



Aug. 20, 2018

Via Electronic Submission:

Mr. Donald Clark
Secretary of the Commission
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C., 20580

Re: Competition and Consumer Protection in the 21st Century Hearings, Project Number P181201

This comment is submitted in response to the FTC's call for comment on competition and consumer protection issues. It is submitted on behalf of the Advertising Self-Regulatory Council ("ASRC") and Council of Better Business Bureaus ("CBBB").

The CBBB: For more than 100 years, the Better Business Bureau has been helping people find businesses, brands and charities they can trust. In 2017, people checked BBB profiles on businesses over 154 million times and sought out over 403,000 BBB charity reviews – all available for free at bbb.org. The CBBB is the umbrella organization for the local, independent BBBs in the United States, Canada and Mexico, as well as home to its national and international programs on dispute resolution, advertising review, and industry self-regulation.

The ASRC: ASRC establishes the policies and procedures for advertising industry self-regulation. The self-regulatory system was founded by three major advertising trade associations – the 4A's (American Association of Advertising Agencies), the American Advertising Federation (AAF) and the Association of National Advertisers (ANA). To ensure the integrity of the process, the associations partnered with the Council of Better Business Bureaus (CBBB) to administer the self-regulatory program. These four organizations formed ASRC to house their continuing partnership.

Our comment has information that is responsive to three questions raised by the FTC's notice.

Question 1: The state of consumer protection law and enforcement and their development since the 1995 Pitofsky Hearings and the 1996 publication of "Anticipating the 21st Century: Competition and Consumer Protection Policy in the New High-Tech, Global Marketplace."¹ As predicted then, self-regulatory models have rapidly evolved in the last 23 years and demonstrated that self-regulation can enhance consumer welfare while facilitating innovation.

*A service of the advertising industry
and Council of Better Business Bureaus*

Question 4: The intersection between privacy, big data and competition. Again, self-regulation – especially the Digital Advertising Alliance’s (DAA) groundbreaking programs – has provided effective responses to challenges in the marketplace in ways that both protect consumers and promote competition. Similarly, the Children’s Advertising Review Unit (CARU) has actively promoted compliance with the Children’s Online Privacy Protection Act (COPPA).

Question 11: The agency’s investigation and remedial processes. The FTC has an outstanding track record of encouraging the creation and operation of appropriate self-regulatory programs through a variety of tools, including by calling for stronger programs, generously acknowledging the work of the industry if a program proves successful, by providing advisory opinions to new self-regulatory programs to ensure they comply with competition law and by devoting resources to prompt review of self-regulatory case referrals.

To address these questions, we briefly summarize the history of the successful creation and implementation of the CBBB-administered system of advertising industry self-regulation with a focus on the development of self-regulatory initiatives since the 1995 Pitofsky hearings and subsequent report, *Anticipating the 21st Century: Competition and Consumer Protection Policy in the New High-Tech, Global Marketplace*. This history demonstrates that carefully crafted industry-supported self-regulatory programs play an important role in both protecting consumers and facilitating competition among honest and ethical businesses.

As the 1996 report concluded: *"Private Initiatives: Self-regulation may offer some of the most promising avenues for consumer protection in this new medium, without inhibiting its development."*²

As illustrated below the intervening years have amply demonstrated the correctness of the report’s conclusions.

Since that time:

- The Children’s Online Privacy Protection Act (COPPA) expressly incorporated self-regulation in its statutory scheme through its safe harbor provision. The Children’s Advertising Review Unit (CARU) provides guidance through The Self-Regulatory Program for Children’s Advertising,³ which includes CARU’s guidelines on privacy and COPPA compliance. CARU has published more than 200 COPPA enforcement decisions.⁴
- In 2007, the CBBB and the food industry, at the urging of the FTC, launched a dynamic and effective program to improve the landscape of food advertising to children under 12 – the Children’s Food and Beverage Initiative (CFBAI). Now at 18 participants, CFBAI uses strong uniform nutrition criteria that have driven significant improvements in foods advertised to children by its participants.⁵
- ASRC and the dietary supplement industry have created a strong program to dedicate resources to monitor and remove misleading dietary supplement advertising from all media, including online media.
- The DAA created a new, highly innovative and effective notice and choice regime for interest based advertising and multi-site data collection by providing “enhanced notice” of data collection, again in response to the express suggestion of the FTC on the need for such a program.
- The CBBB-administered Accountability program, which enforces compliance with DAA standards, has brought more than 80 compliance actions with almost 100 percent voluntary compliance.

