

June 14, 2021

Chairwoman Rosa DeLauro  
2413 Rayburn House Office Building  
Washington, DC 20515-0703

Chairman Patrick Leahy  
437 Russell Senate Office Building  
Washington, DC 20510-4502

Ranking Member Kay Granger  
1026 Longworth House Office Building  
Washington, DC 20515-4312

Vice Chairman Richard Shelby  
304 Russell Senate Office Building  
Washington, DC 20510

Chairman Mike Quigley  
2078 Rayburn House Office Building  
Washington, DC 20515-1305

Chairman Chris Van Hollen  
110 Hart Senate Office Building  
Washington, DC 20510

Ranking Member, Steve Womack  
2412 Rayburn House Office Building  
Washington, DC 20515-040

Ranking Member Cindy Hyde-Smith  
702 Hart Senate Office Building  
Washington, DC 20510-2402

Dear Chairs Delauro, Leahy, Quigley, and Van Hollen, Vice Chair Shelby, and Ranking Members Granger, Womack, and Hyde-Smith,

As privacy and consumer advocates committed to protecting children's wellbeing, we write to urge you to consider a Fiscal Year 2022 appropriation of at least \$525,000,000 to a critical consumer protection regulator, the Federal Trade Commission (FTC). This is a 50% increase from the current appropriation, and would enable approximately 850 additional FTEs and funding for other critical FTC priorities.<sup>1</sup> While we recognize this would represent a significant increase for this agency, the well-known truth is that the FTC has been underfunded and overmatched relative to its critical responsibilities for years to the detriment of American consumers.

The FTC's efforts to reign in abuses of digital technologies are critical for many reasons, but no more so than to protect families. Children are increasingly growing up in a digital world, surrounded by devices that surveil their every move and moment, encountering advertisements indistinguishable from online games, and engaging with powerful technology platforms that are designed to capture kids' constant attention. The FTC has made valiant efforts to protect kids online. But it is vastly outmatched in terms of resources.

The FTC has decades of experience protecting kids in the online space. It is the primary enforcer of the Children's Online Privacy Protection Act (COPPA). Recently, the FTC has settled COPPA cases with Google/YouTube and TikTok/Musical.ly that involved tens of millions of children; and it has also settled dozens of other COPPA cases where companies failed to adequately protect children's

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<sup>1</sup> See Federal Trade Commission, [Congressional Budget Justification Fiscal Year 2022](#), (May 28, 2021)

privacy and security.<sup>2</sup> Last year, the FTC offered guidance about COPPA compliance to education technology companies serving kids and students during the pandemic. The FTC also announced several §6(b) investigations into social media and video streaming platforms and how they collect and process the information of children and teenagers.<sup>3</sup> Just this spring, it held a workshop on dark patterns where it convened a panel of experts to consider specific impacts of manipulative design on youth, building on past workshops related to children’s privacy and online design. And it is working to ensure that youth of color and other especially vulnerable children are protected.

The FTC also tries to protect children and families from deceptive marketing, such as in a recent settlement with ABCmouse.<sup>4</sup> While ABCmouse presented itself as a learning subscription service for young children, the FTC found that the company took inappropriate steps to keep families trapped in their subscriptions, failing to tell families about automatic renewals and misstating how easy it would be to cancel a subscription.

Despite all of this work to protect children and families in the digital space, the FTC faces a herculean task and it has had trouble keeping up. Studies have shown that there are potentially hundreds if not thousands of apps violating COPPA.<sup>5</sup> And the growing use of technology in schools raises even more opportunities for privacy harms.<sup>6</sup> The rise of influencer marketing, advergaming, native ads, and other blurring between advertisements and content has been difficult for the FTC to police in terms of compliance with endorsement and other guidelines. And comparatively, the FTC is rapidly falling behind global data regulators in terms of funding and personnel. The FTC is estimated to currently have only 40 people doing privacy enforcement work.<sup>7</sup> While an influx of 800-900 staff may sound quite large, estimates peg European privacy regulators at about 5 staff per 1 million individuals, which would mean a serious response to privacy challenges in the United States would require giving the FTC another 1,650 staff for a U.S. population of 330 million people. And an annual budget of \$525 million, while a welcome increase over current levels, still pales when you consider the FTC is expected to protect consumers against companies like Facebook, which posted revenues of over \$26 billion in the first quarter of 2021 and reported spending almost \$20 million on federal lobbying in 2020 alone.<sup>8</sup> Indeed, news

