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July 30, 2019

The Honorable Joseph Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Noah Phillips
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Rohit Chopra
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Rebecca Slaughter
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Christine Wilson
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Simons, Commissioner Phillips, Commissioner Chopra, Commissioner Slaughter, and Commissioner Wilson:

We are creators of children’s educational videos and a leader in this important educational space on YouTube. Recent press has reported that the Federal Trade Commission is preparing to take action against Google and YouTube for violating the Children’s Online Privacy Protection Act (COPPA). We write so that creators of quality educational content may be heard on how to make positive, family-focused changes, and specifically, we want to respond to the story published by Bloomberg on July 8, 2019, titled “FTC to Ask About Disabling YouTube Ads for Kids’ Privacy” by Ben Brody (the “**July 8 Article**”).¹

HOW WE BECAME EDUCATORS ON YOUTUBE

We² are the creators of Mother Goose Club,³ one of YouTube’s oldest kids channels. We have been on YouTube since April 2008 and were among the first channels to produce content professionally for children

¹ https://www.bloomberg.com/news/articles/2019-07-08/ftc-said-to-ask-about-disabling-youtube-ads-for-kids-privacy?utm_content=briefing-actives&utm_campaign=briefing_email&utm_source=sg&utm_medium=email

² Sona and Harry are both former ESL teachers. Sona is a graduate of Harvard’s Graduate School of Education with a long career in education in media. Prior to starting Mother Goose Club, she was a textbook writer for ESL publishers and won two Emmys producing instructional videos for use in schools for Nashville’s PBS affiliate. Harry is a graduate of Yale Law School. Our production company, Sockeye Media, is based in New York City and employs a staff of 16. We are married and raise our four kids in New York.

³ <https://www.youtube.com/user/MotherGooseClub>

on YouTube. In 2005, we began self-producing a series of short nursery rhyme music videos for local PBS stations, which eventually became known as Mother Goose Club. We began uploading these videos to YouTube in 2008 to share our videos with others. At the time, we looked at YouTube as simply a free video-file sharing service and used it as such, uploading, sharing, then deleting, videos. Eventually, we decided to keep our videos up on YouTube for convenience's sake and found, after ignoring our channel for nearly two years, that we had accidentally stumbled upon an audience. At this time, YouTube was years away from monetization and none of us imagined that families would watch content on YouTube, especially when free TV was widely available. There was kids content on YouTube at the time, including nursery rhyme content, but very little of it was professionally produced.

Since we introduced our nursery rhyme music videos to YouTube, nursery rhymes have become a major content vertical on the platform,⁴ with hundreds of similar channels receiving, in the aggregate, hundreds of millions of views a day. Significant research has shown that nursery rhymes promote early literacy, and it has been our goal as educators to provide quality learning content as a resource for families.⁵ Our family of channels has received more than 12 billion views during this time and has reached millions of families all around the world, which we estimate to mean millions of hours of kids singing and rhyming along to our educational videos. As we have grown on the platform, we have been generous with our time and knowledge in supporting creators, and YouTube itself, to do what we could to make this platform as positive a resource as possible for families. This leadership, as YouTube would attest, has included speaking out against abuses on the platform and trying to find ways to prevent bad actors from exploiting the audience. We have been intimately involved with kids content on YouTube from the beginning and know as much as anyone about how the platform works and has developed.

HOW WE MAKE YOUTUBE BETTER FOR FAMILIES AND KIDS

With our background in mind, we would like to express our complete agreement with the need for regulatory oversight of kids content on YouTube. The abuses that have been reported in the media speak for themselves.⁶ We would also like to express below our views on the policy proposals referenced in the July 8 Article. Before doing so, we note that we are not experts in COPPA and, quite honestly, have never sent a letter like this to any government agency before. If our proposals miss some point of law relating to COPPA or if we have missed some previous opportunity to provide a creator perspective, we apologize.

