

Before the
Federal Trade Commission
Washington, DC 20580

In the Matter of

Complaint and Request for Investigation
of TikTok for Violations of the Children's
Online Privacy Protection Act and
Implementing Rule

SUBMITTED BY

**Campaign for a Commercial-Free
Childhood
Center for Digital Democracy
Badass Teachers Association
Berkeley Media Studies Group
Children and Screens: Institute of
Digital Media and Child
Development
Consumer Action
Consumer Federation of America
Consumer Reports
Defending the Early Years
Electronic Privacy Information
Center**

**Media Education Foundation
Obligation, Inc.
Parent Coalition for Student
Privacy
Parents Across America
ParentsTogether Foundation
Privacy Rights Clearinghouse
Public Citizen
The Story of Stuff
United Church of Christ
USPIRG**

Michael Rosenbloom
Angela J. Campbell
Laura M. Moy
Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, NW
Suite 312
Washington, DC 20001
(202) 662-9535

*Counsel for Campaign for a Commercial-
Free Childhood and Center for Digital
Democracy*

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Introduction and Summary

The Campaign for a Commercial-Free Childhood (CCFC) and Center for Digital Democracy (CDD), by their attorneys, the Institute for Public Representation, along with Badass Teachers Association, Berkeley Media Studies Group, Children and Screens: Institute of Digital Media and Child Development, Consumer Action, Consumer Federation of America, Consumer Reports, Defending the Early Years, Electronic Privacy Information Center, Media Education Foundation, Obligation, Inc. Parent Coalition for Student Privacy, Parents Across America, ParentsTogether Foundation, Privacy Rights Clearinghouse, Public Citizen, The Story of Stuff, United Church of Christ, and USPIRG (together “Children’s Privacy Coalition”) respectfully request the Federal Trade Commission (FTC) to investigate whether TikTok, the successor to Musical.ly, has complied with the consent decree entered into more than one year ago.¹

We present evidence showing that TikTok is violating the terms of the consent decree² and the Children’s Online Privacy Protection Act (COPPA).³ TikTok continues to be one of the most popular apps in the world, and it is widely used by children and teens in the United States, so it is especially important that the FTC promptly and thoroughly investigate TikTok’s practices and take effective enforcement action.

¹ *United States v. Musical.ly*, Case No. 2:19-cv-1439 Complaint (filed Feb. 27, 2019), available at https://www.ftc.gov/system/files/documents/cases/musical.ly_complaint_ecf_2-27-19.pdf. Hereinafter “FTC Complaint.”

² *United States v. Musical.ly*, Case No. 2:19-cv-1439 Proposed Order (filed Feb. 27, 2019), available at https://www.ftc.gov/system/files/documents/cases/musical.ly_proposed_order_ecf_2-27-19.pdf. Hereinafter “Consent Decree.”

³ 15 U.S.C. §6501-6506, 16 C.F.R. §312.

Under the terms of the consent decree, TikTok agreed to either destroy all personal information in its control at the time of the entry of the consent decree, or alternatively, to destroy all personal information collected from users under 13 years of age. In fact, however, TikTok has not destroyed all personal information collected from users under age 13. We found that TikTok currently has many regular account holders who are under age 13, and many of them still have videos of themselves that were uploaded as far back as 2016, years prior to the consent decree.

TikTok has not obtained parental consent for these accounts. Contrary to the terms of the consent decree, TikTok fails to make reasonable efforts to ensure that a parent of a child receives direct notice of its practices regarding the collection, use, or disclosure of personal information. Indeed, TikTok does not at any point contact the child's parents to give them notice and does not even ask for contact information for the child's parents. Thus, TikTok has no means of obtaining verifiable parental consent before any collection, use, or disclosure of children's personal information as required by the consent decree and COPPA Rule.

TikTok has set up "younger users accounts" for use by children under 13 in the United States. The younger users account has limited functionality and does not allow children to share videos with others. We do not believe that this option satisfies the COPPA Rule. The limited nature of this account incentivizes children to lie about their age. Moreover, children can easily defeat the age gate simply by registering again using a different age. Even with a younger users account, TikTok still collects some personal identifiers and usage information that go beyond support for internal operations, for which TikTok does not obtain verifiable parental consent. For children using regular TikTok accounts, TikTok collects vast amounts of personal information including

videos, usage history, the content of messages sent on the platform, and geolocation. It shares this information with third parties and uses it for targeted advertising.

TikTok also violates the consent decree and COPPA Rule by failing to post a prominent and clearly labeled link to an online privacy notice of its information practices with regard to children on the homepage of the TikTok app. To locate the privacy policy within the app, a parent would need to click on multiple icons that do not mention privacy in their label.

Moreover, TikTok's privacy policy does not provide other information required by the COPPA Rule. For example, the policy does not notify parents that they may review, delete, and refuse to permit further collection or use of the child's information, and the procedures for doing so. This failure also violates the consent decree's requirement that TikTok provide parents with the opportunity to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information. In addition, TikTok fails to include in its online privacy notice the name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the app and other information required to be disclosed under the COPPA Rule.

By violating the consent decree, TikTok continues to compromise the privacy of the children still present on its platform, and its behaviors continue to contravene the very goals of COPPA. Children using TikTok accounts are denied COPPA's protections, and their parents are denied any opportunity to protect the privacy of their children, or even the opportunity to have a say in such protection. Denying parents knowledge and the ability to intervene in this data collection goes against the very purpose of COPPA.

Thus, we urge the FTC to promptly launch an investigation of TikTok's compliance with the consent decree and COPPA Rule and to impose additional penalties and safeguards to ensure that children's privacy is protected.

Table of Contents

I. Background	6
A. Musical.ly, Inc. and TikTok	6
B. FTC Complaint and Consent Decree	11
C. TikTok’s Actions Following Entry of the Consent Decree Order ...	14
1. Changes to TikTok’s User Registration Process	14
2. Experience of a Child User on TikTok	18
3. Changes to TikTok’s Privacy Policy.....	19
II. TikTok is in Violation of the Terms of the Consent Decree.....	21
A. TikTok Failed to Destroy All Personal Information Collected from Children under age 13.....	22
B. TikTok Fails to Make Reasonable Efforts to Give Direct Notice to Parents.....	26
C. TikTok Fails to Post a Prominent and Clearly Labeled Link to Its General Online Notice	27
D. TikTok Fails to Obtain Verifiable Parental Consent before Collecting Information from Children	30
1. TikTok collects vast amounts of personal information from underage users that have been able to maintain or establish new unrestricted accounts	31
2. TikTok appears to collect, use, and share children’s personal information even from younger user accounts	31
3. TikTok may be failing to obtain parental consent for material changes in its privacy practices with respect to children.....	35
E. TikTok Fails to Give Parents the Right to Review or Delete Personal Information of Their Children.....	36
1. Appendix No.1 – Children Under 13 with Unrestricted TikTok Accounts	40
2. Appendix No.2 – Previous and Current Privacy Policies of TikTok.....	47

I. Background

A. Musical.ly, Inc. and TikTok

Musical.ly, Inc., was founded in 2014 by Alex Zhu and Luyu Yang. It was initially based in Shanghai, with an office in Santa Monica, CA. Musical.ly offered an app for mobile devices that made it easy for users to watch, share, and comment on short videos.

Early press reports about Musical.ly often remarked about the young ages of its users. For example, a *New York Times* article in September 2016 described Musical.ly as “an app that is young in every sense of the word.”⁴ Noting that the company claimed to have over 100 million users, mostly between ages 13 and 20, the article observed that “[w]hat is striking about the app, though, is how many of its users appear to be even younger than that.”⁵ At an industry conference held in December 2016, Musical.ly CEO Alex Zhu conceded, “a lot of users, especially top users, they’re under 13.”⁶ Similarly, the *Chicago Tribune* reported in January 2017 that Musical.ly “has become a sensation among young people, many of whom are still in elementary school.”⁷ The article described the experience of several children aged 8-11 with Musical.ly accounts. One father reported that he “deleted Musical.ly from his 10-year-old daughter's iPad . . . after watching a streaming video in which a young girl was bombarded with sexual

⁴ John Herman, *Who’s Too Young for an App? Musical.ly Tests the Limits*, *New York Times*, (Sept. 16, 2016), [nytimes.com/2016/09/17/business/media/a-social-network-frequented-by-children-tests-the-limits-of-online-regulation.html?r=0](https://www.nytimes.com/2016/09/17/business/media/a-social-network-frequented-by-children-tests-the-limits-of-online-regulation.html?r=0).

⁵ *Id.*

⁶ TechCrunch, *From Brush to Canvas with Alex Zhu of Musical.ly*, YOUTUBE (Dec. 6, 2016), <https://www.youtube.com/watch?v=ey15v81pwII>.

⁷ John Keilman, *Lip sync app Musical.ly is the latest tween craze, but parents nervous*, *Chicago Tribune* (Jan. 31, 2017), <https://www.chicagotribune.com/news/ct-musical-ly-app-lip-sync-met-20170129-story.html>.

requests (comments and emojis scroll across the screen during a live stream).”⁸ The same article reported that a 24-year-old man posing as a child used Musical.ly to communicate with a 9-year-old girl and ask her to send nude pictures.⁹

In late 2017, the Chinese company ByteDance acquired Musical.ly for close to \$1 billion. In August 2018, ByteDance rolled the Musical.ly app into its TikTok app and relaunched it as TikTok.¹⁰ Since that time, TikTok has been incredibly successful. It now has 800 million active users worldwide, including 123.8 million in the US.¹¹ Forty-one percent of its users are reportedly between 16 and 24 years of age.¹² However, many news sources continue to report about much younger users on TikTok. Slate, for example, noted in September 2018, that “[a]necdotally, the app is also quite popular with tweens as well, despite terms of service that state users must be at least 13 to sign up.”¹³ Similarly, Kidscreen reported in March 2019, that “TikTok exploded in popularity

⁸ *Id.*

⁹ *Id.* See also Jason Duaine Hahn, *Father Warns Parents About Popular App After His 7-Year-Old Daughter Is Asked to Send Suggestive Photos*, People (Aug. 23, 2017), <https://people.com/human-interest/father-warns-parents-about-popular-app-after-his-7-year-old-daughter-is-asked-to-send-suggestive-photos/>; Jason Murdock, *Los Angeles Man, 35, Targeted Kids on TikTok Posing as 13-Year-Old: Police*, Newsweek (Feb. 15, 2019), <https://www.newsweek.com/los-angeles-county-tiktok-application-lasd-james-anthony-gonzales-child-abuse-1333043>.

¹⁰ Alexandra Whyte, *Is now the right time to get on TikTok?* Kidscreen (Mar. 4, 2019), <https://kidscreen.com/2019/03/04/is-now-the-right-time-to-get-on-tiktok/>.

¹¹ Maryam Mohsin, *10 TikTok Statistics the you need to know in 2020*, Oberlo (Feb. 17), 2020, <https://www.oberlo.com/blog/tiktok-statistics>.

¹² *Id.* We have been unable to find statistics for TikTok users under age 13. However, as discussed below, it is easy for children to create an account using a false birthdate. Thus, many users that report their age as 15-24 may in fact be younger.

