose Club is a popular channel showing videos of well-known nursery rhymes. The channel’s content regularly appears on YouTube Kids and is featured on its home canvas. Video titles on the channel include “The Wheels on the Bus Go Round and Round” and “Hickory Dickory Dock Rocks.” The “About” section on its YouTube channel webpage says the channel has “[t]he best nursery rhyme videos for children on YouTube[.]” Defendants gave the channel a rating of Y. In addition, at least one video appearing on this channel was one of the most popular videos on YouTube Kids during a 90-day period in 2016.

40. YouTube channel Toyscouter is a popular channel with nursery rhyme videos, such as “Head, Shoulders, Knees and Toes Nursery Rhyme with Rapunzel!”, and unboxing videos, such as “Giant Disney Jr Surprise Eggs.” The channel’s content regularly appears on YouTube Kids. The “About” section of its YouTube channel webpage says the channel is “striv[ing] to entertain kids.”

41. Defendants earned close to \$50 million from behavioral advertising on these channels, which represent only a few examples of the possible universe of child-directed content on YouTube.

Defendants Operate an Online Service Directed to Children

42. A website or online service is deemed directed to children where it has actual knowledge it is collecting personal information directly from users of another website or online

service directed to children. 16 C.F.R. § 312.2. In numerous instances, as described in Paragraphs 16-40, Defendants have actual knowledge that they collect personal information, including persistent identifiers for use in behavioral advertising, from viewers of channels and content directed to children under 13 years of age. Defendants gained actual knowledge through, among other things, direct communications with channels owners, their work curating specific content for the YouTube Kids App, and their content ratings.

43. In promoting YouTube Kids, Defendants work and communicate with numerous owners of child-directed channels. Defendants direct their employees to review and determine which content on YouTube is appropriate to feature on YouTube Kids' home canvas. In numerous instances, through these communications and the manual curation process, Defendants obtain actual knowledge of the child-directed nature of YouTube channels, including those described in Paragraphs 29-40.

44. In numerous instances, Defendants have knowledge of the age of the channel's target audience, either through communications with the channel owners or through its own research. In the case of the Barbie, Monster High, Hasbro, and Masha and the Bear channels, described in Paragraphs 29, 31, and 33, the channel owners specifically informed Defendants that content appearing on their channels is directed to children under 13 years old. In other instances, Defendants determined that content on certain channels is child-directed. For example, in one email Defendants noted that their Age Classifier tool had determined Bratayley, EvanTube, and Cartoon Network appealed to children under 13 years old.

45. Defendants created numerous presentations to kids' brands, including toy companies, in which Defendants highlighted various channels as popular with kids. For example, a 2016 presentation listed multiple channels under the heading "Popular YouTube

Channels Kids Are Watching,” and included Cartoon Network, Bratayley, DisneyCarToys (now Sandaroo Kids), EvanTube, Little Baby Bum, CookieSwirlC, and Mother Goose Club. Another presentation stated that “9 of top channels globally are kids,” and included ToyScouter, Little Baby Bum, and Masha and the Bear, while another specifically mentioned Barbie, DreamworksTV, and Mother Goose Club as “kids case studies.”

46. As described in Paragraph 25, Defendants use both automated and manual means to review channels and videos on YouTube and assign them specific content ratings. Defendants assigned some channels and content on YouTube a Y rating, which means the channel or video is generally intended for children ages 0-7.

47. At no time did Defendants attempt to obtain verifiable parental consent from parents of viewers of these child-directed channels prior to the collection of personal information or provide parents with the COPPA-specified notice of their information practices.

VIOLATIONS OF THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

Count I

48. Defendants are “operators” as defined by the Rule, 16 C.F.R. 312.2.

49. Defendants collect personal information from children under the age of 13 through YouTube channels that are websites or online services directed to children. Defendants have actual knowledge, as described in Paragraphs 16-47, that they collect personal information directly from users of these child-directed websites or online services. Therefore, under the COPPA Rule, Defendants are deemed to be operators of a child directed website or online service.

50. In numerous instances, in connection with the acts and practices described above, Defendants collected, used, and/or disclosed personal information from children in violation of the Rule, including by:

- a. Failing to provide sufficient notice on their website or online service of the information they collect, or is collected on their behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information Defendants collect, or information collected on Defendants' behalf, online from children, how they use such information, their disclosure practices, and all other required content, in violation of Sections 312.4(b) and (c) of the Rule, 16 C.F.R. § 312.4(b)-(c); and
- c. Failing to obtain verifiable parental consent before any collection or use of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5.

51. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THIS COURT'S POWER TO GRANT RELIEF

52. Defendants violated the COPPA Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

53. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff the Federal Trade Commission seeks monetary civil penalties.

54. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §2461, amended by the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Public Law 114-74, sec. 701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$42,530 for each such violation of the Rule assessed after February 14, 2019.

55. Each collection, use, or disclosure of a child's personal information in which Defendants violated the Rule in one or more ways described above constitutes a separate violation for which Plaintiff State of New York seeks damages, restitution, or other compensation.

56. Section 1305(a)(1) of COPPA, 15 U.S.C. § 6504(a)(1), authorizes Plaintiff State of New York to bring a civil action on behalf of the residents of New York for violations of the COPPA Rule, 16 C.F.R. Part 312, to enjoin the violations, enforce compliance with the Rule, obtain damages, restitution, or other compensation, or obtain such other relief as the Court may deem appropriate.

57. Section 13(b) of the FTC Act, U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,

and

PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiffs,

vs.

GOOGLE LLC,
a Delaware limited liability company,

and

YOUTUBE, LLC,
a Delaware limited liability company,

Defendants.

Case No.: 1:19-cv-02642

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
CIVIL PENALTY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and The People of the State of New York (“State of New York”) (collectively, “Plaintiffs”) filed their Complaint for Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6502(c), 6504(a)(1), and 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R. Part 312. Defendants have waived service of the summons and the Complaint. Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants violated the COPPA Rule and Section 5 of the FTC Act, 15 U.S.C. § 45, by failing to post a privacy policy on their online service providing clear, understandable, and complete notice of their information practices with respect to the Collection of Personal Information from Children, failing to provide direct notice to Parents of such information practices, and failing to Obtain Verifiable Parental Consent prior to Collecting, using, or Disclosing Personal Information from Children.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. **“Channel Owner”** means individuals or entities who upload videos onto the YouTube Service.
- B. **“Child”** or **“Children”** means an individual or individuals under the age of 13.

C. **“Clear and Conspicuous”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as Children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

D. “**Collects**” or “**Collection**” means the gathering of any Personal Information from a Child by any means, including but not limited to:

1. Requesting, prompting, or encouraging a Child to submit Personal Information online;
2. Enabling a Child to make Personal Information publicly available in identifiable form. An Operator shall not be considered to have Collected Personal Information if it takes reasonable measures to Delete all or virtually all Personal Information from a Child’s postings before they are made public and also to Delete such Personal Information from its records; or
3. Passive tracking of a Child online.

E. “**Compliance Date**” means four months after entry of this Order.

F. “**Content**” means any video or channel page found on the YouTube Service.

G. “**Defendants**” means Google LLC, a Delaware limited liability company, and YouTube, LLC, a Delaware limited liability company, and their successors and assigns.

H. “**Delete**” means to remove Personal Information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

I. “**Disclose**” or “**Disclosure**” means, with respect to Personal Information:

1. The Release of Personal Information Collected by an Operator from a Child in identifiable form for any purpose, except where an Operator provides such information to a Person who provides Support for the Internal Operations of the Website or Online Service; and
2. Making Personal Information Collected by an Operator from a Child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a website or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

J. **“Internet”** means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

K. **“Obtaining Verifiable Parental Consent”** means making any reasonable effort (taking into consideration available technology) to ensure that before Personal Information is Collected from a Child, a Parent of the Child:

1. Receives notice of the Operator’s Personal Information Collection, use, and Disclosure practices; and
2. Authorizes any Collection, use, and/or Disclosure of the Personal Information, using a method reasonably calculated, in light of available technology, to ensure that the Person providing consent is the Child’s Parent.

L. **“Online Contact Information”** means an email address or any other substantially similar identifier that permits direct contact with a Person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

M. **“Operator”** means any Person who operates a website located on the Internet or an online service and who Collects or maintains Personal Information from or about the users of or visitors to such website or online service, or on whose behalf such information is Collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with one or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45). Personal Information *is Collected or maintained on behalf of* an Operator when:

1. It is Collected or maintained by an agent or service provider of the Operator; or
2. The Operator benefits by allowing another Person to Collect Personal Information directly from users of such website or online service.

N. **“Parent”** includes a legal guardian.

O. **“Person”** means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

P. **“Personal Information”** means individually identifiable information about an individual Collected online, including:

1. A first and last name;
2. A home or other physical address including street name and name of a city or town;
3. Online Contact Information;
4. A screen or user name where it functions in the same manner as Online Contact Information;
5. A telephone number;
6. A Social Security number;
7. A persistent identifier that can be used to recognize a user over time and across different websites or online services, where such persistent identifier is used for functions other than or in addition to Support for the Internal Operations of the Website or Online Service. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;
8. A photograph, video, or audio file where such file contains a Child’s image or voice;
9. Geolocation information sufficient to identify street name and name of a city or town; or
10. Information concerning the Child or the Parents of that Child that the Operator Collects online from the Child and combines with an identifier described in this definition.