We are concerned that some of the policy proposals referenced in the July 8 Article, while well-meaning, will have unintended consequences and not achieve the desired policy effect. The question is: how do we provide the best possible content environment for children on YouTube, looking both at the advertising and the videos themselves on YouTube?

- **Should we move kids content from YouTube Main to YouTube Kids?** The July 8 Article referenced the idea of moving all children's content from YouTube.com ("**YouTube Main**") to YouTube Kids, a separate platform, which can only be accessed via a separate app. Migration to YouTube Kids is an overall endeavor we support, because it would provide a better environment to experience appropriate

⁴ Along with our channels, we credit Super Simple Songs and KidsTV123 as the other founders of the preschool vertical on YouTube, of which nursery rhymes are a part.

⁵ <https://www.cambridge.org/core/journals/journal-of-child-language/article/nursery-rhymes-phonological-skills-and-reading/53EE25F1E011C8090E659A8FABBB209E>

⁶ <https://medium.com/@jamesbridle/something-is-wrong-on-the-internet-c39c471271d2>
<https://www.nytimes.com/2019/06/03/world/americas/youtube-pedophiles.html>

children's content. That said, however, even if kids content is moved to YouTube Kids, the reality is that many children will still be viewing videos on YouTube Main, just the same.

Many parents – despite the media attention – are simply unaware of the risks of YouTube. And as has been reported on, parents will continue to put children on YouTube Main even if they are aware of the risks.⁷ If the idea is that parents will seek out YouTube Kids if they do not find kids content on YouTube Main, we believe that this idea has already been inadvertently tested by YouTube during the height of Elsgate.⁸ And this idea has been proven wrong: parents will continue to keep their kids on YouTube Main.

To explain further, during Elsgate, although the Spider-man / Elsa videos got the most attention and started out as videos meant for kids, during this time we also saw the rise of a content vertical known as Freak Reality, championed by a channel known as Toy Freaks.⁹ The Toy Freaks channel was not just bad content. It depicted graphic images of child abuse and what can only be described soft pedophilia.¹⁰ No parent would have been able to mistake these videos for children's videos. These videos were not just low quality: they were designed to shock and, some would say, elicit trauma. These channels have been deleted, but there are many screenshots and copies of some of these videos still out there. We would urge you to see them and judge for yourself. Toy Freaks was incredibly successful and received almost 7 billion views before its deletion. Its copycats were watched billions of more times. Many, if not most, of those views came from children. We know, because we saw the algorithm suggesting videos to this channel for years to our audience, and we tried hard to stop it. Many channels copied Toy Freaks, so much so that it became a genre of its own. Some of these channels even outperformed Toy Freaks before the end of Elsgate. Importantly, YouTube Kids was available as an alternative to YouTube Main during this time. Yet despite the proliferation of this horrible content vertical – which presumably would have awakened parents to the risks of YouTube Main – we did not see any significant migration to YouTube Kids or even any widespread revolt on behalf of viewers.¹¹ The lesson from this experience is that creating a poorer quality experience for kids on YouTube Main will not, in itself, drive users to seek out YouTube Kids. The reason for this, we believe, is one of fundamental misunderstanding by parents. Parents trust YouTube as if it were TV. They assume programming content is decided by humans, much like how it is on TV. However, the reality is that the programming is done by a machine. That their children aren't protected by humans on YouTube Main is so far beyond basic parental expectation (and, frankly, common sense) that parents will need to be educated specifically on this point.