¹³ Heather Schwedel, *A Guide to TikTok for Anyone Who Isn't a Teen*, Slate (Sept. 4, 2018), <https://slate.com/technology/2018/09/tiktok-app-musically-guide.html>.

over the past year, especially with kids and tweens.”¹⁴ Kidscreen furthermore found that TikTok’s popularity with children attracts brands looking to advertise to those children:

The crazy popularity of TikTok, and the crazier antics of the kids on it, have somehow combined to create the perfect new platform for kids brands to reach their audience. With an incredibly young demo that’s not really anywhere else online yet (except maybe YouTube), where else are brands supposed to engage these kids?¹⁵

A recent report by the UK’s Ofcom found that a “quarter of ten-year-olds who go online claim to have a [social media] profile, with this proportion almost doubling to 43% of 11-year-olds.”¹⁶ It observed that “[n]ewer platforms such as TikTok ... are gaining popularity. TikTok is used by 13% of 12- to 15-year olds – up from 8% in 2018.”¹⁷ It noted that “[s]ome children in our Media Lives study, especially the younger children, enjoyed using TikTok to create content by following its set template.”¹⁸

In January 2020, *Tubefilter* reported that that “Famous Birthdays, a social media influencer encyclopedia of sorts — as well as a chronicler of the most popular creators of the day — has seen a recent surge in monthly visitors that founder and CEO Evan Britton attributes to the rise of TikTok.”¹⁹ Famous Birthdays’ Most Popular List ranks

¹⁴ Whyte, *supra* note 10.

¹⁵ Whyte, *supra* note 10.

¹⁶ Ofcom, *Children and Parents: Media Use and Attitudes Report 2019* at 19 (February 4, 2020), https://www.ofcom.org.uk/__data/assets/pdf_file/0023/190616/children-media-use-attitudes-2019-report.pdf.

¹⁷ *Id.* at 20.

¹⁸ *Id.*

¹⁹ Geoff Weiss, *Famous Birthdays Surpasses 25 Million Monthly Visitors, Driven by TikTok Surge*, *Tubefilter* (Jan. 21, 2020), <https://www.tubefilter.com/2020/01/21/famous-birthdays-25-million-monthly-visitors/>.

social media celebrities by number of subscribers.²⁰ TikTok stars figure prominently in the Most Popular List. For example, TikTok star Charli D’Amelio, age 15, is ranked in first place. Several other teenaged TikTok stars are also among the most popular.²¹ Other popular social media celebrities, such as third ranked Jacob Sartorius, age 17,²² while not identified as a TikTok star, accumulated “millions of followers across sites like Instagram, Musical.ly, Vine, and YouTube, all before he turned 13.”²³ Famous Birthdays also lists social media stars by birthday. We found TikTok accounts with substantial followings featuring children as young as four years old.²⁴

While TikTok has been very successful in the US,²⁵ it has also come under recent criticism for not protecting users of the platform from sexual predators,²⁶ for perpetuating racial bias,²⁷ and for major security flaws.²⁸ There have also been reports

²⁰ Famous Birthdays, Most Popular, <https://www.famousbirthdays.com/most-popular-people.html> (last visited Apr. 27, 2020).

²¹ *Id.*

²² *Jacob Sartorius*, Famous Birthdays, <https://www.famousbirthdays.com/people/jacob-sartorius.html> (last visited April 28, 2020).

²³ Marcy Donelson, *Jacob Sartorius: Biography*, Allmusic, <https://www.allmusic.com/artist/jacob-sartorius-mn0003514434/biography> (last visited April 28, 2020). A video, “Top 100 Jacob Sartorius Musical.ly Compilation,” was posted on YouTube on June 12, 2016. <https://www.youtube.com/watch?v=SH3c8M6a2Ro>.

²⁴ See Appendix No. 1 for a non-exhaustive list of accounts.

²⁵ Debra Aho Williamson, *US Consumers are Flocking to TikTok*, eMarketer (April 27, 2020), <https://www.emarketer.com/content/us-consumers-are-flocking-to-tiktok>.

²⁶ Ryan Broderick, *TikTok Has a Predator Problem*, BuzzFeed (June 24, 2019), <https://www.buzzfeednews.com/article/ryanhatesthis/tiktok-has-a-predator-problem-young-women-are-fighting-back>.

²⁷ Janice Gassam, *Does TikTok Have a Race Problem?* Forbes, (Apr. 14, 2020), <https://www.forbes.com/sites/janicegassam/2020/04/14/does-tiktok-have-a-race-problem/#1d3842fc3260>.

²⁸ Ronen Bergman, et al., *Major TikTok Security Flaws Found*, New York Times (Jan. 8, 2020), <https://www.nytimes.com/2020/01/08/technology/tiktok-security-flaws.html>. See also, Doug Olenick, *TikTok app inherently unsafe and a privacy risk*, SC Media,

of TikTok challenges that encourage dangerous behavior.²⁹ The US military banned members from using TikTok, due to concerns about possible security risks related to its Chinese ownership.³⁰ Two senators have introduced a bill “aimed at banning federal employees from using Chinese social media app TikTok on their government-issued phones, amid growing national security concerns around the collection and sharing of data on U.S. users with China’s government.”³¹

The Children’s Advertising Review Unit of the Better Business Bureau’s National Programs (CARU) reviewed the Musical.ly app, and concluded in March 2018 that the app was directed to children and was violating COPPA.³² When Musical.ly refused to come into compliance with COPPA, CARU referred the matter to the FTC.³³ The FTC’s

(April 15, 2020), <https://www.scmagazine.com/home/security-news/privacy-compliance/tiktok-app-inherently-unsafe-and-a-privacy-risk/>.

²⁹ *E.g.* Eric Hegedus, *The dumb, dangerous ‘challenges’ TikTok has spawned so far this year*, NY Post, Feb. 13, 2020, <https://nypost.com/2020/02/13/the-dumb-dangerous-challenges-tiktok-has-spawned-so-far-this-year/>; Simon Books, *Parents Be Aware of these Online Challenges Your Kids Might be Trying*, moms (Feb, 26, 2020), <https://www.moms.com/parents-be-aware-of-these-online-challenges-your-kids-might-be-trying/>.

³⁰ Ben Kesling and Georgia Wells, *U.S. Military Bans TikTok Over Ties to China*, Wall Street Journal (Jan. 3, 2020), <https://www.wsj.com/articles/u-s-military-bans-tiktok-over-ties-to-china-11578090613>. So too has the Coast Guard, the Transportation Security Agency, and its parent, the Department of Homeland Security. Mary Meisenzahl, *US government agencies are banning TikTok, the social media app teens are obsessed with, over cybersecurity fears*, Business Insider (Feb. 25, 2020), <https://www.businessinsider.com/us-government-agencies-have-banned-tiktok-app-2020-2>.

³¹ Nandita Bose, *U.S. senators seek to ban federal employees from using TikTok on their phones*, Reuters (Mar. 12, 2020), <https://www.reuters.com/article/us-usa-china-tiktok/us-senators-seek-to-ban-federal-employees-from-using-tiktok-on-their-phones-idUSKBN20Z1E4>.

³² Case #6171 (Mar. 16, 2018), available at <https://case-report.bbb.org/Search/Index> through search.

³³ CARU Refers Musical.ly to the FTC After App Operator Declines to Comply with CARU’s Privacy Recommendations, (Apr. 24, 2018), <https://asrcreviews.org/caru->

investigation of Musical.ly led to the filing of a complaint and a proposed settlement in February 2019.

B. FTC Complaint and Consent Decree

On February 27, 2019, the FTC filed a complaint in the US District Court, alleging that the app Musical.ly was violating its COPPA Rule.³⁴ Specifically, it alleged that the app was directed at children under the factors set forth in the definition of “child-directed.”³⁵ The FTC also alleged that Musical.ly had actual knowledge that it was collecting personal information from children. It noted that the “youth of the user base is easily apparent in perusing users’ profile pictures and in reviewing users’ profiles, many of which explicitly note the child’s age, birthdate, or school.”³⁶ It also found that Musical.ly had received thousands of complaints from parents of children under the age of 13 who created accounts without their knowledge.³⁷ Moreover, after it was pointed

refers-musical-ly-to-ftc-after-app-operator-declines-to-comply-with-carus-privacy-recommendations/.

³⁴ FTC Complaint, *supra* note 1.

³⁵ *Id.* at ¶27. For example, it found that “The App includes song folders to help users select songs for their videos. At various times material to this Complaint, the App has included song folders appealing to children, such as “Disney” and “school.” The Disney folder included songs related to Disney television shows and movies, such as “Can You Feel the Love Tonight” from the Disney movie “The Lion King” and “You’ve Got a Friend in Me” from the Disney movie “Toy Story”. The school folder contained songs covering school-related subjects or school-themed television shows or movies. The App’s simple tools make it easy for children to create and upload videos. The App allows users to send other users colorful emojis, such as cute animals and smiley faces. Moreover, a large percentage of Musical.ly App users are under the age of 13. Indeed, many users self-identify as under 13 in their profile bios or provide grade or school information indicating an age under 13. Many musicians and entertainers popular with tweens, such as Katy Perry, Selena Gomez, Ariana Grande, Meghan Trainor, among many others, have Musical.ly App accounts. The artists often encourage their fans to post and share videos of themselves dancing or lip-syncing to their new releases.”

³⁶ *Id.* at ¶28.

³⁷ *Id.* at ¶21, ¶28.

out that many of Musical.ly’s most popular users appeared to be under 13, Musical.ly sent messages to 46 users’ email addresses telling them to edit their profile description to indicate that their accounts were being run by a parent or adult talent manager, without taking any steps to ensure that the person who was responding to the request was a parent and not the child.³⁸

The complaint alleged that in numerous instances, Musical.ly violated COPPA, by:

- a. Failing to provide notice on their website or online service of the information they collect online from children, how they use such information, and their disclosure practices, among other required content, in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- b. Failing to provide direct notice to parents of the information they collect online from children, how they use such information, and their disclosure practices for such information, among other required content, in violation of Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b);
- c. Failing to obtain consent from parents before any collection or use of personal information from children, in violation of Section 312.5(a)(1) of the Rule, 16 C.F.R. § 312.5(a)(1);
- d. Failing to delete personal information collected from children at the request of parents, in violation of Section 312.6(a)(2) of the Rule, 16 C.F.R. § 312.6(a)(2);
- e. Retaining personal information collected online from children for longer than reasonably necessary to fulfill the purpose for which the information was collected, in violation of Section 312.10 of the Rule, 16 C.F.R. §312.10.³⁹

At the same time the FTC filed the complaint, it filed a proposed Stipulated Order for Civil Penalties, Permanent Injunction and Other Relief (“consent decree”). Under the

³⁸ *Id.* at ¶ 22, ¶28.