Q. **“Release of Personal Information”** means the sharing, selling, renting, or transfer of Personal Information to any Third Party.

R. **“Support for the Internal Operations of the Website or Online Service”** means

1. Those activities necessary to:
 - a) Maintain or analyze the functioning of the website or online service;
 - b) Perform network communications;
 - c) Authenticate users of, or personalize the content on, the website or online service;
 - d) Serve contextual advertising on the website or online service or cap the frequency of advertising;
 - e) Protect the security or integrity of the user, website, or online service;
 - f) Ensure legal or regulatory compliance; or
 - g) Fulfill a request of a Child as permitted by Section 312.5(c)(3) and (4) of the COPPA Rule (attached as Appendix A);
2. So long as the information Collected for these activities listed in 1(a) – (g) is not used or Disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

S. **“Third Party”** means any Person who is not:

1. An Operator with respect to the Collection or maintenance of Personal Information on the website or online service; or
2. A Person who provides Support for the Internal Operations of the Website or Online Service and who does not use or Disclose information protected under the COPPA Rule (attached as Appendix A).

T. **“Website or Online Service Directed to Children”** means a commercial website or online service, or portion thereof, that is targeted to Children.

1. In determining whether a website or online service, or a portion thereof, is directed to Children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to Children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to Children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.
2. A website or online service shall be deemed directed to Children when it has actual knowledge that it is Collecting Personal Information directly from users of another Website or Online Service Directed to Children.
3. A website or online service that is directed to Children under the criteria set forth in paragraph (1) of this definition, but that does not target Children as its primary audience, shall not be deemed directed to Children if it:

- a) Does not Collect Personal Information from any visitor prior to Collecting age information; and
- b) Prevents the Collection, use, or Disclosure of Personal Information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of the COPPA Rule (attached as Appendix A).

4. A website or online service shall not be deemed directed to Children solely because it refers or links to a commercial Website or Online Service Directed to Children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

U. “YouTube Service” means the general audience YouTube user-generated video-sharing platform(s), currently at www.youtube.com and on YouTube mobile application(s), on which, among other things, consumers can view videos or upload videos to share.

ORDER

I. INJUNCTION CONCERNING DESIGNATING CONTENT ON THE YOUTUBE SERVICE AS DIRECTED TO CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating the YouTube Service, are permanently restrained and enjoined from:

A. Failing to develop, implement, and maintain a system for Channel Owners to designate whether their Content on the YouTube Service is directed to Children. Such system

shall include a Clear and Conspicuous notice that Content made available on the YouTube Service that is directed to Children may be subject to the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A) and that Channel Owners are obligated to designate such Content as directed to Children; and

B. Failing to provide annual training regarding complying with the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), for each Person responsible for managing Defendants' relationships with Channel Owners on the YouTube Service.

II. INJUNCTION CONCERNING COLLECTION OF PERSONAL INFORMATION FROM CHILDREN

IT IS ORDERED that, no later than the Compliance Date, Defendants and Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with operating a Website or Online Service Directed to Children on the YouTube Service are hereby permanently restrained and enjoined from:

A. Failing to make reasonable efforts, taking into account available technology, to ensure that a Parent of a Child receives direct notice of Defendants' practices with regard to the Collection, use, or Disclosure of Personal Information from Children, including notice of any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

B. Failing to post a prominent and clearly labeled link to an online notice of its information practices with regard to Children on the home or landing page or screen of its

website or online service, and at each area of the website or online service where Personal Information is Collected from Children, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to providing such notice;

C. Failing to Obtain Verifiable Parental Consent before any Collection, use, or Disclosure of Personal Information from Children, including consent to any material change in the Collection, use, or Disclosure practices to which the Parent has previously consented, unless the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A), provides an exception to Obtaining Verifiable Parental Consent; and

D. Violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 (attached as Appendix A).

**III. INJUNCTION CONCERNING USE OF PREVIOUSLY
COLLECTED PERSONAL INFORMATION**

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, are ordered to refrain, within ninety (90) days of the Compliance Date, from Disclosing, using, or benefitting from Personal Information previously Collected from users of Content that is designated as directed to Children by a Channel Owner under the system required under Section I.A. above, as long as such designation occurs within sixty (60) days of the Compliance Date. Provided, however, that such Personal Information may be Disclosed to the extent requested by a government agency or required by law, regulation, or court order.

IV. CIVIL PENALTY AND OTHER MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of one hundred and thirty six million dollars (\$136,000,000) is entered in favor of Plaintiff FTC against Defendants, jointly and severally, as a civil penalty.

B. Defendants are ordered to pay to Plaintiff FTC one hundred thirty six million dollars (\$136,000,000), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within thirty (30) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

C. Judgment in the amount of thirty four million dollars (\$34,000,000) is entered in favor of Plaintiff State of New York against Defendants, jointly and severally, as damages, restitution, or other compensation to its residents.

D. Defendants are ordered to pay to Plaintiff State of New York, by making payment to State of New York Department of Law, thirty four million dollars (\$34,000,000). Such payment must be made within thirty (30) days of entry of this Order by wire transfer in accordance with instructions provided by a representative of Plaintiff State of New York.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission or the State of New York in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission or the State of New York pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers, which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission and the State of New York an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, each Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who have supervisory responsibilities relating to the subject matter of Sections I and II of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission and the State of New York:

A. One year after the Compliance Date, each Defendant must submit a compliance report, sworn under penalty of perjury. In such report, each Defendant must:

1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and the State of New York may use to communicate with that Defendant;
2. Identify all of Defendant's businesses involved in operating the YouTube Service or in Collecting, using, or Disclosing Personal Information from Children on or from the YouTube Service by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. Describe the activities of each such business directly involved with operating the YouTube Service, including the goods and services offered and the means of advertising, marketing, and sales;
4. Describe in detail whether and how Defendants are in compliance with each Section of this Order;
5. Provide a copy of each materially different version of any privacy notice posted on or otherwise applicable to the YouTube Service or sent to users of the YouTube Service;

6. Describe in detail the methods used, if any, to track Child users of the YouTube Service (including methods used for passive tracking and means for users to control or opt out of tracking), and the measures taken to avoid tracking Children;

7. Describe in detail the methods used to Obtain Verifiable Parental Consent prior to any Collection, use, and/or Disclosure of Personal Information from Children through the YouTube Service;

8. Describe in detail the means provided for Parents to review the Personal Information Collected from their Children through the YouTube Service and to refuse to permit its further use or maintenance; and

9. Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in: (1) any designated point of contact; or (2) the structure of that Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Each Defendant must submit to the Commission and the State of New York notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission and the State of New York required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

F. Unless otherwise directed by a State of New York representative in writing, all submissions to the State of New York pursuant to this Order must be emailed to ifraud@ag.ny.gov and sent by overnight courier (not the U.S. Postal Service) to: Bureau Chief, Bureau of Internet and Technology, New York State Attorney General’s Office, 28 Liberty Street, New York, New York 10005. The subject line must begin: FTC v. Google LLC and YouTube, LLC, FTC File No. 1723083.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, each Defendant in connection with operating the YouTube Service must create and retain the following records:

A. Accounting records showing the revenues of all goods and services sold;

B. Personnel records showing, for each Person providing services, whether as an employee or otherwise, that Person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission and the State of New York;

D. Records of all consumer complaints relating to the unauthorized Collection, use or Disclosure of Personal Information of Children interacting with the YouTube Service, and any response;

E. A copy of each materially different form, page, or screen created, maintained, or otherwise provided by each Defendant through which Personal Information of Children is Collected through the YouTube Service, and a copy of each materially different document containing any representation regarding Collection, use, and Disclosure practices pertaining to Personal Information from Children Collected through the YouTube Service. Each webpage copy shall be accompanied by the URL of the webpage where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting information on the Internet; and

F. A copy of each unique advertisement, other marketing material, telemarketing script, or other representation related to the Collection of Personal Information of Children that is made in connection with promoting or offering for sale the YouTube Service.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or the State of New York, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and the State of New York are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and the State of New York are authorized to communicate directly with each Defendant. Each Defendant must permit representatives of the Commission and the State of New York to interview any employee or other Person affiliated with Defendant who has agreed to such an interview. The Person interviewed may have counsel present.

C. The Commission and the State of New York may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this 10th day of September, 2019.


UNITED STATES DISTRICT JUDGE

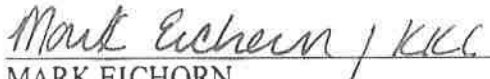
SO STIPULATED AND AGREED:

FOR PLAINTIFFS


FEDERAL TRADE COMMISSION:




MANEESHA MITHAL
Associate Director
Division of Privacy and Identity Protection



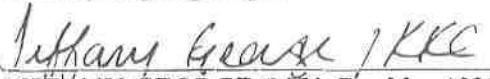
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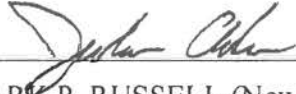


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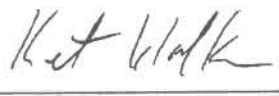
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By: Google LLC, its Managing Member



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APPENDIX A

List of Subjects in 16 CFR Part 312

Children, Communications, Consumer protection, Electronic mail, Email, Internet, Online service, Privacy, Record retention, Safety, science and technology, Trade practices, Web site, Youth.