- NAD has grown in stature and influence, issuing over 6,000 decisions in its five decades and increasingly addressing and providing industry guidance on online advertising issues such as influencers and consumer ratings.
- In 2015, BBB updated its Code of Advertising to closely parallel FTC law and policy. In 2016, the Code was again revised to add provisions on “Native Advertising.” This Code is used by BBBs to encourage businesses to advertise honestly.
- The BBB system has developed innovative tools for early detection of scams using crowd-sourced data to create “Scam Tracker” reports. This data serves as the foundation for an annual scam risk report and research into related issues such as fraud victimization.⁶

These self-regulatory efforts enhance protections offered to consumers in ways that preserve the benefits of a competitive market. Each was made possible by a combination support by the industry for a truthful and functional consumer marketplace and FTC policies that encourage the development of self-regulatory structures that supplement – or in some case substitute for – FTC regulatory activities.

This comment urges and provides support for the following propositions:

- When assessing marketplace issues, the FTC should consider the role that self-regulation can play in providing effective, pro-competitive approaches based on the accumulated expertise of industry members.
- The FTC should continue its historical support for the development of appropriate self-regulatory tools.
- The FTC should continue its leadership internationally in ensuring that self-regulatory tools are considered by bodies like the OECD and APEC in crafting recommendations on consumer policy issues.
- The FTC should increase its use of guidance like the Endorsements and Testimonials Guides, the Native Advertising Enforcement Policy Statement, Dietary Supplement Advertising Guidance (“the Green Book”), Environmental Advertising Guides (“Green Guides”) and the recently issued “Business Guidance for Multilevel Marketing” as these guidance documents provide clarity that facilitates self-regulation.
- The FTC should consider whether there are additional steps it can take to support the development of self-regulatory programs, especially by providing some measure of recognition of good faith participation in self-regulatory programs in selecting cases and determining the appropriate remedy in enforcement actions.
- The FTC should continue to look to BBB for early detection of consumer frauds, a potent consumer education partner and source of consumer complaints once an FTC investigation is initiated.

Benefits of Self-Regulation

The FTC has long recognized the benefits that appropriately structured self-regulatory initiatives can provide to consumers, competition and the government. These benefits have recently been summarized in a comprehensive review by FTC Commissioner Maureen Ohlhausen.⁷

For consumers, the benefits of self-regulation include the obvious, a direct industry response to quickly stop practices like misleading advertising, and the less obvious, the promotion of a more trustworthy overall marketplace and a reduction in compliance and regulatory costs.

As noted by Commissioner Ohlhausen, the benefits of appropriately structured self-regulatory programs for the industry include the opportunity to apply their “boots on the

ground” experience in fashioning a response that is consistent with industry practices and thus responsive but less disruptive than regulation. In addition, self-regulatory regimes are inherently more flexible than government regulatory actions and can dynamically evolve as industry practices change. Thus, self-regulation can more readily adapt to future industry changes by covering new practices without acting as a drag or delay on innovation.

Effective self-regulation can also improve an industry’s reputation in the marketplace. This reputational gain is a principal motivation for many ground-breaking industry efforts. Improvements in the industry’s reputation also benefit consumers when they are based on a more truthful marketplace. The FTC has a long history of recognizing these efforts, once proven successful, just as it appropriately identifies problems in the marketplace.

Effective self-regulation programs can also be valuable to the government as the programs can supplement government enforcement resources or, in appropriate instances, substitute for them entirely. Even in instances where the government ultimately judges that some level of regulation is needed in the marketplace, the experience of self-regulatory bodies in implementing self-regulatory standards can inform the government on workable approaches, and self-regulation can adapt to assure higher levels of compliance once implemented. The advertising industry’s experience with self-regulation of children’s privacy before the passage of COPPA, for example, helped inform the FTC’s original rulemaking. CARU quickly moved to begin self-regulatory enforcement of COPPA once the rules were adopted.