³⁹ *Id.* at ¶27.

terms of the consent decree, facts alleged in the FTC complaint must be “taken as true, without further proof, in any subsequent civil litigation by or on behalf of” the FTC.⁴⁰

The consent decree was approved and took effect on March 27, 2019. It required Musical.ly to destroy all personal information associated with user accounts existing at the time of the order, or, in the alternative, if at the time of the order, Musical.ly operated any “online service that is directed to children but that does not target children as the primary audience,” destroy the personal information of users who identified as under 13; 2) destroy the personal information of users who were under age 13 at the time Musical.ly collected their personal information; 3) refrain from disclosing or using personal information, of any account holder whose age was not identified within 45 days of the order, and 4) destroy personal information of any user whose age had not been identified after 12 months.⁴¹

The consent decree also required Musical.ly to pay a civil penalty of \$5.7 million, the largest penalty for a COPPA violation that the FTC had imposed at the time.⁴² It permanently enjoined TikTok from violating the COPPA Rule.⁴³ Finally, it imposed a broad range of reporting, record keeping, and monitoring requirements.⁴⁴

Two Commissioners issued a joint statement that praised the settlement, noting that

Agency staff uncovered disturbing practices, including collecting and exposing the location and other sensitive data of young children. In our view, these practices reflected the

⁴⁰ Consent Decree, *supra* note 2.

⁴¹ *Id.*, Part I.

⁴² FTC Press Release, available at <https://www.ftc.gov/news-events/press-releases/2019/02/video-social-networking-app-musically-agrees-settle-ftc>.

⁴³ *Id.*, Part I.

⁴⁴ *Id.*, Parts VII-IX.

company's willingness to pursue growth even at the expense of endangering children. The agency secured a record-setting civil penalty and deletion of ill-gotten data, as well as other remedies to stop this egregious conduct. This is a big win in the fight to protect children's privacy.⁴⁵

At the same time, however, they expressed concern that the FTC had not identified, investigated, or held accountable the corporate officers and directors responsible for breaking the law.

C. TikTok's Actions Following Entry of the Consent Decree Order

Instead of simply destroying the personal information associated with every existing account, TikTok opted for the alternative -- destroying only the personal information of users who identified as under 13 at the time of the decree or at the time their personal information was collected.⁴⁶ TikTok also changed both the registration process for new users and amended its privacy policy.

1. Changes to TikTok's User Registration Process

The FTC found that when Musical.ly started up in 2014, it did not ask for the user's age. Even after Musical.ly began asking users their ages in July 2017, it did not go back and request birthdates for people who already had accounts.⁴⁷

⁴⁵ Joint Statement of Commissioner Rohit Chopra and Commissioner Rebecca Kelly Slaughter, available at https://www.ftc.gov/system/files/documents/public_statements/1463167/chopra_and_slaughter_musically_tiktok_joint_statement_2-27-19_0.pdf.

⁴⁶ Lauren Strapagiel, *TikTok Users are Furious After Their Accounts Got Deleted After The Under-13 Purge*, BuzzFeed News (February 28, 2019), <https://www.buzzfeednews.com/article/laurenstrapagiel/tiktok-account-delete>.

⁴⁷ FTC Complaint at ¶14.

In fall 2017, IPR tested Musical.ly's registration process. It offered three ways to log in: using Facebook, an email, or a telephone number. When we tried signing in with a phone number, it asked for a birthday. When we put in a birthdate for someone under 13, we received a message that we were ineligible, as shown in the left screen shot below.

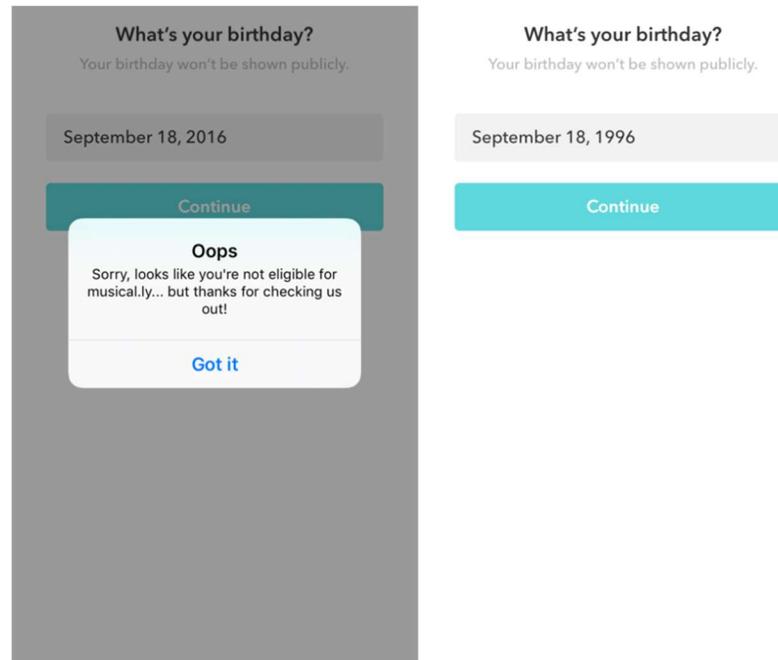


Figure 1.

We immediately tried again, however, with a birthdate for an age over 13, as shown in the right screen shot, and were able to make an account. Thus, children under thirteen could easily set up an account simply by entering a false birth date.

TikTok's current registration process no longer turns away users that identify as under age 13, but allows them to create an account that has limited capabilities. Upon opening the app, a user will be prompted to either sign up with a phone number or email; or sign in with an existing Facebook, Google, Instagram, Twitter or Apple account.

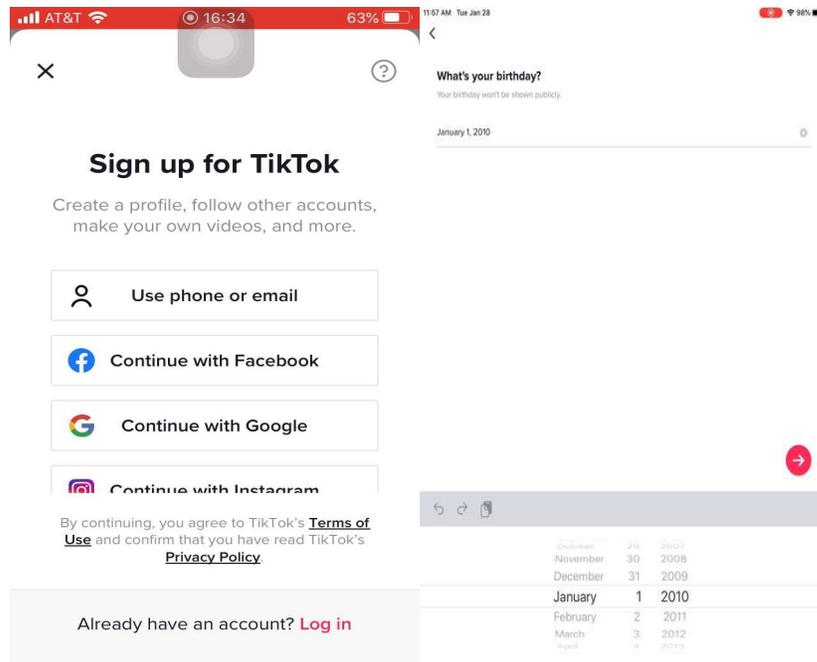


Figure 2.

A user signing up with a phone number or email address will be immediately prompted to enter a birthday.

If the birthday shows that the user is under 13 years old, TikTok tells the user that “We will provide you a more appropriate experience of TikTok and you will only be able to log in to TikTok using the username and password you entered,” as shown in Figure 3.

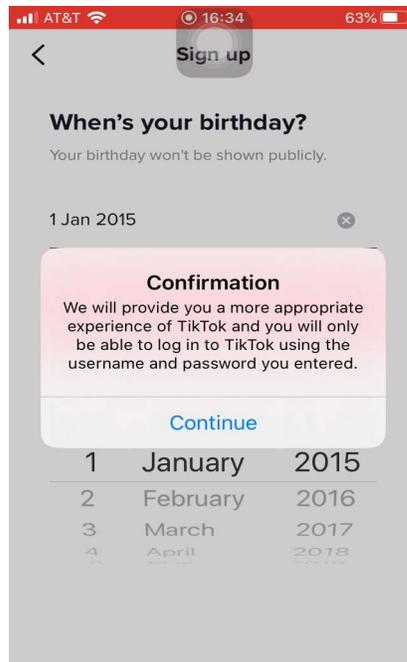


Figure 3.

However, this age gate mechanism is easy to bypass. Our investigation indicates that a child can simply log out of their account after discovering the restrictions and re-register a new account with a false birthday which gives them the full range of functions.⁴⁸ Moreover, a child could sign in using Facebook, Instagram or another social media account. While the terms of service of such accounts generally require users to be aged 13, large numbers of under 13s use these services.⁴⁹

⁴⁸ The following video documents a user signing up for a TikTok account with a birthday that would make them under 13, logging out, and re-registering with a birthday that would make them over 13. This process gives them full access to TikTok. https://drive.google.com/file/d/149Jv16ogwqoYQHBoE2R1Puc7y56l_flJ/view?usp=sharing.

⁴⁹ A survey conducted in the US in 2016, found that children on average get their first social media account at age 11.4. Thirty-nine percent of kids got their first account between ages 10 and 12, and 11% got one when they were younger than 10. Facebook and Instagram were the most used social platform among kids: 77% used Facebook, 77% used Instagram, 49% used Twitter, and 47% used Snapchat. Influence Central, *Kids & Tech: The Evolution of Today's Digital Natives*, <http://blog.influence-central.com/kids-tech-the-evolution-of-todays-digital-natives/> (last visited May 4, 2020).

2. Experience of a Child User on TikTok

A user registered as under 13 will receive a very different experience than a user registered as 13 or above.

As TikTok explains:

In the US, children under the age of 13 are able to register for a separate experience that introduces additional safety and privacy protections designed specifically for this audience. The environment for younger users does not permit the sharing of personal information, and users cannot do things like share their videos on TikTok, comment on others' videos, message with users, or maintain a profile or followers.⁵⁰

The child may use TikTok's simple recording and editing tools to create a video of herself. However, these videos are only stored locally on the user's device, are not uploaded to TikTok's servers, and cannot be shared with anyone else.

When a child user opens the app, a short video begins to play repeatedly. The child may swipe to see another video and continue that process indefinitely. In addition, a child may use the discover function (magnifying glass icon) to choose videos from different categories such as "artschool," "littlemonsters" and "science experiments."

Someone using a younger users account is not able to comment on videos or interact with other users on the platform. They may, however, "like" a video by clicking on the heart icon. Liked videos can be viewed again by clicking on the "me" icon at the bottom of the screen and clicking on the heart icon. This brings up a screen displaying the liked videos as shown below. Notice that many videos feature young children and/or content (e.g. Phineas and Ferb) or products enjoyed by children (e.g. Lunchables and toys).

⁵⁰ TikTok Safety Center, For Parents, available at <https://www.tiktok.com/safety/resources/for-parents?lang=en&appLaunch=web>.

