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ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641

October 26, 2022

Shusuke Takahara
CEO of BANDAI America Inc.
Bandai Namco Toys &
Collectibles America Inc
23 Odyssey
Irvine, CA 92618

Dear Mr. Takahara:

On September 22, Axios reported that toy manufacturers are hastily shifting their marketing dollars from traditional television outlets to social media platforms like TikTok and YouTube.[1] This shift reflects a larger advertising trend moving away from supporting curated content via traditional video distribution to one that is supporting user generated content on social media platforms.

As early Black Friday sales are already occurring to provide savings for Americans paying record-high inflation, we understand you must be selective in how you use your marketing dollars. However, as a company that depends on American consumers, your company must be scrupulous in how your marketing practices impact potential users of your products. As a company that markets products for and to children, your company must be responsible for the outlets with which it chooses to do business. It is essential to recognize your content attracts children at an early age to Big Tech platforms, including ones that have alarming ties to China.

Unfortunately, the reported marketing practices that the toy industry has utilized deserves special attention due to the privacy and data security practices of its Big Tech partners, such as TikTok and YouTube. These companies have a questionable history regarding the vast amount of user data collected.[2] The data collection record for both companies gets worse for children. For example, TikTok says it requires users to be at least 13 years old to use the platform, but it does not use any age verification tools when new users sign up.

For children on TikTok and YouTube, law enforcement agencies have found numerous times that both TikTok and YouTube have violated child privacy laws In February 2019,

[1] https://www.axios.com/2022/09/22/social-media-holiday-toys-influencers-tiktok-youtube
[2] https://www.gizchina.com/2022/02/10/tiktok-and-youtube-collect-the-most-user-data-of-any-social-media-app/

TikTok settled with the Federal Trade Commission (FTC) regarding charges that the company illegally collected personal information from children violating the Children's Online Privacy Protection Act (COPPA), which at that time the $5.7 million in fines was the largest civil penalty ever obtained by the Commission in a children's privacy case.[3] Seven months later, YouTube broke the record with a payment of $136 million to the FTC to settle charges it collected personal information from children without their parents' consent in violation of COPPA.[4] In one year, the two companies racked up tens of millions in fines for collecting children's personal information without parental consent. Sadly, we know these fines pale in comparison to the revenues generated by these two companies, which are in the billions of dollars.

Due to the number of American children on social media platforms and the track record of negligence by Big Tech companies in protecting our children's privacy, security, and mental health, we have several questions on how you will deal with companies like TikTok and YouTube during the holiday season and the vast troves of data they collect on children. Please answer the following no later than November 9, 2022:

1. Please provide a list of social media platforms with which you have marketing agreements.
2. What controls do you have in place for a social media platform that will carry your advertising for products that are marketed to children?
3. What controls do you have in place for a social media platform that will carry your advertising for products that are targeted for children?
4. What controls do you have in place for retailers that carry your products using social media platforms as a method to reach consumers for products that are targeted for children?
5. What controls do you have in place for retailers that carry your products using social media platforms as a method to advertise directly to children?
6. Given media reports that TikTok and YouTube have benefited from this shift in advertising, is your company or the trade associations you work with aware that TikTok and YouTube both have been subject to violations of the COPPA?
    a. When discovering past data abuses, what corrective actions have you suggested these social media companies take?
    b. Have these or other platforms accepted or declined input on how to be better stewards of their platform so as not to hurt your brand? Please explain.
7. What kind of data analytics are platforms offering your company?
    a. Do your agreements include the transfer of children's data to your company in any way, shape or form?
    b. Has your company shared or sold such data to any other parties? If yes, please list who you have shared such data with and the purposes for which you shared the data.

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[3] https://www.ftc.gov/news-events/news/press-releases/2019/02/video-social-networking-app-musically-agrees-settle-ftc-allegations-it-violated-childrens-privacy

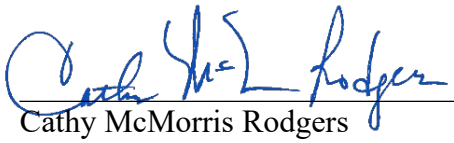
[4] https://www.ftc.gov/news-events/news/press-releases/2019/09/google-youtube-will-pay-record-170-million-alleged-violations-childrens-privacy-law

   c. Are you aware of whether the social media platform shared or sold such data generated from your marketing agreements to any other parties? If yes, please list the other parties that received such data.

8. TikTok in particular has presented problems beyond COPPA for also sharing data with its parent company ByteDance, which has highly questionable ties to the Chinese Communist Party (CCP).
   a. Are you familiar with the concerns that TikTok shares American data with ByteDance, who is required by CCP law to turn over any information they have to the CCP, including the information that is provided by TikTok?
      i. If yes, please explain what considerations you have taken into account in establishing your partnership with TikTok.
      ii. If not, do you plan to continue your partnership with TikTok?
   b. What other entities with close ties to the CCP are you currently in partnership with, whether through marketing or the product supply chain?

If you have any questions, please contact Tim Kurth at the minority Committee staff at (202) 225-3641.

Sincerely,



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House Committee on Energy and Commerce

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Republican Leader
Subcommittee on Consumer Protection and Commerce