Effective Self-Regulatory Models

Of course, not all industry self-regulation programs are effective. Commissioner Ohlhausen’s review points to several indicia of effective self-regulation. Effective self-regulation must be:

- Adequately funded and maintain sufficient independence from the industry. Both structure and funding must allow for objective oversight of industry practices to ensure that self-regulatory principles are followed by the industry.
- Based on principles that are clear, meaningful, and fair. As the Commissioner noted vague or indefinite principles do not provide actual protection to consumers.
- Backed by effective oversight and enforcement mechanisms. According to Commissioner Ohlhausen, “[w]ithout an effective enforcement mechanism, a self-regulatory framework is in danger of becoming toothless.”

We would add to this excellent summary that to meet these three criteria the program must be transparent. Unless consumers and the government can see the work of self-regulation and judge its effectiveness or ineffectiveness, a lack of confidence in the program can result in underutilization.

All CBBB-administered self-regulatory programs have been designed to meet these standards of effectiveness.

Examples of successful post-Pitofsky Report self-regulation in action

National Advertising Division (NAD)

The CBBB-administered NAD program was well-established at the time of the 1995 Pitofsky hearings and has evolved to play an increasingly important role.

The NAD has a long and distinguished history.

It was created in 1971 in response to respond to real and perceived concerns about the advertising and an aggressive effort by the FTC to address these concerns. In response, three of the major advertising associations – 4A’s, AAF and ANA, along with the then newly-created Council of Better Business Bureaus – founded NAD, the advertising industry’s voluntary, self-regulatory forum to monitor and review national advertising for truthfulness and accuracy. It also formed a body to review appeals of NAD determinations, the National Advertising Review Board (“NARB”).

The simple standard applied by NAD that advertising must be truthful, accurate and not misleading, is derived from Section 5 of the FTC Act (“unfair or deceptive acts or practices in or affecting commerce ... are ... declared unlawful.”) It is a broad standard that adapts to all advertising regardless of the product, media or format of the advertising. Through competitive challenges and its own monitoring efforts, NAD analyzes advertising claims and substantiation, publishing detailed decisions that conclude whether advertising claims are substantiated or lack support and should be discontinued or modified. Those decisions serve as forward-looking guidance for all advertisers in developing claims and supporting evidence.

In its nearly 50-year history, NAD has reviewed over 6,000 matters, assessing the truthfulness and accuracy of national advertising claims. As noted during the Pitofsky hearings, NAD has demonstrated that self-regulation can be at the forefront of opining on trending claims in various industries and identifying issues in new forms of advertising (such as how social media endorsements should disclose material connections to advertisers). The advertising industry has exhibited its faith in NAD’s self-regulatory process, voluntarily complying with its recommendations at a very high rate.

NAD, NARB, and their more specialized counterparts like the CRN dietary supplement advertising program, have grown over the last 23 years and developed a reputation for independent and robust decision-making that plays an important role in supporting consumer protection and fair competition. NAD maintains the advertising industry’s trust through its independence from industry, its rigorous and respected NARB appeals process, the transparency of its process and decision-making, and resulting consistent body of case guidance.

NAD, however, could not be effective without the FTC’s strong support and continued acknowledgement that a healthy advertising self-regulatory framework is good for both consumers and competition. As Commissioner Ohlhausen, then Acting Chair, stated: “The most effective [self-regulatory] frameworks are those backstopped by robust, yet judicious, use of government regulatory powers. When there is a viable threat of government intervention, more companies are likely to join and adhere to self-regulatory principles.”

The FTC has served as the primary backstop for advertising self-regulation when the voluntary process breaks down. If an advertiser does not participate in self-regulation or refuses to follow NAD’s recommendations, the advertiser is referred to the appropriate governmental regulatory body – usually the FTC. Over the years, FTC has consistently responded to each referral letter and has maintained a public record of its actions. The knowledge that the FTC supports NAD and is willing to consider acting on matters referred by NAD is crucial to maintaining industry’s cooperation with advertising self-regulation.