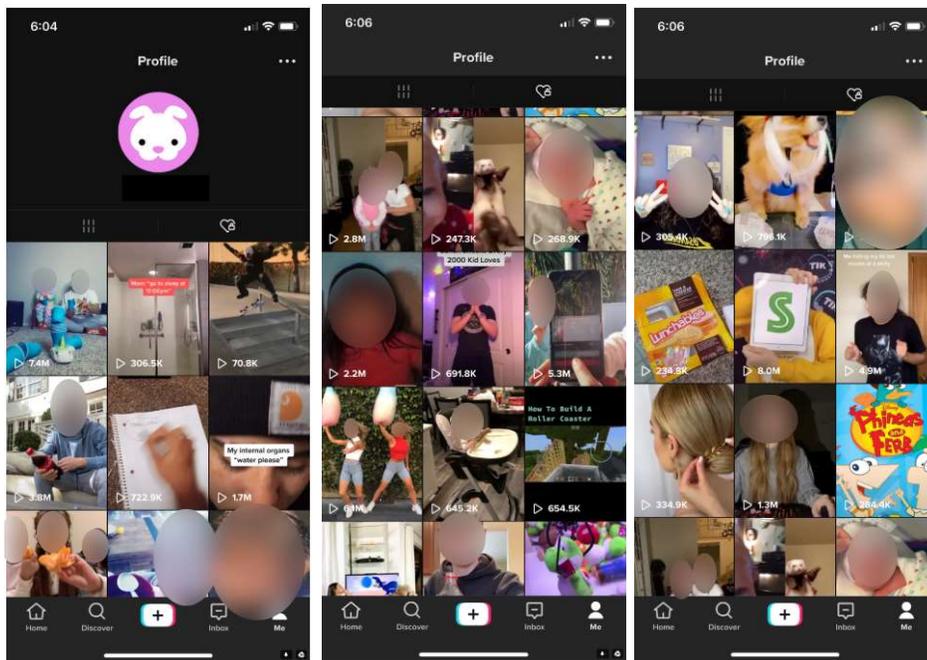


Figure 4.

3. Changes to TikTok’s Privacy Policy

TikTok also changed its privacy policy. Its privacy policy dated July 12, 2016 stated that it did “not knowingly collect information from children under 13 and we do not want it.”⁵¹ That privacy policy falsely claimed that the company would delete personal information upon parental request. As the FTC alleged in its complaint, Musical.ly received thousands of requests from parents to delete a child’s personal information but failed to do so.⁵²

The first paragraph of TikTok’s current privacy policy for the United States (dated January 1, 2020), states that “This Privacy Policy covers the experience we provide for users age 13 and over on our Platform. For information about our under-13 experience

⁵¹ See Appendix No. 2 – Previous and Current Privacy Policy of TikTok at (1).

⁵² FTC Complaint at ¶128.

(‘Children’s Platform’) and our practices in the United States regarding children’s privacy, please refer to our Privacy Policy for Younger Users.”⁵³

The general privacy policy makes clear that TikTok collects a great deal of personal information, including registration data, profile information, videos, phone and social network contact, and information shared through surveys, challenges, sweepstakes or contests.⁵⁴ It also collects various information “automatically” including usage information, device information and location data.⁵⁵ It uses cookies and other technologies to “automatically collect information, measure and analyze which web pages you click on and how you use the Platform, enhance your experience using the Platform, improve the Platform, and provide you with targeted advertising on the Platform and elsewhere across your different devices.”⁵⁶

By contrast, the Privacy Policy for Younger Users states that TikTok collects only limited data:

When a Younger User registers for TikTok, we collect only limited information, including username, password, and birthday.

We may also collect certain information automatically from the user’s device, including internet or other network activity information such as device ID, IP address, web browser type and version, country-level location, as well as certain app activity data, such as video watches, time in the app, and general usage data.⁵⁷

⁵³ See Appendix No.2 — Previous and Current Privacy Policy of TikTok (2) Privacy Policy for Users Under 13 of TikTok After Consent Decree.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

The Privacy Policy for Younger Users discloses that TikTok uses username and password to authenticate younger users and it “may use the information collected automatically to, among other things, provide personalized content and serve contextual advertising.” It shares this information “with our corporate group and with service providers as necessary for them to perform a business purpose, professional service, or technology support function for us,” but does not sell information of younger users to third parties. Therefore, TikTok is collecting multiple forms of personal information, including usernames, which can be used to contact the child, and persistent identifiers.

II. TikTok is in Violation of the Terms of the Consent Decree

The consent decree specifically requires that TikTok either destroy all personal information of all existing users, or destroy all personal information collected from users under age 13. The purpose of both alternatives was to require TikTok to destroy any personal information that it had collected from someone under 13 in the past, and to prohibit any new collection of personal information from a child prior to giving notice and obtaining parental consent. The consent decree also required TikTok to remedy specific COPPA violations, *i.e.*, failing to post a prominent and clearly labelled link to its privacy policy, failing to provide direct notice to parents of their practices regarding the collection and use of children’s data, failing to obtain verifiable, parental consent before collecting information from children, failing to provide parents with the right to delete data collected from a child, and retaining children’s personal information longer than necessary. It also required TikTok to comply with all provisions of the COPPA Rule. Our review of TikTok, however, indicates that it continues to violate the COPPA rule in multiple ways.

A. TikTok Failed to Destroy All Personal Information Collected from Children under age 13

As shown below, many users with Musical.ly accounts at the time of the consent decree in February 2019, still have accounts on TikTok today. Thus, TikTok clearly did not comply with the first option to “[d]estroy all personal information, in all forms in their possession, custody, or control, that is associated with user accounts existing at the time of the entry of this Order.”⁵⁸

Nor has TikTok complied with the alternative. Even if we assume for purposes of argument that TikTok is “directed to children but that does not target children as a primary audience,” it has not destroyed the personal information of all users who identified as under age 13 at the time of the entry of the order.⁵⁹ If it had, TikTok should no longer have or make publicly available any videos or other personal information collected from children under age 13. While the consent decree provides that “[p]ersonal information need not be destroyed, and may be collected, used, and disclosed, to the extent Defendants obtain verifiable parental consent for its collection, use, and disclosure,”⁶⁰ TikTok has failed to obtain verifiable parental consent. Indeed, as we show below, TikTok provides no direct notice to parents of its information

⁵⁸ Consent Decree, part II(A).

⁵⁹ Consent Decree, part II(B)(1). In the case of personal information collected from a user who had turned age 13 by the date of the consent decree, Musical.ly had the option of either destroying that information or “with the affirmative consent of the user, transfer[ing] the user’s videos to the user’s device and retain[ing] the user’s registration information.” *Id.*, part II(B)(2). The consent decree also required that if the age of the user of an existing account was not identified within 45 days, that user’s personal information had to be removed from the online service, and if not identified within 12, destroyed. *Id.*, part II(B)(3). Thus, all personal information collected from a user’s whose age was not identified by now should have been destroyed.

⁶⁰ *Id.*, Part (B)(4).

practices as to children, and it has no mechanism to obtain advance, verifiable consent from parents.

Our investigation found numerous videos of children who were under age 13 at the time of the consent decree that still have regular accounts on TikTok. Two examples are discussed below, and additional examples can be found in Appendix 1.

██████████, whose screen name is ██████████, looks very young, and according to her profile on Famous Birthdays, she is 7-years old.⁶¹ The screenshots in Figure 5, taken on April 28, 2020, show that ██████████ has 44,600 followers and 1.6 million likes. Figure 5 also displays thumbnails of videos uploaded by ██████████. These videos are available for anyone to watch on TikTok, with or without a TikTok account. The videos are arranged according to the date they were posted to Musical.ly/TikTok.

⁶¹ ██████████, Famous Birthdays, <https://www.famousbirthdays.com/people/██████████.html> (last visited April 28, 2020). Famous Birthdays lists ██████████'s birthdate as being September 12, 2012.

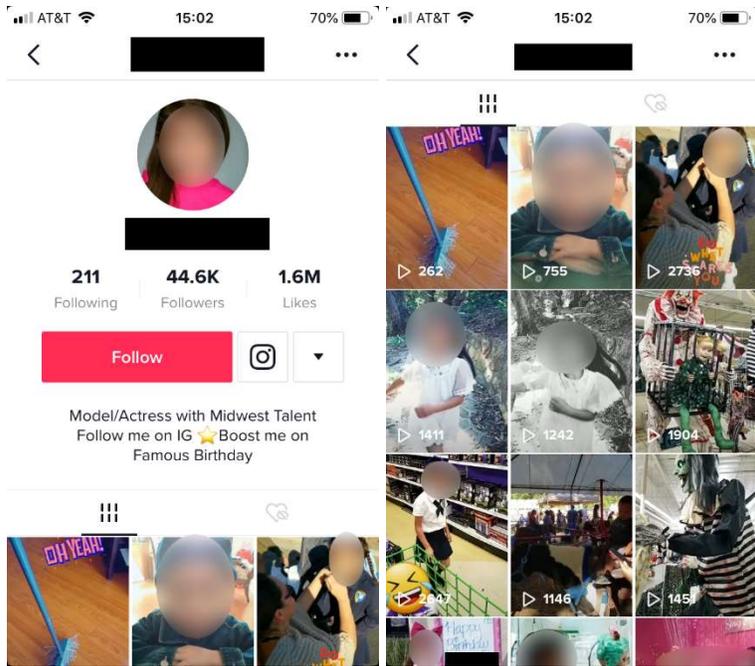


Figure 5.

Figure 6 shows videos of [REDACTED] uploaded on March 31st, 2016, and April 1st, 2016, respectively. The dates are circled in yellow.

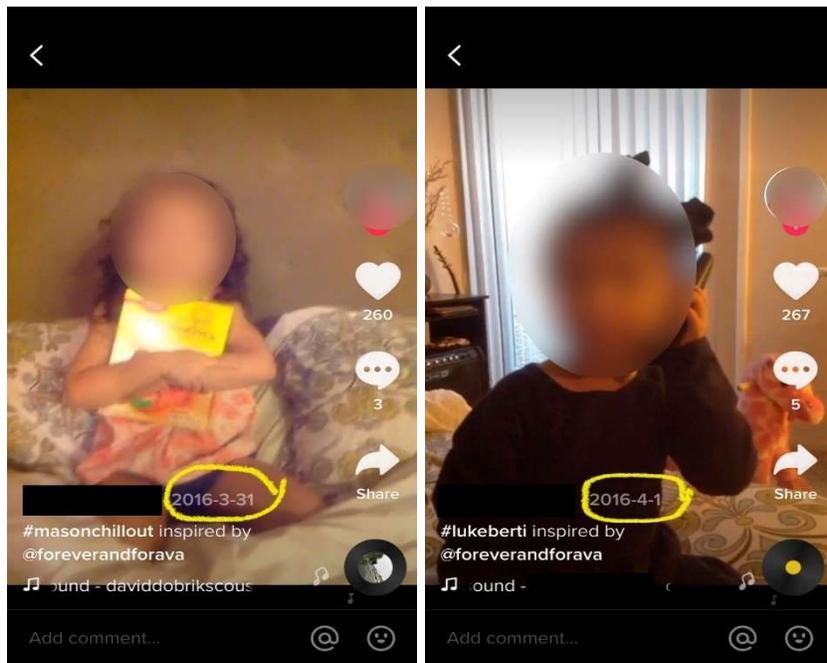


Figure 6.