■ Accordingly, for the reasons stated above, the Federal Trade Commission revises part 312 of Title 16 of the Code of Federal Regulations to read as follows:

PART 312—CHILDREN'S ONLINE PRIVACY PROTECTION RULE

Sec.

- 312.1 Scope of regulations in this part.
- 312.2 Definitions.
- 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.
- 312.4 Notice.
- 312.5 Parental consent.
- 312.6 Right of parent to review personal information provided by a child.
- 312.7 Prohibition against conditioning a child's participation on collection of personal information.

312.8 Confidentiality, security, and integrity of personal information collected from children.

312.9 Enforcement.

312.10 Data retention and deletion requirements.

312.11 Safe harbor programs.

312.12 Voluntary Commission Approval Processes.

312.13 Severability.

Authority: 15 U.S.C. 6501–6508.

§ 312.1 Scope of regulations in this part.

This part implements the Children's Online Privacy Protection Act of 1998, (15 U.S.C. 6501, *et seq.*) which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

§ 312.2 Definitions.

Child means an individual under the age of 13.

Collects or collection means the gathering of any personal information from a child by any means, including but not limited to:

(1) Requesting, prompting, or encouraging a child to submit personal information online;

(2) Enabling a child to make personal information publicly available in identifiable form. An operator shall not be considered to have collected personal information under this paragraph if it takes reasonable measures to delete all or virtually all personal information from a child's postings before they are made public and also to delete such information from its records; or

(3) Passive tracking of a child online.

Commission means the Federal Trade Commission.

Delete means to remove personal information such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.

Disclose or disclosure means, with respect to personal information:

(1) The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the Web site or online service; and

(2) Making personal information collected by an operator from a child publicly available in identifiable form by any means, including but not limited to a public posting through the Internet, or through a personal home page or screen posted on a Web site or online service; a pen pal service; an electronic mail service; a message board; or a chat room.

Federal agency means an agency, as that term is defined in Section 551(1) of title 5, United States Code.

Internet means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire, radio, or other methods of transmission.

Obtaining verifiable consent means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

(1) Receives notice of the operator's personal information collection, use, and disclosure practices; and

(2) Authorizes any collection, use, and/or disclosure of the personal information.

Online contact information means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

Operator means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information is *collected or maintained on behalf of an operator* when:

(1) It is collected or maintained by an agent or service provider of the operator; or

(2) The operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.

Parent includes a legal guardian.

Person means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

Personal information means individually identifiable information about an individual collected online, including:

(1) A first and last name;

(2) A home or other physical address including street name and name of a city or town;

(3) Online contact information as defined in this section;

(4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;

(5) A telephone number;

(6) A Social Security number;

(7) A persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier;

(8) A photograph, video, or audio file where such file contains a child's image or voice;

(9) Geolocation information sufficient to identify street name and name of a city or town; or

(10) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described in this definition.

Release of personal information means the sharing, selling, renting, or transfer of personal information to any third party.

Support for the internal operations of the Web site or online service means:

(1) Those activities necessary to:

(i) Maintain or analyze the functioning of the Web site or online service;

(ii) Perform network communications;

(iii) Authenticate users of, or personalize the content on, the Web site or online service;

(iv) Serve contextual advertising on the Web site or online service or cap the frequency of advertising;

(v) Protect the security or integrity of the user, Web site, or online service;

(vi) Ensure legal or regulatory compliance; or

(vii) Fulfill a request of a child as permitted by § 312.5(c)(3) and (4);

(2) So long as The information collected for the activities listed in paragraphs (1)(i)–(vii) of this definition is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a

profile on a specific individual, or for any other purpose.

Third party means any person who is not:

- (1) An operator with respect to the collection or maintenance of personal information on the Web site or online service; or
- (2) A person who provides support for the internal operations of the Web site or online service and who does not use or disclose information protected under this part for any other purpose.

Web site or online service directed to children means a commercial Web site or online service, or portion thereof, that is targeted to children.

(1) In determining whether a Web site or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising promoting or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.

(2) A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another Web site or online service directed to children.

(3) A Web site or online service that is directed to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it:

- (i) Does not collect personal information from any visitor prior to collecting age information; and
- (ii) Prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.

(4) A Web site or online service shall not be deemed directed to children solely because it refers or links to a commercial Web site or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

§ 312.3 Regulation of unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet.

General requirements. It shall be unlawful for any operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under this part. Generally, under this part, an operator must:

- (a) Provide notice on the Web site or online service of what information it collects from children, how it uses such information, and its disclosure practices for such information (§ 312.4(b));
- (b) Obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children (§ 312.5);
- (c) Provide a reasonable means for a parent to review the personal information collected from a child and to refuse to permit its further use or maintenance (§ 312.6);
- (d) Not condition a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity (§ 312.7); and
- (e) Establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children (§ 312.8).

§ 312.4 Notice.

(a) *General principles of notice.* It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.

(b) *Direct notice to the parent.* An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(c) *Content of the direct notice to the parent—(1) Content of the direct notice to the parent under § 312.5(c)(1) (Notice*

to Obtain Parent's Affirmative Consent to the Collection, Use, or Disclosure of a Child's Personal Information). This direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child, and, if such is the case, the name of the child or the parent, in order to obtain the parent's consent;

(ii) That the parent's consent is required for the collection, use, or disclosure of such information, and that the operator will not collect, use, or disclose any personal information from the child if the parent does not provide such consent;

(iii) The additional items of personal information the operator intends to collect from the child, or the potential opportunities for the disclosure of personal information, should the parent provide consent;

(iv) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section;

(v) The means by which the parent can provide verifiable consent to the collection, use, and disclosure of the information; and

(vi) That if the parent does not provide consent within a reasonable time from the date the direct notice was sent, the operator will delete the parent's online contact information from its records.

(2) *Content of the direct notice to the parent under § 312.5(c)(2) (Voluntary Notice to Parent of a Child's Online Activities Not Involving the Collection, Use or Disclosure of Personal Information).* Where an operator chooses to notify a parent of a child's participation in a Web site or online service, and where such site or service does not collect any personal information other than the parent's online contact information, the direct notice shall set forth:

(i) That the operator has collected the parent's online contact information from the child in order to provide notice to, and subsequently update the parent about, a child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information;

(ii) That the parent's online contact information will not be used or disclosed for any other purpose;

(iii) That the parent may refuse to permit the child's participation in the Web site or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and

(iv) A hyperlink to the operator's online notice of its information

practices required under paragraph (d) of this section.

(3) *Content of the direct notice to the parent under § 312.5(c)(4) (Notice to a Parent of Operator's Intent to Communicate with the Child Multiple Times).* This direct notice shall set forth:

(i) That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;

(ii) That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;

(iii) That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;

(iv) That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;

(v) That if the parent fails to respond to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and

(vi) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(4) *Content of the direct notice to the parent required under § 312.5(c)(5) (Notice to a Parent In Order to Protect a Child's Safety).* This direct notice shall set forth:

(i) That the operator has collected the name and the online contact information of the child and the parent in order to protect the safety of a child;

(ii) That the information will not be used or disclosed for any purpose unrelated to the child's safety;

(iii) That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;

(iv) That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

(v) A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) *Notice on the Web site or online service.* In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to an online notice of its information practices with regard to children on the home or landing page or screen of its Web site or online service, and, at each area of the Web site or online service

where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience Web site or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the Web site or online service's information practices must state the following:

(1) The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online service. *Provided that:* The operators of a Web site or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice;

(2) A description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information; and

(3) That the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§ 312.5 Parental consent.

(a) *General requirements.* (1) An operator is required to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.

(2) An operator must give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.

(b) *Methods for verifiable parental consent.* (1) An operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated,

in light of available technology, to ensure that the person providing consent is the child's parent. (2) Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:

(i) Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;

(ii) Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

(iii) Having a parent call a toll-free telephone number staffed by trained personnel;

(iv) Having a parent connect to trained personnel via video-conference;

(v) Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete; or

(vi) *Provided that,* an operator that does not "disclose" (as defined by § 312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such additional steps include: Sending a confirmatory email to the parent following receipt of consent, or obtaining a postal address or telephone number from the parent and confirming the parent's consent by letter or telephone call. An operator that uses this method must provide notice that the parent can revoke any consent given in response to the earlier email.

(3) *Safe harbor approval of parental consent methods.* A safe harbor program approved by the Commission under § 312.11 may approve its member operators' use of a parental consent method not currently enumerated in paragraph (b)(2) of this section where the safe harbor program determines that such parental consent method meets the requirements of paragraph (b)(1) of this section.

