

**BEFORE THE
FEDERAL TRADE COMMISSION**

In the Matter of

Competition and Consumer Protection
In the Twenty-First Century Hearings

Project No. P181201

**Comments of the Entertainment Software Association
on
Topic #4 - The Intersection between Privacy, Big Data, and Competition**

The Entertainment Software Association (“ESA”) is a trade association for companies that publish computer and video games for video game consoles, personal computers, and the internet. Its 33 member companies include many of the world’s largest video game producers.¹ Today, video games are one of the leading forms of entertainment. With over \$36 billion in annual domestic revenues and providing for over 220,000 American jobs across the country, the video game industry is a significant and growing part of the U.S. economy. The American video game industry, however, does not operate in a vacuum: the global market for video games is estimated to hit \$137.9 billion in revenue for 2018.² Similarly, the regulation of privacy by U.S. lawmakers and government agencies does not operate in a vacuum: around the world, governments have begun evaluating and implementing broad consumer privacy regimes.

ESA members strive to comply with rules on consumer privacy in different jurisdictions.

One challenge, though, is that sometimes there are ambiguities in determining which law

¹ ESA offers a range of services to publishers of entertainment software, including a global content protection program, business and consumer research, government relations, and intellectual property protection efforts. ESA also owns and operates E3, an annual event showcasing the video game industry.

² See Tom Wijman, *Mobile Revenues Account for More than 50% of the Global Games Market as It Reaches \$137.9 Billion in 2018*, NewZoo (Apr. 30, 2018), <https://newzoo.com/insights/articles/global-games-market-reaches-137-9-billion-in-2018-mobile-games-take-half/>.

applies and how it applies, particularly in the online context where multiple vendors located in different jurisdictions might be integral to offering the service. For example, in a transaction that may implicate several parties, it may not always be clear which party is responsible for carrying forward the law's requirements. As U.S. lawmakers and government agencies, including the FTC, consider whether to embark on a comprehensive approach to privacy,³ it is critical that there be an ongoing dialogue with industry and other stakeholders so that any resulting rules are balanced and appropriately tailored.

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Respectfully submitted,

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³ ESA is also filing comments on (1) competition and consumer protection issues in communication, information, and media technology networks, and (2) the FTC's investigation, enforcement, and remedial processes.