[REDACTED], screen name [REDACTED], is 10 years old.⁶² On April 28, 2020, she had 1.2 million likes and 33.8 million likes, as shown in Figure 7. Like [REDACTED], [REDACTED] was on Musical.ly long before the date of the consent decree. Figure 7 also shows videos uploaded in August 2016.

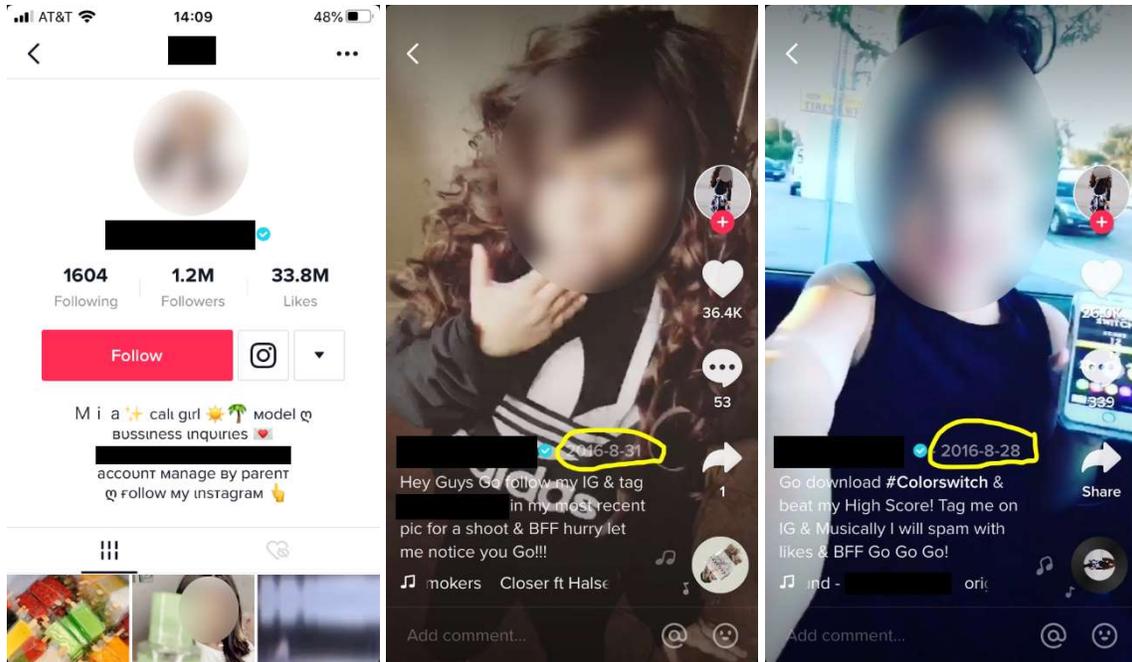


Figure 7.

The continued presence and visibility of accounts featuring children under 13, especially accounts that existed prior to the consent decree, demonstrates that TikTok has not destroyed the personal information collected from children as required by Provision II of the consent decree.⁶³

⁶² [REDACTED], Famous Birthdays, [https://www.famousbirthdays.com/people/\[REDACTED\].html](https://www.famousbirthdays.com/people/[REDACTED].html) (last visited April 28, 2020). Famous Birthdays lists [REDACTED]'s birthdate as being March 14, 2010.

⁶³ Consent Decree at 9.

B. TikTok Fails to Make Reasonable Efforts to Give Direct Notice to Parents

TikTok has also failed to make reasonable efforts to provide direct notice to parents. When a child signs up for a younger user account, TikTok does not at any point contact the child's parents to give them notice. TikTok never even asks for contact information for the child's parents to provide the direct notice. Because the platform still provides no mechanism for providing direct notice to parents, it is violating both the consent decree and the COPPA rule.

Moreover, it is important to point out that the statement that "account managed by parent," see Figure 7, *supra*, or similar language, does not satisfy the requirement of verifiable parental consent. As noted in the FTC's complaint, Musical.ly sent emails to underage users telling them to edit their profile description to indicate that their accounts were being run by a parent or adult talent manager.⁶⁴ The FTC observed that Musical.ly failed to ensure that the person responding to the request was a parent and not the child. That is still the case today.

But even if a parent manages the account, that is not enough to comply with COPPA and the consent decree. TikTok must give direct notice to parents of its information collection practices regarding children, which it does not, and obtain advance, verifiable consent from parents, which it has no method of obtaining.⁶⁵

⁶⁴ Complaint at ¶22.

⁶⁵ According to the COPPA FAQs, the operator of an online service directed to children "must assume that the person uploading a photo is a child and they must design their systems either to: (1) give notice and obtain prior parental consent, (2) remove any child images and metadata prior to posting, or (3) create a special area for posting by adults, if that is the intention." *Complying with COPPA: Frequently Asked Questions* at E4, available at <https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions>.

C. TikTok Fails to Post a Prominent and Clearly Labeled Link to Its General Online Notice

Not only has TikTok failed to provide parents with direct notice, but it has failed to post a prominent and clearly labeled link to its privacy policy. The COPPA rule mandates that operators must post “a prominent and clearly labeled link” to its children’s privacy policy on its home page.⁶⁶ However, in contravention of the rule, the children’s privacy policy is difficult to find on the TikTok app.

Figure 8 shows the home page that a user will see upon opening the TikTok app. There is no identified link to or description of TikTok’s privacy policy at all.

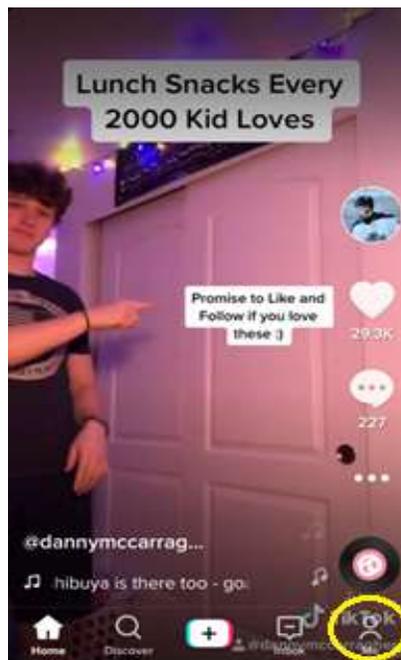


Figure 8.

⁶⁶ 16 C.F.R. §312.4(d). The amended Rule requires that the operator post a clearly and prominently labeled link to the online privacy policy on the home or landing page or screen of the website or online service, and at each area of the site or service where personal information is collected from children. This link must be in close proximity to the requests for information in each such area.

To find the privacy policy, the user must somehow know to click on the “Me” button located on the bottom right corner of the picture. Clicking on this button takes the user to her personal profile page. But that page also has no link to or description of TikTok’s privacy policy, as shown in figure 9.

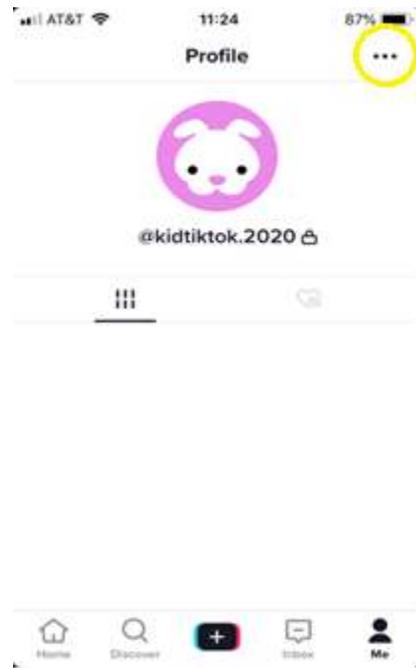


Figure 9.

To get to the privacy policy from the user’s personal profile page, the user must click on the three dots located at the top right corner of the screen shown in Figure 9. This takes the user to the “Privacy and settings” page. Once there, the user would need to scroll down to the bottom to find the link to TikTok’s privacy policy, as shown in Figure 10. Thus, TikTok is violating the consent decree’s requirement to post “a prominent and clearly labeled link” to its children’s privacy policy on its home page.

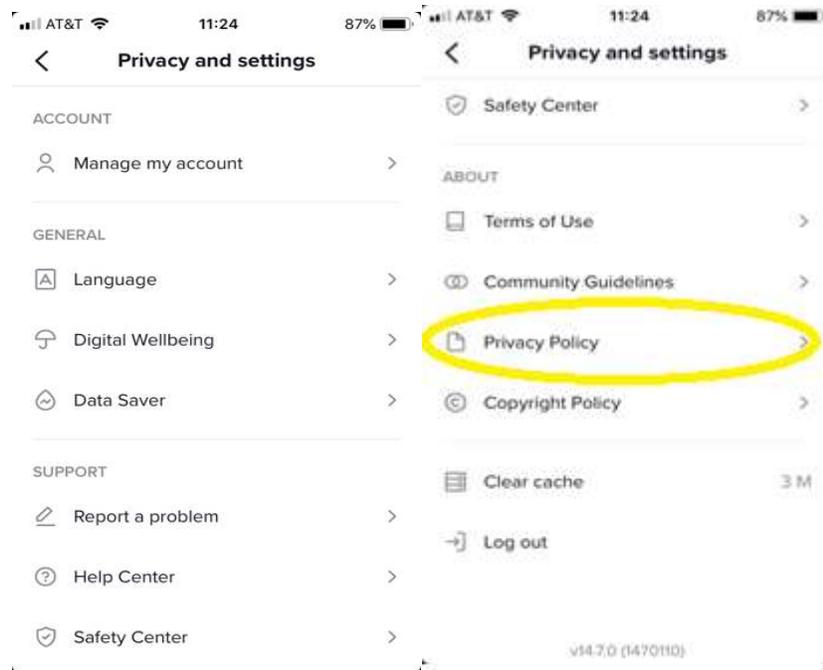


Figure 10.

In addition to being difficult to find, TikTok’s privacy policy fails to contain all the information required by the COPPA Rule. COPPA Rule §312.4(d)(1) requires that online children’s privacy policies include the “name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online service.”⁶⁷ It must also include a “description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information.” TikTok fails to disclose any of this information. Its *Privacy Policy for*

⁶⁷ In the alternative, operators may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice.

Younger Users merely states that “We share the information we collect with our corporate group and with service providers as necessary for them to perform a business purpose, professional service, or technology support function for us.” It fails to list the names and contact information of *any* third-party operator. It likewise fails to describe how third parties use the information or what their disclosure practices are. The statement that information is shared with third parties for business purposes, professional purposes or technological support suggests that such sharing is widespread. But at the same time, it is too vague to provide any meaningful information to parents or to satisfy the COPPA Rule.

In sum, TikTok’s inadequate privacy policy violates both the consent decree and the COPPA rule.

D. TikTok Fails to Obtain Verifiable Parental Consent before Collecting Information from Children

The consent decree prohibits TikTok from “[f]ailing to obtain verifiable parental consent before any collection, use, or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented.”⁶⁸ Yet TikTok is still collecting personal information from users under age 13 without first obtaining parental consent.

⁶⁸ Consent Decree at 8.