(c) *Exceptions to prior parental consent.* Verifiable parental consent is required prior to any collection, use, or disclosure of personal information from a child *except* as set forth in this paragraph:

(1) Where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain parental consent under § 312.4(c)(1). If the operator has not obtained parental consent after a reasonable time from the date of the information collection, the

operator must delete such information from its records;

(2) Where the purpose of collecting a parent's online contact information is to provide voluntary notice to, and subsequently update the parent about, the child's participation in a Web site or online service that does not otherwise collect, use, or disclose children's personal information. In such cases, the parent's online contact information may not be used or disclosed for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(2);

(3) Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;

(4) Where the purpose of collecting a child's and a parent's online contact information is to respond directly more than once to the child's specific request, and where such information is not used for any other purpose, disclosed, or combined with any other information collected from the child. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that the parent receives notice as described in § 312.4(c)(3). An operator will not be deemed to have made reasonable efforts to ensure that a parent receives notice where the notice to the parent was unable to be delivered;

(5) Where the purpose of collecting a child's and a parent's name and online contact information, is to protect the safety of a child, and where such information is not used or disclosed for any purpose unrelated to the child's safety. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to provide a parent with notice as described in § 312.4(c)(4);

(6) Where the purpose of collecting a child's name and online contact information is to:

(i) Protect the security or integrity of its Web site or online service;

(ii) Take precautions against liability;

(iii) Respond to judicial process; or

(iv) To the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety; and where such information is not be used for any other purpose;

(7) Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the Web site or online service. In such case, there also shall be no obligation to provide notice under § 312.4; or

(8) Where an operator covered under paragraph (2) of the definition of *Web site or online service directed to children* in § 312.2 collects a persistent identifier and no other personal information from a user who affirmatively interacts with the operator and whose previous registration with that operator indicates that such user is not a child. In such case, there also shall be no obligation to provide notice under § 312.4.

§ 312.6 Right of parent to review personal information provided by a child.

(a) Upon request of a parent whose child has provided personal information to a Web site or online service, the operator of that Web site or online service is required to provide to that parent the following:

(1) A description of the specific types or categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;

(2) The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

(3) Notwithstanding any other provision of law, a means of reviewing any personal information collected from the child. The means employed by the operator to carry out this provision must:

(i) Ensure that the requestor is a parent of that child, taking into account available technology; and

(ii) Not be unduly burdensome to the parent.

(b) Neither an operator nor the operator's agent shall be held liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under this section.

(c) Subject to the limitations set forth in § 312.7, an operator may terminate any service provided to a child whose parent has refused, under paragraph (a)(2) of this section, to permit the operator's further use or collection of personal information from his or her child or has directed the operator to delete the child's personal information.

§ 312.7 Prohibition against conditioning a child's participation on collection of personal information.

An operator is prohibited from conditioning a child's participation in a game, the offering of a prize, or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity.

§ 312.8 Confidentiality, security, and integrity of personal information collected from children.

The operator must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children. The operator must also take reasonable steps to release children's personal information only to service providers and third parties who are capable of maintaining the confidentiality, security and integrity of such information, and who provide assurances that they will maintain the information in such a manner.

§ 312.9 Enforcement.

Subject to sections 6503 and 6505 of the Children's Online Privacy Protection Act of 1998, a violation of a regulation prescribed under section 6502 (a) of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

§ 312.10 Data retention and deletion requirements.

An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.

§ 312.11 Safe harbor programs.

(a) *In general.* Industry groups or other persons may apply to the Commission for approval of self-regulatory program guidelines ("safe harbor programs"). The application shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the application. The Commission shall issue a written determination within 180 days of the filing of the application.

(b) *Criteria for approval of self-regulatory program guidelines.* Proposed safe harbor programs must demonstrate

that they meet the following performance standards:

(1) Program requirements that ensure operators subject to the self-regulatory program guidelines ("subject operators") provide substantially the same or greater protections for children as those contained in §§ 312.2 through 312.8, and 312.10.

(2) An effective, mandatory mechanism for the independent assessment of subject operators' compliance with the self-regulatory program guidelines. At a minimum, this mechanism must include a comprehensive review by the safe harbor program, to be conducted not less than annually, of each subject operator's information policies, practices, and representations. The assessment mechanism required under this paragraph can be provided by an independent enforcement program, such as a seal program.

(3) Disciplinary actions for subject operators' non-compliance with self-regulatory program guidelines. This performance standard may be satisfied by:

(i) Mandatory, public reporting of any action taken against subject operators by the industry group issuing the self-regulatory guidelines;

(ii) Consumer redress;

(iii) Voluntary payments to the United States Treasury in connection with an industry-directed program for violators of the self-regulatory guidelines;

(iv) Referral to the Commission of operators who engage in a pattern or practice of violating the self-regulatory guidelines; or

(v) Any other equally effective action.

(c) *Request for Commission approval of self-regulatory program guidelines.* A proposed safe harbor program's request for approval shall be accompanied by the following:

(1) A detailed explanation of the applicant's business model, and the technological capabilities and mechanisms that will be used for initial and continuing assessment of subject operators' fitness for membership in the safe harbor program;

(2) A copy of the full text of the guidelines for which approval is sought and any accompanying commentary;

(3) A comparison of each provision of §§ 312.2 through 312.8, and 312.10 with the corresponding provisions of the guidelines; and

(4) A statement explaining:

(i) How the self-regulatory program guidelines, including the applicable assessment mechanisms, meet the requirements of this part; and

(ii) How the assessment mechanisms and compliance consequences required

under paragraphs (b)(2) and (b)(3) provide effective enforcement of the requirements of this part.

(d) *Reporting and recordkeeping requirements.* Approved safe harbor programs shall:

(1) By July 1, 2014, and annually thereafter, submit a report to the Commission containing, at a minimum, an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section, a description of any disciplinary action taken against any subject operator under paragraph (b)(3) of this section, and a description of any approvals of member operators' use of a parental consent mechanism, pursuant to § 312.5(b)(4);

(2) Promptly respond to Commission requests for additional information; and

(3) Maintain for a period not less than three years, and upon request make available to the Commission for inspection and copying:

(i) Consumer complaints alleging violations of the guidelines by subject operators;

(ii) Records of disciplinary actions taken against subject operators; and

(iii) Results of the independent assessments of subject operators' compliance required under paragraph (b)(2) of this section.

(e) *Post-approval modifications to self-regulatory program guidelines.* Approved safe harbor programs must submit proposed changes to their guidelines for review and approval by the Commission in the manner required for initial approval of guidelines under paragraph (c)(2) of this section. The statement required under paragraph (c)(4) of this section must describe how the proposed changes affect existing provisions of the guidelines.

(f) *Revocation of approval of self-regulatory program guidelines.* The Commission reserves the right to revoke any approval granted under this section if at any time it determines that the approved self-regulatory program guidelines or their implementation do not meet the requirements of this part. Safe harbor programs that were approved prior to the publication of the Final Rule amendments must, by March 1, 2013, submit proposed modifications to their guidelines that would bring them into compliance with such amendments, or their approval shall be revoked.

(g) *Operators' participation in a safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§ 312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or

bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator's participation in the safe harbor program, whether the subject operator has taken action to remedy such non-compliance, and whether the operator's non-compliance resulted in any one of the disciplinary actions set forth in paragraph (b)(3).

§ 312.12 Voluntary Commission Approval Processes.

(a) *Parental consent methods.* An interested party may file a written request for Commission approval of parental consent methods not currently enumerated in § 312.5(b). To be considered for approval, a party must provide a detailed description of the proposed parental consent methods, together with an analysis of how the methods meet § 312.5(b)(1). The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request; and

(b) *Support for internal operations of the Web site or online service.* An interested party may file a written request for Commission approval of additional activities to be included within the definition of support for internal operations. To be considered for approval, a party must provide a detailed justification why such activities should be deemed support for internal operations, and an analysis of their potential effects on children's online privacy. The request shall be filed with the Commission's Office of the Secretary. The Commission will publish in the **Federal Register** a document seeking public comment on the request. The Commission shall issue a written determination within 120 days of the filing of the request.

§ 312.13 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

By direction of the Commission, Commissioner Rosch abstaining, and Commissioner Ohlhausen dissenting.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Maureen K. Ohlhausen

I voted against adopting the amendments to the Children's Online Privacy Protection Act (COPPA) Rule because I believe a core provision of the amendments exceeds the scope of the authority granted us by Congress in COPPA, the statute that underlies and authorizes the Rule.⁴⁰¹ Before I explain my concerns, I wish to commend the Commission staff for their careful consideration of the multitude of issues raised by the numerous comments in this proceeding. Much of the language of the amendments is designed to preserve flexibility for the industry while striving to protect children's privacy, a goal I support strongly. The final proposed amendments largely strike the right balance between protecting children's privacy online and avoiding undue burdens on providers of children's online content and services. The staff's great expertise in the area of children's privacy and deep understanding of the values at stake in this matter have been invaluable in my consideration of these important issues.

In COPPA Congress defined who is an operator and thereby set the outer boundary for the statute's and the COPPA Rule's reach.⁴⁰² It is undisputed that COPPA places obligations on operators of Web sites or online services directed to children or operators with actual knowledge that they are collecting personal information from

⁴⁰¹ 15 U.S.C. 6501–6506.

⁴⁰² COPPA, 15 U.S.C. 6501(2), defines the term "operator" as "any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about users of or visitors to such Web site or online service, or on whose behalf such information is collected and maintained * * *." As stated in the Statement of Basis and Purpose for the original COPPA Rule, "The definition of 'operator' is of central importance because it determines who is covered by the Act and the Rule." Children's Online Privacy Protection Rule 64 FR 59888, 59891 (Nov. 3, 1999) (final rule).

children. The statute provides, "It is unlawful for an operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed [by the FTC]."⁴⁰³

The Statement of Basis and Purpose for the amendments (SBP) discusses concerns that the current COPPA Rule may not cover child-directed Web sites or services that do not themselves collect children's personal information but may incorporate third-party plug-ins that collect such information⁴⁰⁴ for the plug-ins' use but do not collect or maintain the information for, or share it with, the child-directed site or service. To address these concerns, the amendments add a new proviso to the definition of operator in the COPPA Rule: "Personal information is collected or maintained on behalf of an operator when: (a) it is collected or maintained by an agent or service provider of the operator; or (b) the operator benefits by allowing another person to collect personal information directly from users of such Web site or online service."⁴⁰⁵

The proposed amendments construe the term "on whose behalf such information is collected and maintained" to reach child-directed Web sites or services that merely derive from a third-party plug-in some kind of benefit, which may well be unrelated to the collection and use of children's

⁴⁰³ 15 U.S.C. 6502(a)(1).

