

To: April Tabor, Secretary  
From: Nina Frant  
Date: December 16, 2020  
Re: Request for Public Comment on the Federal Trade Commission's Implementation of the Children's Online Privacy Protection Rule: Comments to be Placed on the Public Record

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On December 10, 2019, Forrest Waldron from the YouTube channel KreekCraft and Travis Richardson, head of Influencer Partnerships at Ellify Talent Agency, met with Commissioner Christine Wilson and FTC staff<sup>1</sup> regarding the FTC's request for public comment on the Children's Online Privacy Protection Rule ("COPPA").

The request for public comment at issue was published in the Federal Register on July 25, 2019, in Volume 84 of the Federal Register at page 35,842. The request for public comment sought information about the effectiveness of the COPPA rule and whether it should be retained or modified. Commissioner Wilson has elected to place on the public record summaries of oral communications from outside parties that substantively respond to the request for comment and that are directed to her office.

During the December 10, 2019 meeting, Mr. Waldron raised concerns about the application of COPPA to YouTube content creators. In particular, Mr. Waldron was concerned about COPPA fines and the risks that content creators face if they post content that children might like, i.e. animation, video game play, and music. Mr. Waldron and Mr. Richardson noted that it is challenging for YouTube content creators to determine whether a website or online service is directed to children. Mr. Waldron noted the current COPPA guidelines are vague and broad, and that content creators struggle with determining whether their content is directed to children or simply attractive to children.

Mr. Waldron asked if the video game ratings dictate whether a video game review channel is rated, and classified, as directed to children. YouTube does not provide that demographic information for users under the age of 13. Therefore, Mr. Waldron noted, content creators do not know the number of children watching their videos. YouTube selects advertising for Mr. Waldron's content so YouTube may have insights into whether his content is kid attractive versus kid directed. Mr. Waldron is also not aware of the ads placed on his channel. Mr. Waldron noted that content creators lose money and face declining metrics for user engagement when they label their content as made for kids.

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<sup>1</sup> Also in attendance from the FTC were Commissioner Wilson's advisors, Nina Frant and Robin Spector, and Peder Magee from the Division of Privacy and Identity Protection.