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UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Statement of Commissioner Rebecca Kelly Slaughter

*Regarding the Policy Statement on Education Technology and the Children's Online Privacy
Protection Act
As Prepared for Delivery*

Federal Trade Commission Open Meeting
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I want to add my support for the Commission's Policy Statement on COPPA and Education Technology. I'm happy that the Commission is going to be able to speak with one voice and put to bed any lingering doubts about our resolve to take COPPA and its statutory protections seriously. The explosion of ed tech and distance learning during the pandemic has made these protections even more important. Like many other Americans, I've seen this market grow first hand. We had kids in zoom-school for much of the pandemic.

My oldest daughter was in kindergarten when the pandemic started. She had to learn to read over zoom. I could not be more grateful to our local public schools, and our kids' amazing teachers, for their ability to manage such a challenging situation so successfully, and I'm grateful to the technological tools that made it possible. My kids are thrilled to be back in "real" school, but now that they're back, they're still using ed tech devices and applications provided to them by their schools to continue their learning in and out of the building – and at home in our living rooms. As the Commission's statement emphasizes, there are huge benefits to using this technology to facilitate learning, but that cannot come at the price of surveillance of our kids and unlawful collection and use of their information outside the law.

The Commission has an ongoing COPPA rule-review that I hope will keep our regulations updated by addressing some of the specific issues with ed tech around school-based consent, additional prohibitions on data collection and use, and the privacy implications of children keeping school-provided devices with them as they travel to and from their homes, to school, and out into the world. That said, even in the context of our ongoing review this policy statement is timely, even necessary.

The policy statement highlights underappreciated aspects of the law that I'd like to underscore. They have wider implications for our work in combating surveillance and data abuses, creating deterrence for bad actors, and ensuring fair competition. I'd like to quickly highlight two of these provisions.

Most importantly, folks that aren't steeped in the intricacies of privacy law may be surprised to know that the COPPA provides for perhaps the strongest, though under-enforced, data minimization rule in US privacy law. As the policy statement plainly reiterates, "COPPA-covered companies, including ed tech providers, must not condition participation in any activity

on a child disclosing more information than is reasonably necessary for the child to participate in that activity.” Enforcing this hard prohibition on unnecessary data collection helps keep kids out of the surveillance economy by depriving that engine the fuel it needs to run.

COPPA also limits the use of the information companies are allowed to collect, absent proper parental or school authorization. That means companies and ed tech providers can only use the information they collect through the use of their service for the provision of their service. For ed tech that means a prohibition on using that information for “marketing, advertising, or other commercial purposes unrelated to the provision...” of the service.

These statutory provisions do not apply exclusively to ed tech companies, and their rigorous enforcement will stretch beyond the ed tech ecosystem, too. A recent study suggested that up to a fifth of all the android apps available on the play store directed at kids may be in violation of the statute.¹ I hope all COPPA covered companies take a long look at the text of the statute and think as seriously about their compliance obligations as we’ll think about our enforcement ones.

Enforcement of these two provisions can have important competition effects as well. I’d like to see ed tech and other companies compete to build products solely focused on enriching our children’s lives. Those companies should compete on the actual value of their products to children and not pad their bottom lines by selling or sharing our kids’ information.

Privacy is a human right. Everyone – especially children should be able to get an education and participate in society without unwarranted surveillance or exploitation. I look forward to continuing to work with all my fellow commissioners on these data abuse issues.

I also want to extend my thanks to everyone that worked on this statement. Thank you to Jim Trilling, Peder Magee, Mark Eichorn, Kristin Cohen, Lesley Fair, June Chang, Jennifer Leach, Richard Gold, Josephine Liu, and Kevin Moriarty in the Chair’s office.

¹ Andrea Vittorio, *Children’s Apps Unknowingly Collecting Data Pose Compliance Risk*, Bloomberg Law, June 8, 2021, <https://news.bloomberglaw.com/privacy-and-data-security/childrens-apps-unknowingly-collecting-data-pose-compliance-risk>