⁴⁰⁴ If the third-party plug-ins are child-directed or have actual knowledge that they are collecting children's personal information they are already expressly covered by the COPPA statute. Thus, as the SBP notes, a behavioral advertising network that targets children under the age of 13 is already deemed an operator. The amendment must therefore be aimed at reaching third-party plug-ins that are either not child-directed or do not have actual knowledge that they are collecting children's personal information, which raises a question about what harm this amendment will address. For example, it appears that this same type of harm could occur through general audience Web sites and online services collecting and using visitors' personal information without knowing whether some of the data is children's personal information, which is a practice that COPPA and the amendments do not prohibit.

⁴⁰⁵ 16 CFR 312.2 (Definitions).

information (e.g., content, functionality, or advertising revenue). I find that this proviso—which would extend COPPA obligations to entities that do not collect personal information from children or have access to or control of such information collected by a third-party does not comport with the plain meaning of the statutory definition of an operator in COPPA, which covers only entities "on whose behalf such information is collected and maintained."⁴⁰⁶ In other words, I do not believe that the fact that a child-directed site or online service receives any kind of benefit from using a plug-in is equivalent to the collection of personal information by the third-party plug-in on behalf of the child-directed site or online service.

As the Supreme Court has directed, an agency "must give effect to the unambiguously expressed intent of Congress."⁴⁰⁷ Thus, regardless of the policy justifications offered, I cannot support expanding the definition of the term "operator" beyond the statutory parameters set by Congress in COPPA.

I therefore respectfully dissent.

[FR Doc. 2012–31341 Filed 1–16–13; 8:45 am]

BILLING CODE 6750–01–P

⁴⁰⁶ This expanded definition of operator reverses the Commission's previous conclusion that the appropriate test for determining an entity's status as an operator is to "look at the entity's relationship to the data collected," using factors such as "who owns and/or controls the information, who pays for its collection and maintenance, the pre-existing contractual relationships regarding collection and maintenance of the information, and the role of the Web site or online service in collecting and/or maintaining the information (i.e., whether the site participates in collection or is merely a conduit through which the information flows to another entity)." Children's Online Privacy Protection Rule 64 FR 59888, 59893, 59891 (Nov. 3, 1999) (final rule).

⁴⁰⁷ *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984) ("When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.").

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

v.

GOOGLE LLC, *et al.*,

Defendants.

Civil Action No. 19-2642 (BAH)

Chief Judge Beryl A. Howell

STANDING ORDER FOR CIVIL CASES

THIS ORDER CONTROLS THIS CASE SO READ CAREFULLY.

To help “secure the just, speedy, and inexpensive determination of” this action, FED. R. CIV. P. 1, the parties are hereby **ORDERED** to comply with the following directions:

1. REMOVED ACTIONS

- a. A defendant removing an action to this Court must refile any answer filed before removal and promptly ensure that all parties receive a copy of this Standing Order.
- b. Any motion pending in the court from which the case is removed at the time of removal must be refiled in this Court by the party seeking relief. *See* FED. R. CIV. P. 81(c)(2). Motions that are not refiled will be deemed withdrawn and not considered.

2. COMMUNICATIONS WITH CHAMBERS

Except as authorized in this Order, the parties may not contact Chambers by telephone. If extraordinary circumstances or emergencies so require, however, counsel may contact Chambers jointly via telephone conference. Chambers will not provide legal advice of any kind.

3. DUTY TO CONFER, INCLUDING FOR CASES EXEMPTED BY LOCAL CIVIL RULE 16.3(b)¹

- a. **Timing.** Generally, the parties must meet and confer after any defendant first files an answer. *See* FED. R. CIV. P. 26(f). The parties must file the Joint Meet and Confer Report required by Local Civil Rule 16.3(d) ***within thirty days*** after ***any*** defendant files an answer or, if dispositive motions are filed pursuant to Federal Rule of Civil Procedure 12(b), ***within fourteen days*** after resolution of dispositive motions, unless the Court orders otherwise. Later-served or joined parties are required to comply with the Scheduling Order entered based on the original Joint Meet and Confer Report, unless, upon motion, they seek modification of the Order.

¹ The Local Civil Rules are available at <http://www.dcd.uscourts.gov/court-info/local-rules-and-orders/local-rules>.

- b. Exempted Cases. Notwithstanding that the requirement to confer and submit a Joint Meet and Confer Report does not apply to certain exempted cases, *see* FED. R. CIV. P. 26(a)(1)(B) and LCvR 16.3(b), in the following categories of exempted cases, an abbreviated Joint Meet and Confer Report is required:
 - i. Administrative Procedure Act Cases: In any action for review on an administrative record, counsel for the parties shall jointly prepare and submit a report to the Court, ***within fourteen days*** after ***any*** defendant files an answer, proposing a schedule for the filing of the certified list of the contents of the administrative record and any motions.
 - ii. FOIA Cases: In any action arising under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, counsel for the parties shall jointly prepare and submit a report to the Court, ***within fourteen days*** after ***any*** defendant files an answer, indicating whether the agency has made a final determination “whether to comply” with any FOIA request at issue, § 552(a)(6)(A)(i).
 - a. If such a final determination has been made, the parties shall propose a schedule for the filing of dispositive motions.
 - b. If no final determination has been made, the joint report shall contain (1) an estimate provided by the defendant of when the agency expects a final determination to be made; (2) a proposed schedule for production of responsive records; and (3) a proposed schedule for the filing of dispositive motions.
- c. Report Contents. The Joint Meet and Confer Report in cases subject to Local Civil Rule 16.3(d) must address ***all*** matters listed in Federal Rule of Civil Procedure 26(f)(2) & (3) and Local Civil Rule 16.3(c), and must also include:
 - i. a brief statement describing the nature of the case and the statutory basis of the Court’s jurisdiction for all causes of action and defenses;
 - ii. a proposed scheduling order in accordance with Local Civil Rule 16.3(d); and
 - iii. any request for a conference with the Court before entry of the Scheduling Order.

4. INITIAL STATUS CONFERENCE AND ISSUANCE OF SCHEDULING ORDER
After submission of the Joint Meet and Confer Report, the Court will, if necessary, schedule an initial status conference to address matters that are not addressed or agreed to by the parties in the Joint Meet and Confer Report. As soon as practicable after submission of the Joint Meet and Confer Report or following the Initial Status Conference, the Court will issue a Scheduling Order governing proceedings in the case. *See* FED. R. CIV. P. 16(b); LCvR 16.4.

5. MOTIONS – GENERALLY

- a. Format. Motions and submissions should be double-spaced, in 12-point, Times New Roman font, with page numbers and margins of no less than 1 inch. All citations must include exact page references (pincites). Absent leave of the Court, memoranda of points and authorities in support of, and in opposition to, motions may not exceed 45 pages, and reply memoranda may not exceed 25 pages. *See* LCvR 7(e). All electronically filed documents are to be in text-searchable Portable Data Format (“PDF”). Likewise, exhibits that must be scanned because they exist only in paper format should, if possible, be submitted as text-searchable files using Optical Character Recognition (“OCR”) technology, available in Adobe Acrobat.

- b. Sur-Replies: A party may not file a sur-reply without first obtaining leave of the Court and may do so only upon a specific showing of good cause.
- c. Oral Argument. A party may include a request for oral argument in its motion, opposition, or reply papers and, if this request is granted, counsel will be advised of the argument date. *See* LCvR 7(f).
- d. Duty to Confer Regarding Non-Dispositive Motions. Local Civil Rule 7(m), which requires counsel to confer before filing a non-dispositive motion and to include in the motion confirmation that such conferral occurred and a statement whether the motion is opposed, will be strictly enforced. *See* LCvR 7(m). Failure to comply with Local Civil Rule 7(m) when filing a non-dispositive motion may result in said motion being stricken.
- e. Motions to Amend Pleadings. Any amended pleading shall be accompanied by a redline comparison between the original and the amended or proposed amended pleading.
- f. Motions for Summary Judgment. This Court strictly enforces Local Civil Rule 7(h) when resolving motions for summary judgment and will “assume that facts identified by the moving party in its statement of material facts are admitted, unless such a fact is controverted in the statement of genuine issues filed in opposition to the motion.” LCvR 7(h); *see also* FED. R. CIV. P. 56(e).
- g. Motions to Seal. A party must submit a redacted version, suitable for filing on the public docket, of any document that it proposes to seal at the same time the party files a motion to seal. If a party believes that all portions of a sealed document must remain sealed, the party must specifically notify the Court of that belief at the time of filing the motion to seal.
- h. Pro Se Parties. In a case involving a *pro se* party, electronic filing procedures will be followed by parties represented by counsel only. Absent separate order of the Court, the party appearing *pro se* shall continue to file documents in paper form with the Clerk’s Office. Parties represented by counsel must serve documents upon *pro se* parties in paper form.
- i. Requests Other Than Ultimate Relief Referenced in Complaint. Requests other than for ultimate relief that are referenced in the Complaint, such as requests for an extension of time to seek class certification or for a temporary restraining order, shall be made in a motion separate from the Complaint. *See, e.g.*, LCvR 75.1(a). Such motions shall be accompanied by a statement of the specific points of law and authority that support the motion, including, where appropriate, a concise statement of facts. LCvR 7(a).