Looking forward to the state of consumer protection law over the next two decades, the NAD, with its broad, flexible standard promoting truth in advertising, is poised to adapt to a quickly changing advertising landscape and address new forms of advertising. New advertising strategies challenge regulators and industry self-regulation alike. Consumers are now regularly presented with media that blurs the line between editorial journalism and

advertising through online content monetization and native advertising. They are increasingly required to sift through messages promoted on social media platforms to determine what is truthful and trustworthy and what is not.

Advertising self-regulation can help provide solutions for how to monitor and hold advertising in any format to consistent standards, so consumers have more trustworthy information, not less. In this regard, we note particularly the usefulness of the guidance provided by the FTC to the advertising industry including the Commission's Deception Policy Statement, Advertising Substantiation Policy Statement, Testimonials and Endorsements Guides, Green Guides, and Native Advertising Policy Statement and Enforcement Guides. All these documents provide concrete yet flexible direction to the industry and to its self-regulatory process.

Council for Responsible Nutrition (CRN) Dietary Supplement Program

A product-specific application of the NAD model is the CRN Dietary Supplement program. Recognizing the need to strengthen the self-regulatory presence to prevent misleading dietary supplement advertising, the CRN has for twelve years funded an NAD attorney dedicated to monitoring and bringing cases to challenge misleading dietary supplement advertising. Under this program, the NAD has published more than 300 case decisions, removing misleading claims from the marketplace and providing specific fact-based guidance on often complex issues of dietary supplement claims substantiation.

CARU and Self-Regulation of Digital Media.

CARU protects children from deceptive or inappropriate advertising and online privacy practices by evaluating child-directed advertising in all media, and online privacy practices as they affect children. CARU both monitors advertising directed to children under 13 and works with organizations to ensure their advertising and data collection practices comply with The Self-Regulatory Program for Children's Advertising, which includes CARU's guidelines. The guidelines take into account the uniquely impressionable and vulnerable child audience.

Although CARU was established in 1974, the guidelines have been regularly revised to reflect changes in the marketplace and especially changes in technology used to direct advertising to children. In updating its guidance to the industry, CARU is assisted by its 70-member CARU Supporters Council, which is comprised of the leading children's product companies, as well as its academic advisory group. CARU also works to educate parents on issues of children's advertising and marketing practices.

As part of its commitment to protecting children, CARU in the 1990s expanded its guidance to data collection and privacy issues. As an extension of its mission to help organizations deal sensitively with the child audience in a responsible manner, CARU applied for and was granted the first Safe Harbor under the Children's Online Privacy Protection Act (COPPA).

In addition, pursuant to the guidelines, CARU monitors and takes action to bring companies voluntarily into compliance with COPPA. CARU is currently working with its supporters and academic advisors to assess the impact of streaming video and mobile technology on the important child protection goals of its guidelines.

Online Interest-Based Advertising Accountability Program

The DAA was created by members of the online interest-based advertising ecosystem in direct response to calls from the FTC in December 2007 to create a stronger and more effective self-regulatory structure governing the collection and use of data for interest-based advertising.⁸

In response, the CBBB worked with leaders of the digital advertising industry – including the Interactive Advertising Bureau (IAB), the ANA and the 4A's – to create Principles⁹ for notice and choice for interest-based advertising data collection. Notably, and again in direct response to the FTC's request, this group created a groundbreaking AdChoices icon that provides enhanced, just-in-time notice of interest-based advertising data collection. In recognition of the need for a true industry-wide response, the Principles apply to all members of the digital advertising industry. Demonstrating the ability of self-regulation to dynamically evolve, the Principles have grown to cover multi-site data collection, mobile devices and cross device tracking.

As in other areas, Principles without enforcement do little to protect consumers. The founding partners of the DAA wisely recognized this and charged ASRC and the CBBB with development of an "accountability" program that could monitor digital advertising for compliance.

Employing a structure like existing, successful ASRC self-regulatory programs but using advanced tools to monitor digital advertising, the Accountability Program was created to be a data privacy watchdog. The Accountability Program monitors websites and mobile apps to check whether companies are following the DAA Principles. Where it detects apparent non-compliance, it may initiate a formal inquiry. These inquiries are conducted in confidence with the company or companies in question, and where non-compliance is confirmed, the Accountability Program works with the companies to remedy it. The results are published online to provide guidance to industry and to transparently document the Accountability Program's efforts.¹⁰ Where companies refuse to participate in this review process, the Accountability Program may refer the company to the appropriate government agency.

