



September 3, 2020

Doug McMillon
President and CEO
Walmart Inc.
702 S.W. 8th Street
Bentonville, Arkansas 72716

Dear Mr. McMillon,

We write regarding reports that Walmart is considering buying TikTok. Should Walmart purchase TikTok, we urge you to take immediate steps to comprehensively improve its privacy and data marketing practices for young people. TikTok especially requires major changes to comply with the federal Children's Online Privacy Protection Act (COPPA). It is urgent that TikTok be brought into COPPA compliance because the service has so many child users. A recent news media report revealed that TikTok had internally classified more than one-third of its 49 million US users as fourteen or under.¹ Among daily users, using that formulation, the proportion that TikTok has designated as under fourteen rises to 47%. TikTok's age-classification system not only estimates demographics in the aggregate, but assigns an age range to each user. This means that TikTok has *actual knowledge* that millions of its users are under fourteen, including those that must be protected under COPPA.

Despite being such a popular service among children, TikTok has a track record of openly flouting COPPA. In February 2019, TikTok paid a then-record \$5.7 million fine for violating COPPA, including by illegally collecting personal information from children under thirteen, and entered into a Consent Decree with the Federal Trade Commission (FTC). Even after settling with the FTC, TikTok failed to abide by the law. In May 2020, our organizations—joined by 18 other child advocacy, privacy, and consumer groups—filed an FTC complaint detailing the numerous ways in which TikTok had not complied with the terms of the Consent Decree with the Commission and continued to violate COPPA. We demonstrated how TikTok did not delete personal information related to children under 13 it obtained prior to the settlement; gave no direct notice to parents and failed to obtain parents' consent before collecting children's personal information; and failed to give parents the right to review or delete their children's personal information collected by TikTok.

TikTok continues to look the other way when it comes to children's privacy. Although it has documented, actual knowledge that millions of its users are children, TikTok never notifies parents or obtains their consent regarding any children's accounts. When a child under 13 tries to register using their actual birthdate, they will be signed up for a "younger users" account with limited functions, and no ability to share their videos. A child frustrated by this limited functionality can immediately register

¹ According to internal documents obtained by *The Times*, TikTok assigns an age range to each user utilizing a variety of methods including, "facial recognition algorithms that scrutinize profile pictures and videos," "comparing their activity and social connections in the app against those of users whose ages have already been estimated," and drawing "upon information about users that is bought from other sources." [Raymond Zhong, Sheera Frenkel, "A Third of TikTok's U.S. Users May Be 14 or Under, Raising Safety Questions," *New York Times*, August 14, 2020, <https://www.nytimes.com/2020/08/14/technology/tiktok-underage-users-ftc.html>](https://www.nytimes.com/2020/08/14/technology/tiktok-underage-users-ftc.html)

again with a fake birthdate from the same device for an account with full privileges, thereby putting herself at risk for both TikTok's commercial data uses and inappropriate contact from adults. In either case, TikTok makes no attempt to notify parents or obtain their consent. In other words, TikTok has illegally obtained data from a very large number of its users and they shouldn't be on TikTok.

These privacy violations can have serious consequences for children. By ignoring the presence of millions of younger children on its app, TikTok is putting them at risk for sexual predation; news reports and law enforcement agencies have documented many cases of inappropriate adult-to-child contact on the app. Young children are also exposed to the manipulative data-driven marketing that COPPA was specifically crafted to prevent. And given the established links between heavy social media use for teens and mental health problems, it is deeply troubling that TikTok permits so many even younger, more vulnerable children to use its platform.

As TikTok employs no means of obtaining verifiable parental consent before any collection, use, or disclosure of children's personal information, it is putting millions of children at risk by ignoring its obligations under COPPA and the 2019 Settlement Order with the FTC. For these reasons, if and when Walmart purchases TikTok, we ask that you, at a minimum, immediately a) stop processing all data from users TikTok has flagged as or believes are under 13; b) conduct a thorough review of all those users in terms of their age status; and c) delete any accounts which you cannot affirmatively demonstrate are for users age thirteen or older. These accounts should only be restored if Walmart can demonstrate that the users are, in fact, age thirteen or older. We also urge you to put all the resources that you have at your disposal to ensure that children under thirteen can only join TikTok in a COPPA compliant way going forward.

Making TikTok COPPA-compliant must be an urgent goal for Walmart upon transfer of ownership. But to demonstrate your true commitment to protecting online privacy and fairness, we ask you to develop a model youth data protection regime that promotes the best interests of young people. Walmart should examine and enact policies to ensure that contemporary classifying and predictive profiling practices do not foster or exacerbate disparities, including those that impact a young person's health, economic opportunity, and civil rights; it should prohibit the use of digital data-driven marketing practices and applications, including those that involve e-commerce, which manipulate or exploit the well-documented vulnerabilities of children and youth. Walmart should ensure TikTok promotes creativity of young people in ways that respects their privacy, autonomy, safety, and cultural diversity.

We urge you to take critical steps towards creating an online environment for children and teens that is safe, fair, free of commercial exploitation, racially non-discriminatory, equitable, and that promotes the healthy development of children and teens. We would appreciate the opportunity to engage in a dialogue with you on these important safeguards.

Sincerely,

Jeff Chester, Center for Digital Democracy
Josh Golin, Campaign for a Commercial-Free Childhood

Cc: Nuala O'Connor, Senior Vice President and Chief Counsel, Digital Citizenship at Walmart,
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