We do not believe a forced switch of kids content off YouTube Main, without a significant and broad campaign to educate parents, would be an effective way to encourage adoption of YouTube Kids or actually improve the experience of families generally. If there were such a forced switch, what content would young children then be exposed to? In our view, the best-case scenario would be some migration to YouTube Kids, but mainly you would have preschoolers watching Fortnite videos and prank videos

⁷ YouTube Kids has been around for 4 years already, but it has simply not caught on with many parents and children. <https://www.bloomberg.com/news/articles/2019-06-17/the-most-popular-kids-video-site-in-the-world-isn-t-for-kids>

⁸ <https://en.wikipedia.org/wiki/Elsgate>

⁹ <https://variety.com/2017/digital/news/youtube-toy-freaks-channel-terminated-1202617834/>

¹⁰ <https://trendingallday.com/dark-disturbing-theories-toy-freaks-youtube/>

¹¹ It took the media attention in the wake of James Bridle's Medium piece to generate the awareness that led to Freak Reality content being removed from YouTube. <https://variety.com/2017/digital/news/youtube-toy-freaks-channel-terminated-1202617834/>

made for adults on YouTube Main (e.g., Jake and Logan Paul, who already have a sizable kids audience).¹² However, based on prior YouTube history, much more likely would be the proliferation of another cottage industry of mercenary content creators developing new formats that seek to skirt the line of what would not be considered kids content for the purposes of rule compliance, yet targeting this audience. Their content would be designed to target and entice this large population of kids who will continue to view videos on YouTube Main. While those bad actors are looking to exploit this opportunity, professional kids content creators would be shut out of YouTube Main because we would just try to work with the system on YouTube Kids. The unintended consequences would be to leave a huge population of kids on YouTube Main with a much poorer content environment, punish the children of parents who don't know any better, and reduce the ability of good content creators to reach children.

If our goal is to promote migration to the YouTube Kids app, something that we support, we believe this will only happen if we influence and educate the parents. To accomplish this, we would need to engage in a broad global¹³ media campaign directed at parents, not kids. Although a big task, this is something that can be accomplished, but it would require a different approach than just coordinating with the creators of kids content – it would require establishing a line of communication to the parents, which is a different type of communication. We believe that some coverage on this point from public figures like Oprah Winfrey or Ellen DeGeneres, for example, would be much more effective. Quite frankly, it would also take a long time to educate as many parents as possible to effect a broad switch that will actually stick. Perhaps a switchover could be best accomplished in stages, and accompanied by more active human curation of good kids content,¹⁴ so that by the final stage we could demonstrate that removing kids content at that point would be appropriate and do no harm. In the meantime, there are many other platform changes that we can make to improve the YouTube Main experience that would only be helpful, and not harmful, to children. We do not believe that a forced switch to another platform will achieve the desired policy outcomes – and certainly not in the short term. Unless there's a concerted effort to educate parents, along with an implementation plan that does not unintentionally benefit bad actors, this plan would be more likely to hurt children than help them.

- **Should we remove ads from YouTube?** The July 8 Article also referenced the idea of disabling advertising on channels.

As a small business that strives to create quality educational content to promote early learning and literacy, we can confirm that revenue from YouTube is a significant portion of our income mix. We depend on it. We have 16 employees and also hire contractors to help us create good content, and we pay bills like any other small business to survive.

We agree with the policy goal to prevent kids from being exposed to exploitative advertising and being tracked online. To regulate ads, however, we would support direct regulation that restricts brands seeking to appeal to the kids themselves, an easy example being toys. However, if a bank or vacuum maker wants to advertise to get in front of the parents and caregivers, we don't see any harm in that.

¹² <https://metro.co.uk/2018/02/02/logan-paul-makes-valid-point-parents-monitoring-children-watching-online-7281638/>

¹³ Though YouTube is a global platform, to our understanding, there has been very little attention to these issues outside of the US. Children outside the US watching YouTube Main would have the least chance to benefit from any switchover to YouTube Kids. There is not any country-specific version of YouTube.

¹⁴ As a simple example, movies are rated, "G" and "PG", which gives parents at least a rough indicator of content.