The Accountability Program also reviews consumer complaints regarding violations of the DAA Principles. The Accountability Program has processed over 23,000 consumer complaints in its seven years of operation, some of which have yielded viable enforcement cases. And whether a complaint raises a compliance concern under the DAA Principles or not, the Accountability Program responds individually to any consumer whose complaint includes return contact information.

Over the years, it has released the results of more than 80 cases and published five formal compliance guidance documents. Through this work, the Accountability Program has accomplished several noteworthy things:

- Enlisting publishers: The DAA Principles apply not only to advertising companies, but also to publishers. The Accountability Program has brought dozens of publishers into compliance, ensuring consumers are provided with real-time notice that data collection for IBA may be occurring even when no ads are being served.
- Tracking non-cookie IDs: As the web has grown beyond traditional HTTP cookies, the Accountability Program has grown, too, expanding its monitoring to include browser fingerprinting techniques and other non-cookie unique identifiers. These technologies can power IBA and fall squarely within the DAA Principles. The ability to seamlessly adapt to this kind of change is a hallmark of self-regulation, particularly in the technology space.

- Transitioning to mobile: Another major tech transition was the move from desktop and laptop computers to mobile computing devices such as smartphones and tablets. The Accountability Program has been enforcing the DAA's Mobile Guidance since 2015 and has tackled cases involving both mobile app publishers and the advertising technology companies that help monetize those apps. To do this, the Accountability Program has expanded its technical forensics tools, from virtual testing environments and automated scanners to banks of test devices.
- Tackling location data: As part of the expansion into mobile, the Accountability Program has had to grapple with the difficulty of defining "precise" location data, a category of more sensitive consumer data that can locate a particular person or device in space. Several of its cases have involved companies receiving this kind of data without first getting consumers' consent, and all of the companies involved have readily implemented the Accountability Program's recommendation either to first obtain consent or to reduce the precision of the data collected.

Remarkably, the program has received nearly complete voluntary compliance with only one regulatory referral since its creation, demonstrating strong industry support for the notice and choice principles it embodies.

In view of its success enforcing the DAA's Principles related to IBA, the Accountability Program will also serve as the enforcement agent for the DAA's Application of the Self-Regulatory Principles of Transparency & Accountability to Political Advertising, a set of best practices which aim to bring timely access to relevant information about certain paid political advertising. Enforcement is currently slated to begin in the spring of 2019.

Children's Food and Beverage Advertising Initiative

The 18 leading food and beverage and quick serve restaurant companies that participate in CFBAI voluntarily agree to restrict significantly their food advertising directed to children under age 12 as one way to contribute to the fight against childhood obesity. CFBAI was created to respond to FTC and Institute of Medicine (IOM) calls for self-regulation to do more to address the complex problem of childhood obesity. CFBAI has proved to be a dynamic program committed to ongoing improvement in the children's food advertising landscape.

Under CFBAI's Core Principles, ¹¹ participants commit that in advertising primarily directed to children under age 12 ("child-directed advertising") they will depict only foods that meet CFBAI's category-specific uniform nutrition criteria, or that they will not engage in child-directed advertising. CFBAI participants agree to CFBAI oversight and to be held accountable for failure to comply with their commitments. CFBAI monitors covered media for compliance and requires participants to submit detailed self-assessments annually. CFBAI publishes an annual compliance and progress report, which is available on the program website along with other important program information including CFBAI's uniform nutrition criteria, CFBAI's Product List of foods that may be advertised to children, program fact sheets, and CFBAI's public comments and statements.

Since its launch in 2007, CFBAI has engaged in a series of important program enhancements that have improved the children's food advertising landscape, including an increase in the number of participants from the original 10 to the current 18; the expansion of media coverage to mobile as well as online digital media; harmonization of the definition of "child-directed" advertising; and, most importantly, the adoption of the Uniform Nutrition Criteria in 2011.