1. TikTok collects vast amounts of personal information from underage users that have been able to maintain or establish new unrestricted accounts

We have already shown in Section II(A), *supra*, and Appendix No. 1 that many children under age 13 in fact have unrestricted accounts. We also explain how easily children may circumvent the age gate. Once children discover that they cannot share videos, comment or receive comments on videos, or utilize other features using a children's account, they may try to sign up again using an age 13 or older. TikTok does not require anyone who identifies themselves as over 13 to verify their age. Many children are thus likely taking advantage of this loophole, allowing TikTok to collect, use, and share personal information from children without their parents' knowledge or consent. Children that have maintained or set up new unrestricted TikTok accounts will be subject to the extensive data collection, tracking and sharing, described in TikTok's privacy policy.⁶⁹

2. TikTok appears to collect, use, and share children's personal information even from younger user accounts

Even if a child signs up for a younger user account, TikTok still collects some personal information as defined in the COPPA Rule. TikTok does not collect certain forms of personal information such as full name, online contact information, or media

⁶⁹ *Privacy Policy*, TikTok, <https://www.tiktok.com/legal/privacy-policy?lang=en#privacy-us> (last accessed May 4, 2020). TikTok collects, stores, and uses information that the user provides, as well as information from any other social networks linked to TikTok, location data, the contents of users' messages, and cookies. TikTok uses this information themselves, among other uses, to customize ads and to infer other information about users. TikTok shares this information with third parties, including for advertising purposes.

files containing the child’s image or voice. Nonetheless, as stated in TikTok’s privacy policy, it does collect persistent identifiers from children, as well as app activity and usage data. TikTok’s use of this personal information exceeds mere support for internal operations.

The COPPA Rule defines personal information to include a “persistent identifier that can be used to recognize a user over time and across different Web sites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or unique device identifier.”⁷⁰ The definition also includes information “concerning the child . . . that the operator collects online from the child and combines with an identifier described in this definition.”⁷¹

TikTok is collecting information that falls under this definition of personal information. TikTok’s Privacy Policy for Younger Users acknowledges that it collects device IDs and IP addresses as well as “certain app activity data, such as video watches, time in the app, and general usage data.” TikTok also shares this information with third parties, stating, “We share the information we collect with our corporate group and with service providers as necessary for them to perform a business purpose, professional service, or technology support function for us.”⁷²

This collection of personal information requires TikTok to obtain parental consent, because the collection falls outside the exceptions in COPPA to the parental

⁷⁰ 16 C.F.R. §312.2 (definition of *Personal Information*, (7)).

⁷¹ 16 C.F.R. §312.2 (definition of “support for the internal operations of a website or online service”).

⁷² See Appendix No.2 — Previous and Current Privacy Policy of TikTok (2) Privacy Policy for Users Under 13 of TikTok After Consent Decree.

consent requirement -- most specifically the exemption for the “support for the internal operations for a website or online service.”⁷³ The definition of support for internal operations explicitly prohibits the information collected from being used “to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.”⁷⁴ The Commission explained that this exemption was:

intended to accomplish three goals: (1) To incorporate into the Rule text many of the types of activities—user authentication, maintaining user preferences, serving contextual advertisements, and protecting against fraud or theft—that the Commission initially discussed as permissible in the 2011 NPRM; (2) to specifically permit the collection of persistent identifiers for functions related to site maintenance and analysis, and to perform network communications that many commenters viewed as crucial to their ongoing operations; and (3) to make clear that none of the information collected may be used or disclosed to contact a specific individual, including through the use of behavioral advertising.⁷⁵

The Commission’s COPPA FAQs further explain that the “inclusion of personalization within the definition of support for internal operations was intended to permit operators to maintain user driven preferences, such as game scores, or character choices in virtual worlds.”⁷⁶

TikTok’s use of persistent identifiers does not fall into the category of user authentication, maintaining user preferences, serving contextual advertisements, or protecting against fraud or theft. Nor does it relate to site maintenance and analysis, or

⁷³ 16 C.F.R. §312.2 (definition of “support for the internal operations of a website or online service”).

⁷⁴ *Id.*

⁷⁵ 78 Fed. Reg. 3,979 (January 17, 2013).

⁷⁶ COPPA FAQs, available at <https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions>.

network communications. Rather, TikTok uses the device ID and app activity data to run its video-selection algorithm. When a child scrolls away from the video they are watching, TikTok’s algorithm uses artificial intelligence to make sophisticated inferences from the data TikTok collects to present the next video. The algorithm “entirely interprets and decides what the user will watch instead of presenting a list of recommendations to the users like Netflix and YouTube.”⁷⁷

Using personal information in this manner exceeds the limited exceptions for personalization of content. The COPPA Rule is quite clear that information collected to support internal operations may, under no circumstances, be used “to amass a profile on a specific individual.”⁷⁸ Yet TikTok does, indeed, amass a profile of each user—including child users—and draws upon that profile to suggest videos of interest to the user. That profile may be based in part on users’ overt behavior, such as liking videos.⁷⁹ However, TikTok also appears to amass user profiles based on passive tracking.⁸⁰ As reported in *The New Yorker*, “Although TikTok’s algorithm likely relies in part, as other systems do, on user history and video-engagement patterns, the app seems remarkably attuned to a

⁷⁷ Mallika Rangaiah, *How is Artificial Intelligence (AI) Making TikTok Tick?*, AnalyticSteps (January 15, 2020), <https://www.analyticsteps.com/blogs/how-artificial-intelligence-ai-making-tiktok-tick>.

⁷⁸ 16 C.F.R. §312.2 (“support for the internal operations of a website or online service” exception may apply when information is used for select purposes, but only “So long as The information collected for the activities listed in paragraphs (1)(i)-(vii) of this definition is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.”).

⁷⁹ We cannot tell whether children’s likes are stored only on the device or transmitted to TikTok, but this is something the FTC should investigate.

⁸⁰ The Statement of Basis & Purpose for the 2013 COPPA Amended Rule states that services “may not use persistent identifiers to amass a profile on an individual child user based on the collection of such identifiers ... in order to make decisions or draw insights about that child.” 78 Fed. Reg. 3981 (January 17, 2013).

person’s unarticulated interests.”⁸¹ Another article observed that the algorithm “goes right to the source using AI to map out interests and desires we may not even be able to articulate to ourselves.”⁸²

The profiles that TikTok amasses on its users are designed to be used not only to curate which user-generated videos appear in each users’ stream, but also to assist with advertising. For example, TikTok is partnering with social media advertising company Sprinklr—a partnership that will, in the words of Sprinklr’s CEO, “present an exciting opportunity for brands to target a highly-engaged Gen-Z and Millennial audience...”⁸³

Collecting information from children for the purpose of amassing a profile used to algorithmically customize content is not permissible under the “support for internal operations” exception, and therefore violates both the consent decree and the COPPA Rule.

3. TikTok may be failing to obtain parental consent for material changes in its privacy practices with respect to children

It is also unclear whether TikTok obtains parental consent when it makes material changes in its privacy practices as required by the consent decree and COPPA

⁸¹ Jia Tolentino, *How TikTok Holds Our Attention*, The New Yorker (September 23, 2019), <https://www.newyorker.com/magazine/2019/09/30/how-tiktok-holds-our-attention>.

⁸² Ryan Holmes, *Is TikTok a Time Bomb?*, Fast Company (August 28, 2019), <https://www.fastcompany.com/90395898/is-tiktok-a-time-bomb>. These characterizations are consistent with our own research. On both the regular and children’s platform, TikTok tended to serve videos similar to the videos that the user spent more time on. For example, in both adult and child accounts, we noticed that if we consistently watched related to animals, the app gradually started to recommend more and more videos featuring animals.

⁸³ *Sprinklr and TikTok Launch New Advertising Partnership*, Sprinklr (April 28, 2020), <https://www.sprinklr.com/pr/sprinklr-tiktok-launch-new-advertising-partnership/>.

Rule §312.4(b). TikTok’s Privacy Policy for Younger Users states that “We will generally notify all users of any material changes to this policy, through a notice on the platform. However, users should look at this policy regularly to check for any changes. We will also update the “Last Updated” date at the top of this policy, which reflects the effective date of such policy.”⁸⁴

There are three problems with TikTok’s practice. First, TikTok states only that it will generally notify users of material changes, implying that there are times when it may make material changes without giving notice. Second, notifying users of material changes by posting a notice on the platform is not reasonably calculated to ensure that the person providing consent is the child’s parent. Parents are unlikely to see a notice posted on either the children’s platform or the unrestricted platform (the policy does not specify which). Nor are parents likely to regularly check for changes. Finally, TikTok provides no method for parents who do obtain notice to provide verifiable consent.

E. TikTok Fails to Give Parents the Right to Review or Delete Personal Information of Their Children

The consent decree prohibits TikTok from failing to delete a child’s personal information at the request of a parent. COPPA Rule 312.4 also requires that online privacy notices inform parents that they “can review or have deleted the child’s personal information, and refuse to permit further collection or use of the child’s information, and state the procedures for doing so.”

TikTok fails to comply with both provisions. TikTok’s Privacy Policy for Younger Users merely provides that a younger user may make certain choices:

⁸⁴ See Appendix No. 2 at (2) under “Changes”.

You may submit a request to access or delete the information we have collected about you by sending your request to us at the email or physical address provided in the Contact section at the bottom of this policy. We will respond to your request consistent with applicable law and subject to proper verification. And we do not discriminate based on the exercise of any privacy rights that you might have.⁸⁵

This language does not satisfy the consent decree because it states only that the child user (not their parents) may request deletion. Nor does TikTok’s general online notice inform parents that they have the right to review, stop the collection of, or delete personal information collected from their child.

Conclusion

The FTC should act promptly to stop TikTok from continuing to flout the consent decree. TikTok’s conduct shows that it is continuing to pursue growth at the expense of endangering children. Strong FTC action is needed to protect children from substantial risks to their privacy and wellbeing that come from sharing some of the most personal forms of personal information—their images, their words, and their thoughts—to TikTok’s 800 million users worldwide, without their parents’ knowledge and informed consent.

The FTC should identify and hold responsible those individuals who made or ratified decisions to retain and continue to collect personal information from children without providing parental notice or obtaining verifiable consent. The FTC’s investigation must include corporate officers and directors of TikTok, and its parent ByteDance.

⁸⁵ Appendix No. 2 at (2) under “Choices.”

The FTC should also impose detailed injunctive relief to ensure that all personal information collected from children—both before and after the consent decree—is destroyed. The FTC should enjoin TikTok from registering any new accounts for persons in the United States unless and until it adopts a reliable method of determining the ages of its users and comes into full compliance with all aspects of COPPA. Further, the FTC should require TikTok to make any compliance or other reports it has or will file with the FTC publicly available.

Given the number and severity of the violations and the large number of US children using TikTok, the FTC should also seek the maximum civil penalties allowed by law of \$41,484 per violation. ByteDance’s worth was recently estimated to be as high as \$100 billion.⁸⁶ This represents a substantial increase over its valuation of \$75 billion in 2018. That valuation made ByteDance “the most valuable privately held company in the world.”⁸⁷ TikTok’s founder, Zhang Yiming, has an estimated worth of over \$16 billion, making him the 11th-wealthiest person in China, according to the Bloomberg Billionaires Index.⁸⁸ Investors in ByteDance include Morgan Stanley, Goldman Sachs, K3 Ventures, Primavera Capital Group, and Kohlberg Kravis Roberts, as well

⁸⁶ Wei Sheng, *Bytedance may now be worth \$100 billion*, Technode, Mar. 31, 2020, <https://technode.com/2020/03/31/bytedance-may-now-be-worth-100-billion/>.