This approach can be readily implemented because advertisements are identified as ads and paid for, making them very easy to track and police – unlike the rest of YouTube, where it is often the case that no one knows who is creating the content.¹⁵ We’d also note that unlike, say, advertising for adults, tracking of young kids is unnecessary. This is borne out by common sense – we don’t need online tracking to know young kids are interested in toys and sugary treats. Limiting children’s exposure to exploitative advertising is one area where YouTube’s technology can be highly effective to achieve the desired policy goal, and we can do it without unnecessary harm to good content providers.¹⁶

That said, certainly an ad-free experience would be a better experience for kids (and, really, for anyone) – all other things being equal. However, in an ad-free environment, we would not be left with an ‘all other things equal’ situation. Instead, we’d lose a lot of good quality content and be left with the following –

- (1) Content from big media companies would thrive, because they don’t rely on YouTube as a significant revenue source. Instead, they would produce videos so as to expand their brand and drive merchandise sales in their promoted characters.
- (2) Sponsor-supported creators, like toy unboxers or family reality channels, would proliferate. For many such creators, undisclosed sponsorships have been their primary revenue source, and yet their uploads are treated as video content (and not advertisements), even though their content is often just a product commercial.

What type of good content would be lost? We believe our experience is informative here. In 2005, many teachers were finding that nursery rhymes were fading out of the public consciousness.¹⁷ They were not being taught in many schools and it was difficult to find new and fresh content featuring nursery rhymes. As former ESL teachers, we knew not only that nursery rhymes were important in acquiring language,¹⁸ but also that this space lacked resources, especially on video. This was the primary reason why we created Mother Goose Club. Before doing so, we wondered why no traditional media company had ever created a high-quality series of nursery rhyme videos, even though they routinely made new videos and books from other well-established public domain IP, such as fairy tales. Ultimately, our research determined that the big media companies didn’t see a market with enough revenue, because, for example, the content was too short, difficult to turn into licensed characters, and/or nursery rhyme themes didn’t seem relevant (e.g., farming themes). For us, operating at a small scale, we figured the need among ESL schools alone justified taking a risk, so we took a chance and created a series of music videos featuring nursery rhymes. By doing so, we helped demonstrate for the world that there was, indeed, a huge market for this type of content and inspired literally hundreds of other content creators around the world to create nursery rhyme content of all types. As former ESL teachers we are proud to say that, whatever else we may have accomplished professionally, we helped

¹⁵ <https://www.wsj.com/articles/kids-love-these-youtube-channels-who-creates-them-is-a-mystery-11554975000>

¹⁶ The content of advertising being shown against kids content is something that we can say, in our experience, YouTube has gotten right. We do not source the ads shown against our content and depend entirely on YouTube to run those ads. We have not seen in years an ad against our content that was seeking to target the kids who watch our content (as opposed to the parents). We also have not received a complaint from any of our fans about the advertising shown on our channels on YouTube in quite a few years.

¹⁷ <https://journals.sagepub.com/doi/pdf/10.1177/10483713050190010108>

¹⁸ <https://www.cambridge.org/core/journals/journal-of-child-language/article/nursery-rhymes-phonological-skills-and-reading/53EE25F1E011C8090E659A8FABBB209E>

save the nursery rhyme for a new generation. Many young learners are much better off for this effort, and this would never have happened without YouTube.

In summary, we believe there is a place for advertising on YouTube, especially because advertising is easy to track and police. We have not, for example, seen instances of inappropriate advertising that come remotely close to the kind of abuses on the content side. Of course, we agree that children should not be tracked and would support any privacy efforts in that space. But we would encourage you to restrict advertisements directed at kids, while allowing advertisements designed for parents and caregivers. This would have the effect of protecting kids from exploitative ads, while also allowing an ecosystem that can develop and support good content creators and legitimate small-business owners. Finally, we believe human curation can help separate out creators who are seeking to serve and educate young children, from those simply looking to exploit kids for ad dollars. Smart rules here and active curation can create a virtuous cycle that supports independent content creators and good content innovation, all while ensuring that bad actors do not abuse the platform.