CFBAI's impact on the children's food advertising landscape is substantial. The FTC's 2012 "Review of Food Marketing to Children and Adolescents" reported that CFBAI-participant ad

expenditures accounted for 89% of all the food advertising expenditures to children (based on 2009 data). According to CFBAI's annual snapshots of ads that air during 30-hour samples of children's programming, CFBAI participants consistently have accounted for about 70% of all food ads.

Most importantly, CFBAI's participants have made notable improvements in foods they advertise to children, by reducing calories, sugars, and sodium and at the same time steadily improving the nutrient density of advertised foods. In cereals, the category most advertised to children, the whole grain content has increased steadily, and the added sugars content has been reduced significantly. Yogurts advertised to children also have experienced significant added sugar reductions. Quick serve meals advertised to children by CFBAI participants include more fruit options, as well as several low-fat or fat-free dairy foods or beverages choices. In CFBAI's 2017 snapshot of 30 hours of food advertising on Nickelodeon, virtually all participants' ads (94%) were for foods that provided at least a half-serving of fruit, vegetables, whole grains or non/low-fat dairy or that were a good source of a nutrient of public health concern (e.g., Vitamin D).

CFBAI exemplifies the advantages associated with self-regulation. In less time than it generally might take the government to propose and issue a rule, CFBAI was created, implemented, enforced, and has been substantially enhanced several times. CFBAI has demonstrated an ongoing commitment to strengthen and adapt self-regulatory measures to changing needs. Most recently, CFBAI launched the Children's Confection Advertising Initiative (CCAI), in partnership with the National Confectioners Association, to expand the impact of self-regulation to include small-to-medium sized confection companies that commit to not engaging in child-directed advertising.

CFBAI's dynamic and impactful approach to self-regulation has been welcomed by regulators, including the FTC, other agencies, and former First Lady Michelle Obama, as effective in helping to drive change in the marketplace and in improving the children's food advertising landscape. CFBAI's design and success also have made it the model for food and beverage advertising pledge programs in countries across the globe, for media companies and for individual food companies with a children's food portfolio.

The critical role of BBB in detecting fraud, educating consumers and providing data to assist FTC investigations

In addition to the CBBB's work as both a provider and administrator of self-regulatory programs, the CBBB also serves as the umbrella for the BBB system in the United States, Canada and Mexico. BBB's mission is "to be the leader in advancing marketplace trust." Key to that mission is BBB's work to educate consumers, examine consumer complaints, detect and warn of possible fraud and provide complaint data to law enforcement agencies.

Consumer and Business Education: BBB produces hundreds of consumer "tips" ¹² each year on topics as diverse as managing credit, online safety and cybersecurity, choosing a contractor, buying a used car, understanding blockchain and hiring a wedding services vendor. BBB also helps consumers identify trustworthy businesses, and those that aren't, through more than four million BBB Business Reviews. The BBB Institute for Marketplace Trust, a 501(c)(3) organization, has developed a suite of programs geared specifically to military consumers, including local outreach by individual BBBs across the U.S. who teach financial readiness workshops, support local community events, and actively engage military communities. BBBI programs include BBB Scam Tracker, AdTruth, Smart Investing and the Digital IQ program, as well as the Military & Veterans Initiative.

Scams and Fraud: BBB works closely with local, state and federal law enforcement agencies, providing them with valuable information on potential frauds. It is often the first organization to know – in part through consumer complaints – about developing scams. When a scam emerges in one part of the country, the information is quickly shared between BBBs in the U.S. and Canada and is used to alert the public.

BBB also works directly with law enforcement agencies. In June 2018, for example, the FTC announced the results of “Operation Main Street: Stopping Small Business Scams,” an effort undertaken jointly with the offices of eight state Attorneys General, the New York Division of the U.S. Postal Inspection Service, two U.S. Attorneys’ Offices, and BBB. The law enforcement initiative targeted operations seeking to defraud small businesses and included a BBB-led education outreach effort to help small businesses protect themselves from fraud.

Ad Review: Each BBB is charged with maintaining an active ad review program that extends to local, regional, and national advertising. BBB reviews ads against the BBB Code of Advertising and seeks voluntary correction, disclosing instances of noncompliance to the public. The program results in the correction of thousands of advertisements each year.