6. MOTIONS FOR EXTENSION OF TIME OR RESCHEDULING HEARING

- a. Motion Required. Extensions or enlargements of time will be granted only upon motion, **and not upon stipulation by the parties**. Motions for extensions of time or for continuances of court proceedings are strongly discouraged. Counsel and parties should work within the time frames set by the Scheduling Order.
- b. Timing and Content. When good cause is shown, the Court will consider a motion for time extension or continuance of a proceeding that is filed **at least 4 days prior** to the deadline and states:
 - i. the original date of the deadline the motion is seeking to extend or the date of the scheduled hearing the motion is seeking to continue;

- ii. the number of previous extensions of time or continuances granted to each party;
 - iii. the good cause supporting the motion;
 - iv. the effect, if any, that the granting of the motion will have on existing deadlines;
 - v. for motions, suggested deadlines (reached in consultation with the opposing party) for the filing of any opposition and reply papers; for continuances, three alternative dates and times that are convenient to all parties; and
 - vi. the opposing party's position on the motion, including any reasons given for refusing to consent, *see* LCvR 7(m).
- c. **Opposition.** A party opposing a motion for an extension of time or continuance of a scheduled hearing date must file, **by 5:00 PM of the business day after the motion is filed, the party's reasons for opposing the motion.** If no such explanation is provided to the Court within this time frame, the motion shall be deemed conceded. Informing the opposing party that the motion for an extension or continuance is opposed **does not constitute an explanation to the Court.**
- d. **Untimely motions.** Untimely motions for an extension must contain an explanation for the failure to comply with the four-day rule.

7. DISCOVERY DISPUTES

- a. **Telephone Conference.** The Court expects the parties to follow the requirements of Federal Rule of Civil Procedure 26 and Local Civil Rule 26.2. Before bringing a discovery dispute to the Court's attention, the parties must confer in good faith in an attempt to resolve the dispute informally. If unable to resolve the dispute informally, the parties shall jointly prepare an email to send to the Court, at Howell_Chambers@dcd.uscourts.gov, requesting a teleconference with the Court and including a clear, concise description of the issues in dispute.
- b. **Leave of Court Required.** Before filing a motion relating to a discovery dispute, a party must obtain leave of the Court. Failure to comply with this requirement may result in any such motion being stricken.

8. SETTLEMENT

The Court expects the parties to evaluate the case for purposes of settlement. Toward that end, the parties may, by motion, request referral for mediation to a Magistrate Judge or the Court's mediation program. The parties may also seek relief, by motion, from a Scheduling Order for arbitration, early neutral evaluation, or any other form of alternative dispute resolution that may be tailored to the needs of the case. If the case settles, in whole or in part, plaintiff's counsel must promptly file a notice with the Court.

9. JOINT PRETRIAL STATEMENT

- a. **Timing.** The parties must file with the Court a Joint Pretrial Statement ***at least 14 days before the final pretrial conference unless the Court sets another filing date.*** *See* LCvR 16.5(a).
- b. **Contents.** In accordance with Local Civil Rule 16.5(b), (d), and (e), the Joint Pretrial Statement must include:
- i. **a one-paragraph joint statement of the case** that is appropriate to be read to the jury and describes the nature of the case and the identities of the parties;
 - ii. **the estimated length** of the evidentiary portion of the trial;

- iii. a statement of claims setting forth each claim a party has against any other party and the statutory basis of the Court's jurisdiction for all causes of action;
 - iv. a statement of defenses setting forth each defense raised by a party to a claim asserted against it;
 - v. a list of witnesses (including expert and potential rebuttal witnesses) anticipated to be called by each party, accompanied by a brief description of each witness's expected testimony and the anticipated time for such testimony on direct, followed by specific objections (if any) to each witness;
 - vi. a list of exhibits that each party intends to offer during trial and separately identifying exhibits that may be offered if the need arises, followed by specific objections (if any) to each exhibit, which exhibit list shall be in a format with six columns, with separate headings for: (1) exhibit number, (2) description of exhibit, (3) marked for identification, (4) admitted in evidence, (5) objection, and (6) witness/date;
 - vii. a designation of depositions, or portions thereof, to be offered into evidence by each party. To facilitate the Court's review and ensure clarity of the record regarding the Court's ruling on each objection posed by any party to the opposing party's transcript designation or cross-designation, any objections to a designation shall be set out in a chart for each deposition, which chart shall be in a format with eight columns that identifies, for each transcript designation to which objections are lodged, IN TRANSCRIPT PAGE NUMBER ORDER: (1) the sequential number to be associated with the objection; (2) identification of the page and line of the transcript designations offered; (3) the party offering the transcript designation; (4) the party objecting to the transcript designation; (5) the Federal Rule of Evidence relied upon for the objection and a brief explanation by the objecting party; (6) a brief rebuttal by the proponent of the transcript designation; (7) a column, which the parties shall leave blank, with the heading "Sustained"; and (8) a second column, which the parties shall leave blank, with the heading "Overruled";
 - viii. an itemization of damages setting forth each element of damages and the monetary amount thereof (including prejudgment interest, punitive damages, and attorney's fees) sought;
 - ix. a description of other relief sought by each party;
 - x. stipulations concerning authenticity of documents, admissibility of exhibits or testimony, or undisputed facts;
 - xi. a description of each specific item of demonstrative evidence, physical evidence, or videotape evidence that will be offered at trial and any objections; and
 - xii. a list of any motions *in limine* that are pending to address issues the parties reasonably anticipate will arise at trial. ***See infra* ¶ 10 regarding the timing for briefing on motions *in limine*.**
- c. Jury Cases. In jury cases, the parties must submit as part of the Joint Pretrial Statement:
- i. proposed *voir dire* questions that indicate:
 - I. the *voir dire* questions on which the parties agree; and

- II. the *voir dire* questions on which the parties disagree, with specific objections noted below each disputed question and supporting legal authority (if any);
- ii. the text of each proposed jury instruction that indicates:
 - I. the instructions on which the parties agree;
 - II. the instructions on which the parties disagree, with specific objections noted below each disputed instruction and supporting legal authority (if any); and
 - III. the proposed instruction's source (*e.g.*, Standardized Civil Jury Instructions for the District of Columbia) or, for modified or new instructions, the supporting legal authority.
- iii. a proposed verdict form, as well as proposed special interrogatories (if any), that includes date and signature lines for the jury foreperson.
- d. Non-Jury Cases. In non-jury cases, the plaintiff, or plaintiffs jointly, shall file proposed findings of fact and conclusions of law within three days of the close of evidence, and the defendant, or defendants jointly, shall file proposed findings of fact, which include specification of any facts proposed by the plaintiff that are admitted or controverted, and conclusions of law within five days of the close of evidence, unless otherwise ordered by the Court upon request of the parties.

10. MOTIONS IN LIMINE.

- a. Timing. Motions *in limine* shall be **fully briefed at the time of filing of the parties' Joint Pretrial Statement**. Accordingly, the moving party's motion *in limine* and supporting memorandum shall be filed and served upon the opposing party **at least 21 days** before the Joint Pretrial Statement is due. The opposition shall be filed and served upon the moving party **within 14 days** of service of the motion *in limine*. Any reply shall be due **within 7 days** of service of the opposition. Oral argument on motions *in limine*, if necessary, shall occur at the Pretrial Conference.

SO ORDERED.

DATE: September 9, 2019



Beryl A. Howell

BERYL A. HOWELL
Chief Judge

REASONS FOR SETTLEMENT

This statement accompanies the Stipulation and Order for Permanent Injunction and Civil Penalty Judgment (“Stipulated Order”) executed by defendants Google LLC and YouTube, LLC in settlement of an action brought to obtain penalties and equitable relief from defendants for engaging in acts or practices in violation of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6501-6506, and the Children’s Online Privacy Protection Rule (“Rule”), 16 C.F.R. Part 312, and for equitable relief for engaging in acts or practices in violation of §§ 5(a), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and 56(a). The settlement required defendants to pay a \$136 million civil penalty to the Commission and \$34 million in additional monetary relief to the State of New York, and imposes robust injunctive relief.

Pursuant to Section 5(m)(3) of the FTC Act, as amended, 15 U.S.C. § 45(m)(3), the Commission hereby sets forth its reasons for settlement by entry of this Stipulated Order:

On the basis of the allegations contained in the attached complaint, the Commission believes that the payment of a \$136,000,000 civil penalty and an additional \$34,000,000 to the State of New York constitutes an appropriate amount on which to base settlement. The civil penalty and other monetary relief, coupled with the provisions enjoining defendants from violating the Rule and requiring them to create a system for users on the YouTube platform to designate their content as child-directed, constitute an effective means to assure defendants’ future compliance and deter others who might violate these laws. Additionally, with entry of such a Stipulated Order, the time and expense of litigation will be avoided.

For the foregoing reasons, the Commission believes that the settlement by entry of the attached Stipulated Order with defendants is justified and well within the public interest.