⁸⁷ Taylor Nicole Rogers, *Meet Zhang Yiming, the secretive, 35-year-old Chinese billionaire behind TikTok who made over \$12 billion in 2018*, Business Insider, Nov. 10, 2019, <https://www.businessinsider.com/tiktok-billionaire-zhang-yiming-net-worth-lifestyle-2019-11#zhang-and-bytedances-first-product-was-a-news-aggregator-app-called-toutiao-5>.

⁸⁸ John Csiszar, *What Exactly Is TikTok and How Much Is It Worth?* GOBankingRates, Jan. 10, 2020, [gobankingrates.com/investing/strategy/how-much-is-tiktok-worth/](https://www.gobankingrates.com/investing/strategy/how-much-is-tiktok-worth/).

as the Bank of China and CMB Wing Lung Bank.⁸⁹ Because ByteDance and TikTok are making so much money, the civil penalty needs to be large enough to impact their bottom line.

Strong and effective FTC action is also needed to vindicate the FTC's authority. The facts alleged here raise serious questions about the effectiveness of the FTC's prior action against Musical.ly. If the FTC does nothing to enforce its consent decree here, other companies that have entered into consent decrees with the FTC will feel free to renege on their agreements, putting even more children at risk.⁹⁰

Respectfully Submitted,

/s/ _____
Michael Rosenbloom
Angela J. Campbell
Laura M. Moy
Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, NW
Suite 312
Washington, DC 20001
(202) 662-9535

May 14, 2020

*Counsel for Campaign for a Commercial-
Free Childhood and Center for Digital
Democracy*

⁸⁹ *Id.*

⁹⁰ This complaint was drafted with considerable assistance from Mary Weaver and Qingqin Chen, students in the Communications & Technology Law Clinic of the Institute for Public Representation.

1. Appendix No.1 – Children Under 13 with Unrestricted TikTok Accounts

Below is a non-exhaustive list of publicly viewable accounts on TikTok that feature images, audio, or video of a person under the age of 13. Each account on this list has a substantial following, enough that the age of the child was recorded on Famousbirthdays.com. Screenshots of each account, taken on May 4, 2020, are provided below.

No.	Name	TikTok Account	Birthday	Age
1	[REDACTED]	[REDACTED]	July 8, 2015	4 years old
2	[REDACTED]	[REDACTED]	December 6, 2013	6 years old
3	[REDACTED]	[REDACTED]	April 29, 2013	6 years old
4	[REDACTED]	[REDACTED]	May 1, 2012	7 years old
5	[REDACTED]	[REDACTED]	September 12, 2012	7 years old
6	[REDACTED]	[REDACTED]	March 22, 2012	7 years old
7	[REDACTED]	[REDACTED]	March 4, 2012	7 years old
8	[REDACTED]	[REDACTED]	April 20, 2012	7 years old
9	[REDACTED]	[REDACTED]	March 27, 2011	8 years old
10	[REDACTED]	[REDACTED]	August 12, 2011	8 years old
11	[REDACTED]	[REDACTED]	August 15, 2011	8 years old
12	[REDACTED]	[REDACTED]	March 14, 2010	9 years old
13	[REDACTED]	[REDACTED]	October 21, 2009	10 years old
14	[REDACTED]	[REDACTED]	March 15, 2009	10 years old
15	[REDACTED]	[REDACTED]	February 7, 2009	11 years old
16	[REDACTED]	[REDACTED]	January 22, 2009	11 years old
17	[REDACTED]	[REDACTED]	July 29, 2007	12 years old
18	[REDACTED]	[REDACTED]	September 8, 2007	12 years old
19	[REDACTED]	[REDACTED]	April 9, 2007	12 years old

20	[REDACTED]	[REDACTED]	January 19, 2008	12 years old
21	[REDACTED]	[REDACTED]	February 14, 2007	12 years old
22	[REDACTED]	[REDACTED]	March 14, 2007	12 years old
23	[REDACTED]	[REDACTED]	June 17, 2007	12 years old



1340 Following 8.6M Followers 328.5M Likes

Hi!
 We make people smile 😊
 Stay awhile 📍
 Our Q&A YT video is LIVE!
 Link Below 🔗

Videos Likes



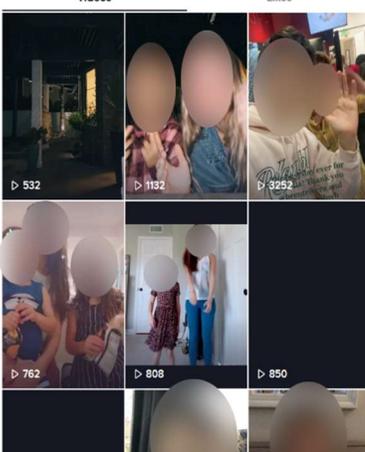
#1



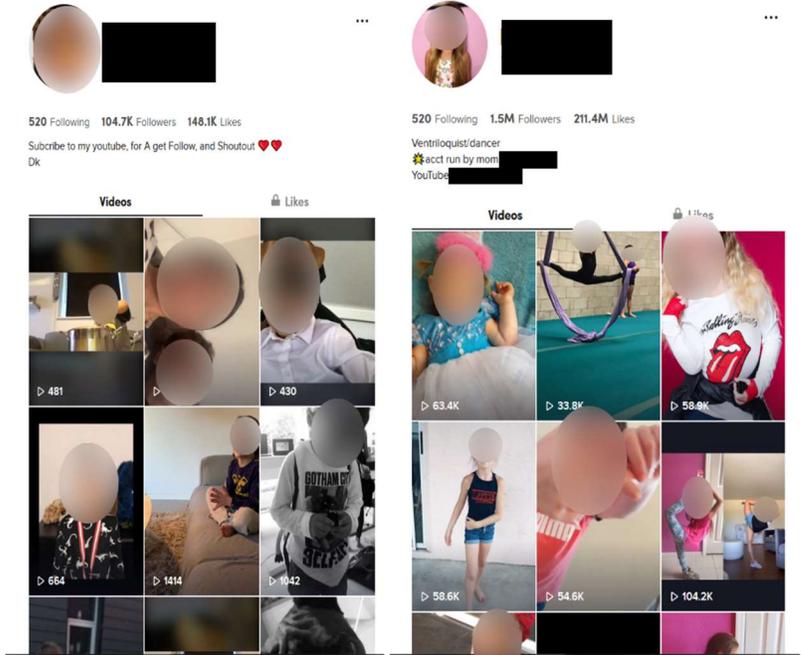
63 Following 81.4K Followers 671.1K Likes

A tad bit of energy, pinch of love and a ball of 🍌 We?

Videos Likes

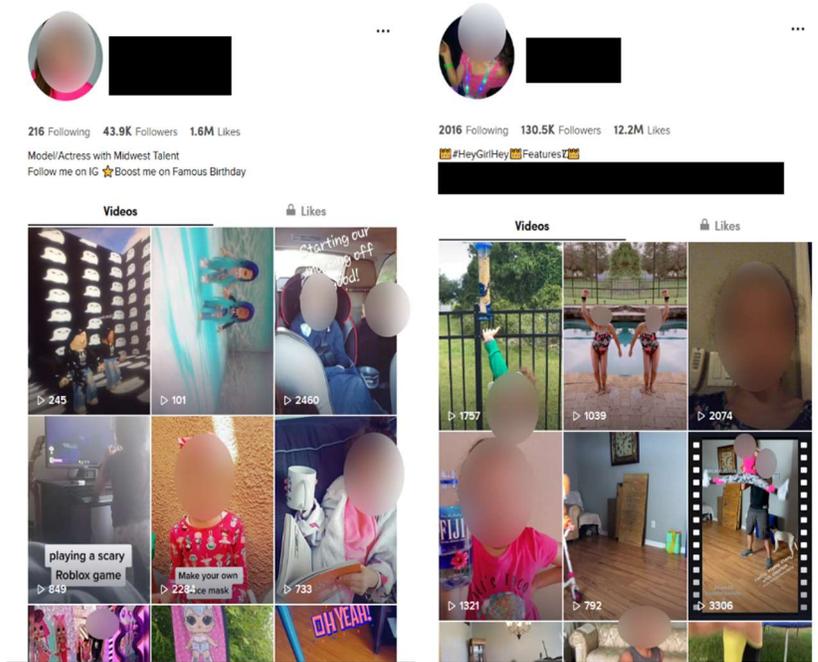


#2



#3

#4



#5

#6

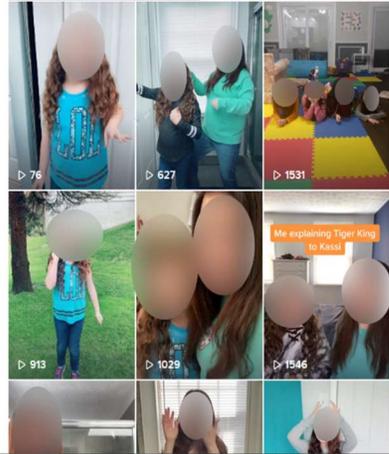


259 Following 35.2K Followers 1.8M Likes

Just a mom who likes to make TikToks with her daughter. Comedy is our fav!

Videos

🔒 Likes



#7



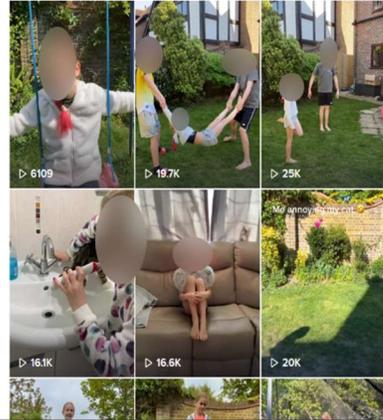
40 Following 343.8K Followers 4.8M Likes

I love to sing & dance.

(Run by parents)

Videos

🔒 Likes



#8



3642 Following 680.7K Followers 13.8M Likes

Fun is a language we all speak!