Data and Information: BBB is a top data contributor to the FTC’s Consumer Sentinel database for law enforcement agencies. BBB provided more than 400,000 individual reports to the database in 2015, 2016, and 2017 from BBBs across North America. Individual BBBs work also closely with the FTC. For example, in August of 2018, the FTC announced a case against Sellers Playbook Inc., noting that the case “was brought with the assistance of the Utah Division of Consumer Protection, the U.S. Marshals Service for the District of Minnesota, Amazon.com, Inc., the Better Business Bureau of Minnesota and North Dakota, and the Electronic Retailing Self-Regulation Program (administered by the Council of Better Business Bureaus, Inc.).”¹³

BBB Auto Line: In considering successful self-regulation models the FTC should not overlook the long-standing success of its efforts to promote arbitration of automobile warranty complaints. For decades CBBB has administered BBB Auto Line program to resolve warranty disputes between motor vehicle manufacturers/distributors and their customers. Developed in the late 1970s, BBB Auto Line procedures comply with FTC’s Rule 703, which establishes procedural requirements for Magnuson-Moss Act mechanisms, and with state procedural requirements for lemon law mechanisms. CBBB arranges for an annual independent audit to confirm BBB Auto Line’s regulatory compliance, impartiality and effectiveness. The program offers a free, fair and transparent process that uses conciliation, telephone mediation and conditionally binding arbitration – participating manufacturers have committed to be bound by decisions that are accepted by consumers. Arbitration hearings are held at neutral BBB locations chosen by consumers. Since its inception, BBB Auto Line has handled more 2 million warranty complaints. A majority of auto manufacturers use BBB’s program demonstrating the long-term value of this process to customers and manufacturers.

We appreciate the opportunity to comment on these important issues and we look forward to further participation in these critical discussions.

Respectfully,

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¹ "Anticipating the 21st Century: Competition and Consumer Protection Policy in the New High-Tech, Global Marketplace." <https://www.ftc.gov/reports/anticipating-21st-century-competition-consumer-protection-policy-new-high-tech-global>

² "Anticipating the 21st Century: Competition and Consumer Protection Policy in the New High-Tech, Global Marketplace." Pg. 31, Vol. 2.

³ "The Self-Regulatory Program for Children's Advertising." <http://www.ascreviews.org/wp-content/uploads/2012/04/Self-Regulatory-Program-for-Childrens-Advertising-Revised-2014-.pdf>

⁴ "CARU Recommends Starmaker Interactive Modify Privacy Practices for Starmaker App" <http://www.ascreviews.org/caru-recommends-starmaker-interactive-modify-privacy-practices-for-starmaker-app/>

⁵ Children's Food and Beverage Advertising Initiative <https://bbbprograms.org/programs/CFBAI/>

⁶ BBB ScamTracker tool. <https://www.bbb.org/scamtracker/us>

⁷ Acting Chairman Maureen K. Ohlhausen, "Opening Remarks for the 2017 DSA Fall Conference." https://www.ftc.gov/system/files/documents/public_statements/1271503/2017-11-7_dsa_posting_version.pdf

⁸ "Statement of Federal Trade Commission Concerning Google/DoubleClick; FTC File No. 071-0170" https://www.ftc.gov/system/files/documents/public_statements/418081/071220googledc-commstmt.pdf

⁹ Digital Advertising Alliance, Principles <https://digitaladvertisingalliance.org/principles>

¹⁰ Decisions of the Online Interest-Based Advertising Accountability Program <http://www.ascreviews.org/category/ap/>

¹¹ Children's Food and Beverage Advertising Initiative Program and Core Principles Statement, 4th Edition <https://bbbprograms.org/siteassets/documents/cfbai/enhanced-core-principles-fourth-edition-with-appendix-a.pdf>

¹² "Tips" <https://www.bbb.org/new-york-city/get-consumer-help/articles/tips>

¹³ "FTC, BBB, and Law Enforcement Partners Announce Results of Operation Main Street: Stopping Small Business Scams Law Enforcement and Education Initiative" 6.18.18 <https://www.ftc.gov/news-events/press-releases/2018/06/ftc-bbb-law-enforcement-partners-announce-results-operation-main>