1 **FOR DEFENDANTS:**

2 

Date: April 25, 2019

3 _____
4 Christopher N. Olsen, Esq.
5 Libby J. Weingarten, Esq.
6 Wilson Sonsini Goodrich & Rosati
7 1700 K Street, NW
8 5th Floor
9 Washington, DC 20006
10 (202) 973-8800
11 (202) 973-8899
12 colsen@wsgr.com
13 lweingarten@wsgr.com
14 COUNSEL for GOOGLE LLC and YOUTUBE, LLC

15 **DEFENDANT: GOOGLE LLC**

16 

Date: April 25, 2019

17 _____
18 Name: Kent Walker
19 Title: Senior Vice President, Global Affairs & Chief Legal Officer

20 **DEFENDANT: YOUTUBE, LLC**
21 **By: Google LLC, its Managing Member**

22 

Date: April 25, 2019

23 _____
24 Name: Kent Walker
25 Title: Senior Vice President, Global Affairs & Chief Legal Officer

1 **FOR DEFENDANTS:**

2 

Date: April 25, 2019

3 _____
4 Christopher N. Olsen, Esq.
5 Libby J. Weingarten, Esq.
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8 5th Floor
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10 (202) 973-8800
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12 colsen@wsgr.com
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14 COUNSEL for GOOGLE LLC and YOUTUBE, LLC

11 **DEFENDANT: GOOGLE LLC**

12 

Date: April 25, 2019

13 _____
14 Name: Kent Walker
15 Title: Senior Vice President, Global Affairs & Chief Legal Officer

15 **DEFENDANT: YOUTUBE, LLC**
16 **By: Google LLC, its Managing Member**

17 

Date: April 25, 2019

18 _____
19 Name: Kent Walker
20 Title: Senior Vice President, Global Affairs & Chief Legal Officer

From: Olsen, Chris
Sent: 23 Aug 2019 00:30:06 +0000
To: Mithal, Maneesha
Subject: Re: Could you call me at [REDACTED] if you get this before 10?

(b)(6)

Just checked my notes. I spoke to gus and you on Tuesday, not Monday.

(b)(6)
Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) [REDACTED]

On Aug 22, 2019, at 7:59 PM, Mithal, Maneesha <MMITHAL@ftc.gov> wrote:

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

From: Mithal, Maneesha
Sent: 23 Aug 2019 00:30:23 +0000
To: 'Olsen, Chris'
Subject: RE: Could you call me at [REDACTED] if you get this before 10?

(b)(6)

Ah, ok.

(b)(6)
From: Olsen, Chris <colsen@wsgr.com>
Sent: Thursday, August 22, 2019 8:30 PM
To: Mithal, Maneesha <MMITHAL@ftc.gov>
Subject: Re: Could you call me at [REDACTED] if you get this before 10?

Just checked my notes. I spoke to gus and you on Tuesday, not Monday.

(b)(6)
Christopher N. Olsen
Wilson Sonsini Goodrich & Rosati
(o) 202 973-8803
(c) [REDACTED]

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(b)(5)

From: Smith, Andrew
Sent: 30 Aug 2019 08:54:54 -0400
To: Mithal, Maneesha; Kaufman, Daniel; Magee, Peder; Cohen, Kristin; Eichorn, Mark
Subject: RE: [REDACTED]

(b)(5)

[REDACTED]

Andrew Smith | Director | Bureau of Consumer Protection
Federal Trade Commission | 600 Pennsylvania Avenue, NW | Washington, D.C. 20580
Phone: 202-326-3280 | Email: asmith@ftc.gov

(b)(5)

From: Mithal, Maneesha <MMITHAL@ftc.gov>
Sent: Thursday, August 29, 2019 6:53 PM
To: Smith, Andrew <asmith@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

[REDACTED]

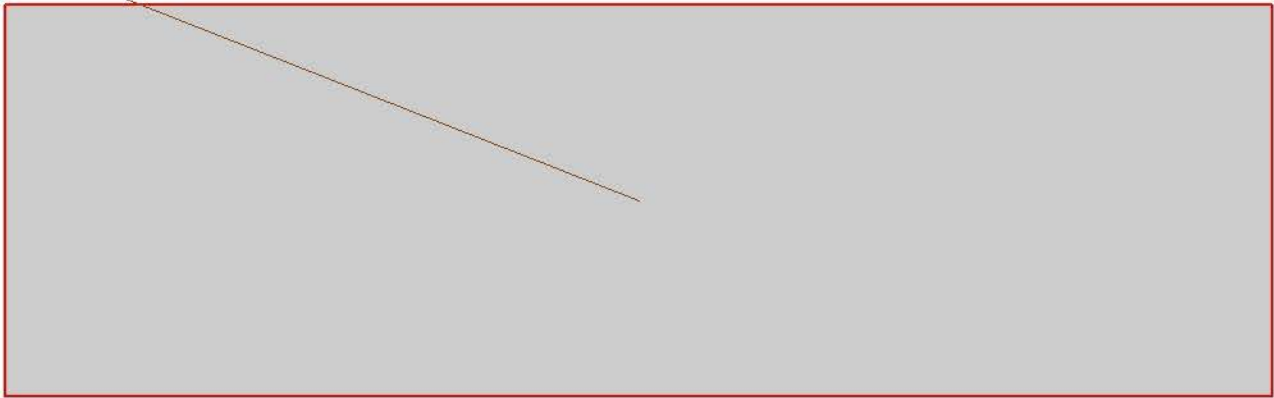
(b)(5)

From: Smith, Andrew <asmith@ftc.gov>
Sent: Thursday, August 29, 2019 6:50 PM
To: Mithal, Maneesha <MMITHAL@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Subject: RE: [REDACTED]

(b)(5)

[REDACTED]

(b)(5)



Andrew Smith | Director | Bureau of Consumer Protection
Federal Trade Commission | 600 Pennsylvania Avenue, NW | Washington, D.C. 20580
Phone: 202-326-3280 | Email: asmith@ftc.gov

From: Mithal, Maneesha <MMITHAL@ftc.gov>
Sent: Thursday, August 29, 2019 5:27 PM
To: Smith, Andrew <asmith@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>
Subject: 

(b)(5)

(b)(5)



From: Eichorn, Mark
Sent: 27 Aug 2019 13:33:37 -0400
To: Magee, Peder; Kaufman, Daniel; Cohen, Kristin
Cc: Mithal, Maneesha; George, Tiffany
Subject: RE: Message from Unknown sender [REDACTED]

(b)(5)

(b)(6)

[REDACTED]

From: Magee, Peder <PMAGEE@ftc.gov>
Sent: Tuesday, August 27, 2019 11:56 AM
To: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender [REDACTED]

(b)(5)

(b)(6)

[REDACTED]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Sent: Tuesday, August 27, 2019 10:45 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Re: Message from Unknown sender [REDACTED]

(b)(5)

(b)(6)

[REDACTED] Thanks

Sent from my iPhone

(b)(5)

On Aug 27, 2019, at 9:59 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

[REDACTED]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Sent: Tuesday, August 27, 2019 9:38 AM
To: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender [REDACTED]

(b)(6)

(b)(5)

[Redacted]

From: Magee, Peder <PMAGEE@ftc.gov>

Sent: Tuesday, August 27, 2019 9:27 AM

To: Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>

Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>;

George, Tiffany <tgeorge@ftc.gov>

Subject: RE: Message from Unknown sender [Redacted]

(b)(6)

(b)(5)

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>

Sent: Tuesday, August 27, 2019 9:23 AM

To: Cohen, Kristin <kcohen@ftc.gov>

Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>;

Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: Re: Message from Unknown sender [Redacted]

(b)(6)

(b)(5)

[Redacted]

Sent from my iPhone

On Aug 27, 2019, at 9:07 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

(b)(5)

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>

Sent: Monday, August 26, 2019 9:18 PM

To: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: Fwd: Message from Unknown sender [Redacted]

(b)(6)

(b)(5)

[Redacted]

Sent from my iPhone

Begin forwarded message:

From: Cisco Unity Connection Messaging System <unityconnection@hq-unity-01.trade.ftc.gov>

Date: August 26, 2019 at 5:12:20 PM EDT

To: <mmithal@hq-unity-01.trade.ftc.gov>

Subject: Message from Unknown sender [Redacted]

(b)(6)

From: Mithal, Maneesha
Sent: 27 Aug 2019 17:42:41 +0000
To: Eichorn, Mark
Cc: Magee, Peder; Kaufman, Daniel; Cohen, Kristin; George, Tiffany
Subject: Re: Message from Unknown sender [REDACTED]

(b)(5)

(b)(6)

[REDACTED]

Sent from my iPhone

On Aug 27, 2019, at 1:33 PM, Eichorn, Mark <MEICHORN@ftc.gov> wrote:

(b)(5)

[REDACTED]

From: Magee, Peder <PMAGEE@ftc.gov>
Sent: Tuesday, August 27, 2019 11:56 AM
To: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>;
George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender [REDACTED]

(b)(5)

(b)(6)

[REDACTED]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Sent: Tuesday, August 27, 2019 10:45 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn,
Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Re: Message from Unknown sender [REDACTED]

(b)(6)

Yes please. Thanks

Sent from my iPhone

On Aug 27, 2019, at 9:59 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

[Redacted]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Sent: Tuesday, August 27, 2019 9:38 AM
To: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender [Redacted]

[Redacted]

