

Dear Ms. Barrett and Ms. Moy

Thank you for your comment on behalf of Campaign for a Commercial-Free Childhood and the Center for Digital Democracy regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the abovementioned matter. The Commission appreciates and carefully considers all public comments before finalizing any proposed settlements. See 16 C.F.R. § 2.34(c).

RetinaX Studios, LLC and its owner, James N. Johns, Jr., developed and sold three applications that allow by

In your comment, you object to the fact that the consent agreement does not include a civil penalty for the alleged COPPA violation.

The Commission agrees that the respondents' alleged COPPA violation was serious, and under different circumstances, the Commission would strongly consider seeking both injunctive and monetary relief. Here, however, the company used the guise of parents monitoring children as a pretext to sell monitoring products for illicit purposes, such as stalking of adult domestic partners. While the presence of some child users justified a COPPA count, the civil penalty factors, such as proposed respondents' ability to pay and stay in business, would have led to a civil penalty that was quite small, so the Commission focused on securing injunctive relief to prevent future violations. The Commission also observed that marketing and sales of the applications at issue ceased in 2018.

COPPA is not a one-size-fits-all statute, and the Commission has tailored its use to specific facts and circumstances, as in this case. In addition, the Commission is fully utilizing another tool Congress has given it: APA rulemaking authority. The Commission is currently engaged in a review of the COPPA Rule to assess whether any amendments would make COPPA more effective in light of the rapid technological changes impacting the online children's marketplace.

The Commission has determined that the public interest would best be served by issuing the Complaint and the Decision and Order in the above-captioned proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available on the Commission's website at <http://www.ftc.gov>. The Commission thanks you again for your comment.

By direction of the Commission.

April J. Tabor
Acting Secretary

¹ As shown by the YouTube and TikTok cases, the Commission does not hesitate to seek significant civil penalties for COPPA violations. However, in cases involving smaller actors with lesser ability to pay, the statutory factors counsel toward imposing smaller civil penalties or none at all. This matter falls on the latter end of that spectrum. As another example, in the recent Dressup.com case the Commission weighed the statutory factors and ultimately obtained a relatively modest civil penalty of \$35,000.