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<sup>2</sup> Federal Trade Commission, [Google and YouTube Will Pay Record \\$170 Million for Alleged Violations of Children’s Privacy Law](#), (Sept. 4, 2019); Leslie Fair, [Largest FTC COPPA settlement requires Musical.ly to change its tune](#), Federal Trade Commission (Feb 27, 2019)

<sup>3</sup> Federal Trade Commission, [FTC Issues Orders to Nine Social Media and Video Streaming Services Seeking Data About How They Collect, Use, and Present Information](#), (Dec. 14, 2020)

<sup>4</sup> Federal Trade Commission, [Children’s Online Learning Program ABCmouse to Pay \\$10 Million to Settle FTC Charges of Illegal Marketing and Billing](#), (Sept 2, 2020)

<sup>5</sup> See [Irwin Reyes et al. “Won’t Somebody Think of the Children?” Examining COPPA Compliance at Scale](#), Proceedings on Privacy Enhancing Technologies ; 2018 (3):63–83; Fangwei Zhao et al, [Data Collection Practices of Mobile Applications Played by Preschool-Aged Children](#), JAMA Pediatr. 2020 Dec 1;174(12):e203345. doi: 10.1001/jamapediatrics.2020.3345

<sup>6</sup> See, e.g., Me2B Alliance, [Me2BA Product Testing Spotlight Report Published: Data Sharing in Primary & Secondary School Mobile Apps](#), (May 4, 2021)

<sup>7</sup> Christine Bannan, Raj Gambhir, [Does Data Privacy Need its Own Agency?](#), New America, (Jun 9, 2021) see section 7: *Comparing the FTC and DPA*

<sup>8</sup> Salvador Rodriguez, [Facebook revenue rises 48%, driven by higher-priced ads](#), CNBC, (Apr 28, 2021); Lauren Feiner, [Facebook spent more on lobbying than any other Big Tech company in 2020](#), (Jan. 22 2021)

reports of internal emails indicated the FTC was preparing for “belt tightening” as it prepared to go up against technology giants like Facebook in a competition case.<sup>9</sup>

We believe this appropriations increase is more than warranted and recommend that the new funds be used to hire and train staff that can support needs in enforcement, privacy, and emerging technologies, as well as identifying and challenging anticompetitive mergers and conduct in complex and increasingly pervasive technology markets.

The FTC currently lacks sufficient resources to adequately protect consumers. And in coming years, it may be called on to do even more, whether that is enforcing a much-needed comprehensive consumer privacy bill (most proposals fail to offer sufficient additional resources despite added FTC duties<sup>10</sup>)--or undertaking a lengthy Magnuson-Moss privacy rulemaking if Congress continues to fail to act. Indeed, whatever happens or does not happen in Congress with respect to privacy and consumer protection in online platforms and new technologies, the FTC will have more to do, as it is undeniable that all consumers -- including children and families -- are increasingly touching tech in every aspect of their daily lives.

As our country continues to look to the FTC to ensure children and families are protected and competition is assured, Congress must provide sufficient support. We appreciate your consideration of this letter. Please feel free to reach out to Ariel Fox Johnson ([afoxjohnson@commonsense.org](mailto:afoxjohnson@commonsense.org)) if you have any questions.

Best,

Common Sense  
Campaign for a Commercial-Free Childhood  
Center for Digital Democracy  
Access Humboldt  
Accountable Tech  
AppCensus  
Consumer Action  
Consumer Federation of America  
The Greenlining Institute  
New America's Open Technology Institute  
ParentsTogether  
Privacy Rights Clearinghouse  
Revolving Door Project  
Stop Predatory Gambling  
UltraViolet

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<sup>9</sup> Leah Nylén, [FTC suffering a cash crunch as it prepares to battle Facebook](#), Politico, (Dec. 10, 2020)

<sup>10</sup> Christine Bannan, Raj Gambhir, [Does Data Privacy Need its Own Agency?](#), New America, (Jun 9, 2021) *see section 7: Comparing the FTC and DPA*