- **What to do about episode-length ads that pose as videos?** We want to further highlight a serious problem with the idea, mentioned in the July 8 Article, of having content creators disable advertising in order to stay on YouTube Main. This approach will fail to stop the videos on YouTube that target children, but which are effectively episode-length ads (e.g., toy unboxing videos) – i.e., the videos themselves are ads.¹⁹ As mentioned previously, many are sponsor-supported, but making the situation more complex, many are not sponsor-supported at the time they're made and released, but they promote the product anyway to build an audience that they can leverage into a future ad deal. Though these videos are essentially ads, how would YouTube know to remove them from YouTube Main? Even when sponsor-supported, they are often not appropriately marked as sponsor-supported.²⁰ Most of the current leading unboxing channels, for example, are not based in the US and are completely insensitive to the issue of exploitative advertising. We do not believe that you can trust the creators to self-police on this front by tagging themselves as ads.

Research has shown that it is difficult for children to differentiate between programming and commercials.²¹ The program-length ads are especially deceptive and unfairly take advantage of children's limited cognitive abilities to understand that they are being sold to. Unlike TV, kids are more likely to use YouTube themselves on a screen parents don't see. This means children often don't have the same parental guidance as they would have with TV to differentiate between ads and programs. Our understanding is that this is one reason for prohibiting this type of content on TV. Yet somehow, it has become a major content vertical on YouTube.

Another point of confusion about this content is this: because many of these episode-length ads are categorized as programming, they have ads running against them. The fact that these ads are themselves then ad-supported implies to viewers (parents as well as children) that these videos should be considered programming, and not a commercial (notwithstanding the fact that the video itself promotes a product or service). This can be confusing to parents as well as children.

¹⁹ We note that the FTC has already taken action against similar sponsored content outside of the kids space. <https://www.wsj.com/articles/machinima-settles-ftc-charges-over-xbox-youtube-endorsements-1441215227>. <https://www.ftc.gov/news-events/blogs/business-blog/2017/09/three-ftc-actions-interest-influencers>

²⁰ <https://www.vox.com/the-goods/2019/3/22/18275767/toy-unboxing-videos-youtube-advertising-ethics>

²¹ <https://www.apa.org/pubs/info/reports/advertising-children>

Policing this type of content, therefore, raises many of the difficult curation questions that YouTube is currently wrestling with in other content verticals. Of all the content abuses in the kids space, we believe this is the most difficult one to solve. In our view, only humans can exercise the judgment to tell when these videos cross the line from content to advertisement. That would require active human content curation for this part of the platform. Creating an effective solution here would be difficult, but not impossible. We hope that the team working on this issue is fully aware of the complexities of the environment and understands how difficult it would be to restrict these ads unless there is human curation.

CONCLUSION

When we first reviewed the July 8 Article, we agreed with the spirit of the policy proposals, but were concerned that the actual proposals themselves would materially lower the quality of the offerings available to children by removing age-appropriate content from YouTube Main. Because there would not be a migration to YouTube Kids based on this shift alone, another unintended consequence would be the elimination of independent content creators who are not sponsor-supported. The result would leave families with a much less diverse and poorer set of offerings for children. The content ecosystem would eventually consist primarily of traditional media and sponsor-supported creators like unboxers. This would, ironically, increase the amount of consumerist content viewed by children – all in the interests of protecting them from advertising.

The outcome we should all be striving for is a regulatory regime that enables YouTube to become a safe place where children can engage with enriching and beneficial content, without being exploited. We know what the worst abuses are in the kids vertical and they are in the content itself. We would urge reform to (1) focus on curation efforts designed to elevate good content and weed out bad actors, (2) engage in a simultaneous effort to improve how, and what, ads are being shown, and (3) educate parents in a broad, sustained campaign on the benefits of YouTube Kids, so any forced switch-over will actually work.

We believe there are effective ways to create a good space for children on YouTube, while allowing for creators of good quality content to thrive and innovate. If of interest, we would be happy to share further insights and thoughts with the FTC as creators, educators, and parents.

Sincerely,

Harry and Sona Jho