From: Magee, Peder <PMAGEE@ftc.gov>
Sent: Tuesday, August 27, 2019 9:27 AM
To: Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender [Redacted]

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>
Sent: Tuesday, August 27, 2019 9:23 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Re: Message from Unknown sender [Redacted]

[Redacted]

Sent from my iPhone

On Aug 27, 2019, at 9:07 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>
Sent: Monday, August 26, 2019 9:18 PM
To: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark

(b)(5)

<MEICHORN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>;
Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany
<tgeorge@ftc.gov>

(b)(6)

Subject: Fwd: Message from Unknown sender [redacted]

[redacted]

Sent from my iPhone

Begin forwarded message:

(b)(6)

From: Cisco Unity Connection Messaging
System <unityconnection@hq-unity-01.trade.ftc.gov>
Date: August 26, 2019 at 5:12:20 PM EDT
To: <mmithal@hq-unity-01.trade.ftc.gov>
Subject: Message from Unknown sender

[redacted]

From: Magee, Peder
Sent: 27 Aug 2019 14:44:38 -0400
To: Eichorn, Mark; Kaufman, Daniel; Cohen, Kristin
Cc: Mithal, Maneesha; George, Tiffany
Subject: RE: Message from Unknown sender

(b)(6)

(b)(5)

[Redacted]

From: Eichorn, Mark <MEICHORN@ftc.gov>
Sent: Tuesday, August 27, 2019 1:34 PM
To: Magee, Peder <PMAGEE@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender

(b)(6)

(b)(5)

[Redacted]

From: Magee, Peder <PMAGEE@ftc.gov>
Sent: Tuesday, August 27, 2019 11:56 AM
To: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender

(b)(6)

(b)(5)

[Redacted]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Sent: Tuesday, August 27, 2019 10:45 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Re: Message from Unknown sender

(b)(6)

(b)(5)

[Redacted] Thanks

Sent from my iPhone

(b)(5)

On Aug 27, 2019, at 9:59 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

[Redacted]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Sent: Tuesday, August 27, 2019 9:38 AM
To: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender [Redacted]

(b)(6)

(b)(5)

[Redacted]

From: Magee, Peder <PMAGEE@ftc.gov>
Sent: Tuesday, August 27, 2019 9:27 AM
To: Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender [Redacted]

(b)(6)

(b)(5)

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>
Sent: Tuesday, August 27, 2019 9:23 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Re: Message from Unknown sender [Redacted]

(b)(6)

(b)(5)

[Redacted]

Sent from my iPhone

(b)(5)

On Aug 27, 2019, at 9:07 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>
Sent: Monday, August 26, 2019 9:18 PM
To: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Fwd: Message from Unknown sender [Redacted]

(b)(6)

(b)(5)

[Redacted]

Sent from my iPhone

Begin forwarded message:

From: Cisco Unity Connection Messaging System

<unityconnection@hq-unity-01.trade.ftc.gov>

Date: August 26, 2019 at 5:12:20 PM EDT

To: <mmithal@hq-unity-01.trade.ftc.gov>

Subject: Message from Unknown sender

(b)(6)

[Redacted]

From: Magee, Peder
Sent: 27 Aug 2019 14:46:56 -0400
To: Mithal, Maneesha;Eichorn, Mark;Cohen, Kristin
Subject: RE: Message from Unknown sender

(b)(6)

(b)(5)

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>
Sent: Tuesday, August 27, 2019 1:43 PM
To: Eichorn, Mark <MEICHORN@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; Kaufman, Daniel <DKAUFMAN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Re: Message from Unknown sender

(b)(6)

(b)(5)

[Redacted]

Sent from my iPhone

On Aug 27, 2019, at 1:33 PM, Eichorn, Mark <MEICHORN@ftc.gov> wrote:

[Redacted]

From: Magee, Peder <PMAGEE@ftc.gov>
Sent: Tuesday, August 27, 2019 11:56 AM
To: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender

(b)(6)

(b)(5)

[Redacted]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>

Sent: Tuesday, August 27, 2019 10:45 AM

To: Cohen, Kristin <kcohen@ftc.gov>

Cc: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: Re: Message from Unknown sender [REDACTED]

(b)(5)

(b)(6)

[REDACTED] Thanks

Sent from my iPhone

On Aug 27, 2019, at 9:59 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

[REDACTED]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>

Sent: Tuesday, August 27, 2019 9:38 AM

To: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>

Cc: Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: RE: Message from Unknown sender [REDACTED]

(b)(5)

(b)(6)

[REDACTED]

From: Magee, Peder <PMAGEE@ftc.gov>

Sent: Tuesday, August 27, 2019 9:27 AM

To: Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>

Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: RE: Message from Unknown sender [REDACTED]

(b)(5)

(b)(6)

[REDACTED]

From: Mithal, Maneesha <MMITHAL@ftc.gov>

Sent: Tuesday, August 27, 2019 9:23 AM

To: Cohen, Kristin <kcohen@ftc.gov>

Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: Re: Message from Unknown sender [REDACTED]

(b)(6)

(b)(5)

[REDACTED]

Sent from my iPhone

(b)(5)

On Aug 27, 2019, at 9:07 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>
Sent: Monday, August 26, 2019 9:18 PM
To: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Fwd: Message from Unknown sender [Redacted]

(b)(5)

(b)(6)

[Redacted]

Sent from my iPhone

Begin forwarded message:

From: Cisco Unity Connection Messaging System <unityconnection@hq-unity-01.trade.ftc.gov>
Date: August 26, 2019 at 5:12:20 PM EDT
To: <mmithal@hq-unity-01.trade.ftc.gov>
Subject: Message from Unknown sender

(b)(6)

[Redacted]

From: Magee, Peder
Sent: 27 Aug 2019 11:56:09 -0400
To: Kaufman, Daniel;Cohen, Kristin
Cc: Mithal, Maneesha;Eichorn, Mark;George, Tiffany
Subject: RE: Message from Unknown sender [REDACTED]

(b)(6)

[REDACTED]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Sent: Tuesday, August 27, 2019 10:45 AM
To: Cohen, Kristin <kcohen@ftc.gov>
Cc: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: Re: Message from Unknown sender [REDACTED]

(b)(6)

[REDACTED] Thanks

Sent from my iPhone

On Aug 27, 2019, at 9:59 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

[REDACTED]

From: Kaufman, Daniel <DKAUFMAN@ftc.gov>
Sent: Tuesday, August 27, 2019 9:38 AM
To: Magee, Peder <PMAGEE@ftc.gov>; Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender [REDACTED]

(b)(6)

[REDACTED]

From: Magee, Peder <PMAGEE@ftc.gov>
Sent: Tuesday, August 27, 2019 9:27 AM
To: Mithal, Maneesha <MMITHAL@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>
Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>
Subject: RE: Message from Unknown sender [REDACTED]

(b)(6)

(b)(5)

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>

Sent: Tuesday, August 27, 2019 9:23 AM

To: Cohen, Kristin <kcohen@ftc.gov>

Cc: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: Re: Message from Unknown sender [Redacted]

(b)(6)

(b)(5)

[Redacted]

Sent from my iPhone

On Aug 27, 2019, at 9:07 AM, Cohen, Kristin <kcohen@ftc.gov> wrote:

(b)(5)

[Redacted]

From: Mithal, Maneesha <MMITHAL@ftc.gov>

Sent: Monday, August 26, 2019 9:18 PM

To: Kaufman, Daniel <DKAUFMAN@ftc.gov>; Eichorn, Mark <MEICHORN@ftc.gov>; Cohen, Kristin <kcohen@ftc.gov>; Magee, Peder <PMAGEE@ftc.gov>; George, Tiffany <tgeorge@ftc.gov>

Subject: Fwd: Message from Unknown sender [Redacted]

(b)(6)

(b)(5)

[Redacted]

Sent from my iPhone

Begin forwarded message:

From: Cisco Unity Connection Messaging System

<unityconnection@hq-unity-01.trade.ftc.gov>

Date: August 26, 2019 at 5:12:20 PM EDT

To: <mmithal@hq-unity-01.trade.ftc.gov>

Subject: Message from Unknown sender

(b)(6)

[Redacted]

From: Olsen, Chris
Sent: 23 Aug 2019 00:00:00 +0000
To: Mithal, Maneesha
Subject: Automatic reply: Could you call me at [REDACTED] if you get this before 10?

(b)(6)

I am out of the office and will be delayed in responding to emails. Thank you.

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

(b)(5)

From: Smith, Andrew
Sent: 27 Aug 2019 18:15:11 -0400
To: Mithal, Maneesha;Kaufman, Daniel;Eichorn, Mark
Subject: [REDACTED]

(b)(5)

Andrew Smith
Sent from my iPhone

(b)(6)

From: Mithal, Maneesha
Sent: 22 Aug 2019 23:59:35 +0000
To: 'Olsen, Chris'
Subject: Could you call me at [REDACTED] if you get this before 10?

(b)(5) **From:** Mithal, Maneesha
(b)(5) **Sent:** 28 Aug 2019 02:57:21 +0000
To: Smith, Andrew
Cc: Kaufman, Daniel;Eichorn, Mark
Subject: Re: [REDACTED]

[REDACTED]

(b)(5) Sent from my iPhone

> On Aug 27, 2019, at 6:15 PM, Smith, Andrew <asmith@ftc.gov> wrote:
>

[REDACTED]

> Andrew Smith
> Sent from my iPhone