👉 Goonies For Life! 👈

Videos

🔒 Likes



#9



910 Following 86.7K Followers 1.8M Likes

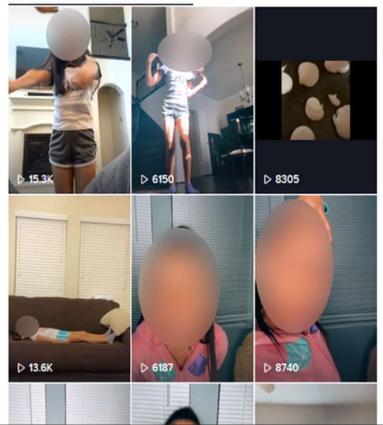
Instagram

YouTube

Account Managed By Parents

Videos

🔒 Likes



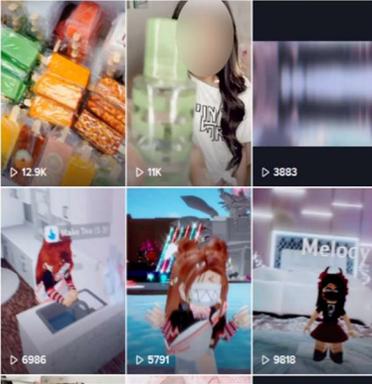
#10




1621 Following 1.2M Followers 33.8M Likes

call girl 🍑 Model 👗
 BUSSINESS INQUIRIES 📧
 account Manage by parent
 Follow My Instagram 📲

Videos **Likes**



12.9K 11K 3883
 6986 5791 9818

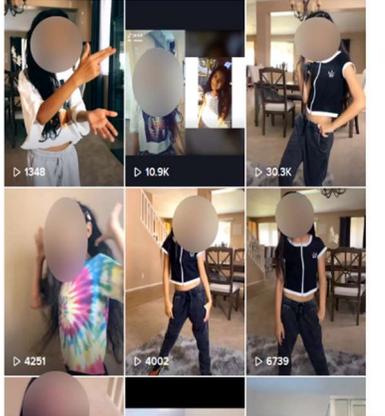
#11




250 Following 993.7K Followers 28.1M Likes

Latina us mx
 Represented by
 LA Models & LA Talent

Videos **Likes**



1348 10.9K 30.3K
 4251 4002 6739

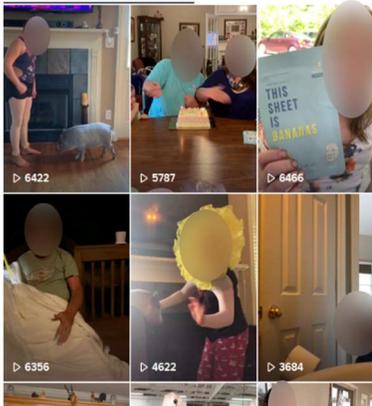
#12




284 Following 116.9K Followers 2.9M Likes

FAMILY ACCOUNT
 Managed by Mom and Dad
 FEATURED x6

Videos **Likes**



6422 5787 6466
 6356 4622 3684

#13




783 Following 104.5K Followers 3.7M Likes

Inst: [Redacted]
 Biz: [Redacted]
 >Account Run By Mom<

Videos **Likes**



1695 2259 dig went cubbie you 2743
 4008 6733 8156

#14



261 Following 224.9K Followers 3M Likes

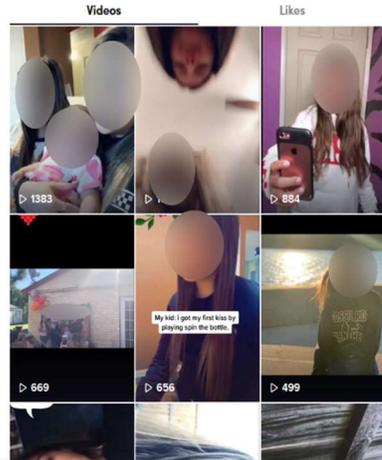


#15



68 Following 202 Followers 642 Likes

My mom knows the boys I hang out w/ so stop tagging her when you see a boy



#16



656 Following 482.6K Followers 29.9M Likes

481k
all jokes
insta

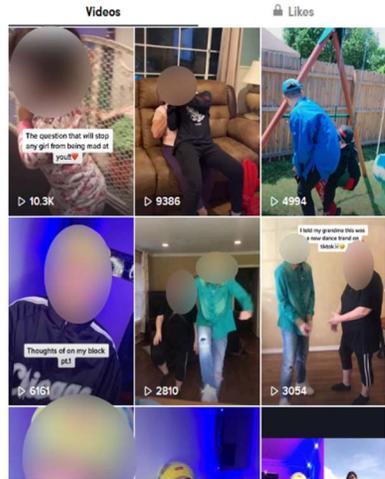


#17



2201 Following 155.2K Followers 4.5M Likes

★13yo★ FOLLOW MY NEW MAIN ACCOUNT



#18




216 Following 134.9K Followers 3.6M Likes
 New account old one got deleted
 [Redacted]s
 Follow me on insta

Videos 1 Like

 ▷ 9541	 ▷ 17K	 ▷ 19.5K
 ▷ 40.5K	 ▷ 29.4K	 ▷ 36K

#19




40 Following 106.7K Followers 1.3M Likes
 Insta: [Redacted]
 200k 📸

Videos Likes

 ▷ 82.4K	 ▷ 59.1K	 ▷ 232.1K
 ▷ 394.3K	 ▷ 274.7K	 ▷ 198.4K

#20




675 Following 595.5K Followers 19.8M Likes
 Instagram/YouTube [Redacted]
 Mom runs acc
 🎵 Hit my bell / ЖУМ НА 📢 15y

Videos Likes

 ▷ 44.1K	 ▷ 38.9K	 ▷ 28.9K
 ▷ 49K	 ▷ 43.2K	 ▷ 41.3K

#21




50 Following 750K Followers 9.7M Likes
 рнPHITok Representativeн
 YT [Redacted]
 YT [Redacted]

Videos Likes

 ▷ 22.4K	 ▷ 46K	 ▷ 26.1K
 ▷ 34.2K	 ▷ 41.7K	 ▷ 49.7K

#22

2. Appendix No.2 – Previous and Current Privacy Policies of TikTok

(1) Privacy Policy of Musical.ly (TikTok) before consent decree

Attached is a .pdf of Musical.ly’s Privacy Policy before the consent decree, downloaded on February 11, 2018. The text of the policy can also be found below this document.

2/11/2018 musical.ly

 [Terms of Use](#) [Privacy Policy](#) [Copyright](#) [Open Source](#) 中文

[Gift Points Policy](#)

PRIVACY POLICY

Effective Date: July 12, 2016

If you are a User having your usual residence in Germany, instead of the below this [Privacy Policy \[https://musical.ly/de/privacy\]](#) exclusively shall apply.

This Privacy Policy is incorporated by this reference into the End User License Agreement and Terms of Service located at <http://musical.ly/term.html> (“EULA”). The terms “Company,” “we,” and “us” include Musical.ly, an exempted company duly incorporated with limited liability and validly existing under the Laws of the Cayman Islands d/b/a Musical.ly Inc., and its affiliates and/or subsidiaries. All other terms not defined in this Privacy Policy will have the meanings set forth in the EULA. This Privacy Policy explains how the Company may:

- collect
- use, and
- disclose

information we obtain through the Service. As used in this Privacy Policy, “Personal Information” means information that alone or when in combination with other information may be used to readily identify, contact, or locate you, such as your name, address, email address, or phone number. We do not consider Personal Information to include information that has been aggregated and/or de-identified so that it does not allow a third party to easily identify a specific individual.

THE SERVICE COLLECTS YOUR INFORMATION

We collect information, including Personal Information, when you:

- register to use the Service;
- log in with social networking credentials;
- submit information to us when you use the Service;
- and communicate with us.

We also collect information, such as anonymous usage statistics, by using cookies, server logs, and other similar technology as you use the Service.

Personal Information Collection. You may browse the public-facing portions of the Service without registering an Account with the Company. If you register an Account with us to use the Service, then you must provide us

<http://www.musical.ly/en-US/privacy> 1/5

PRIVACY POLICY

Effective Date: July 12, 2016

If you are an EU resident, instead of the below, this Privacy Policy shall apply. If your usual residence is in Germany, this Privacy Policy shall apply.

This Privacy Policy is incorporated by this reference into the End User License Agreement and Terms of Service located at <http://musical.ly/term.html> (“EULA”). The terms “Company,” “we,” and “us” include Musical.ly, an exempted company duly incorporated with limited liability and validly existing under the Laws of the Cayman Islands d/b/a Musical.ly Inc., and its affiliates and/or subsidiaries. All other terms not defined in this Privacy Policy will have the meanings set forth in the EULA. This Privacy Policy explains how the Company may:

- collect
- use, and
- disclose

information we obtain through the Service. As used in this Privacy Policy, “Personal Information” means information that alone or when in combination with other information may be used to readily identify, contact, or locate you, such as your name, address, email address, or phone number. We do not consider Personal Information to include information that has been aggregated and/or de-identified so that it does not allow a third party to easily identify a specific individual.

THE SERVICE COLLECTS YOUR INFORMATION

We collect information, including Personal Information, when you:

- register to use the Service;
- log in with social networking credentials;
- submit information to us when you use the Service;
- and communicate with us.

We also collect information, such as anonymous usage statistics, by using cookies, server logs, and other similar technology as you use the Service.

Personal Information Collection. You may browse the public-facing portions of the Service without registering an Account with the Company. If you register an Account with us to use the Service, then you must provide us with certain Personal Information, such as your email address, or you may be able to register using your User credentials to certain social media sites, such as Twitter or Facebook.

Social Sign-On. We may collect Personal Information from a social media website when you use your social media credentials to log into the Service. For example, when you log in with your Twitter or Facebook credentials, we may collect the Personal Information you have made publicly available on those websites, such as your User name and profile picture. We may also obtain other non-public information with your permission.

Using the Service. We collect information that you Post to the Service. For example, when you Post comments, a short biography, UGVs or Broadcast Content on the Service, we will collect the information you include in these submissions, including any Personal Information.

Messages. We collect and process information you provide, including any Personal Information, in the context of composing, sending, or receiving messages through our Service’s messaging functionality, and we may collect information about your use of our messaging functionality. Please be aware that messages sent to other Users of our Service will be accessible by those other Users and that we are not responsible for the manner in which those Users use or disclose messages.

Location Information. We collect information about your location if you grant us permission to do so. If you change your mind and do not want us to collect your location information, then you can choose to hide your location through the settings available with the Apps.

Customer Support. We collect all information that you provide to us, including any Personal Information, when you contact us for customer-support purposes.

Cookies, Automatic Data Collection, and Related Technologies. The Service collects and stores information that is generated automatically as you use it, including your preferences and anonymous usage statistics.

When you visit the Service, we and our third-party service providers receive and record information on our server logs from your browser, including your IP address, and from cookies and similar technology. Cookies are small text files containing a string of alphanumeric characters. We may use both session cookies and persistent cookies. A session cookie disappears after you close your browser. A persistent cookie remains after you close your browser and may be used by your browser on subsequent visits to the Service. Please review your web browser “Help” file to learn the proper way to modify your cookie settings. Please note that if you delete, or choose not to accept, cookies from the Service, you may not be able to utilize the features of the Service to their fullest potential. We may use third party cookies on our Service as well. For instance, we may use Google Analytics to collect and process certain analytics data. Google provides some additional privacy options described at www.google.com/policies/privacy/partners/ regarding Google Analytics cookies. By using the Service, you are authorizing us to gather, parse, and retain data related to the provision of the Service.

HOW THE COMPANY USES YOUR INFORMATION

We use Personal Information to:

- facilitate and improve our Service;
- and communicate with you.

We may use de-identified and aggregated information for any lawful purpose, including for marketing purposes.

Internal and Service-Related Usage. We use information, including Personal Information, for internal and Service-related purposes and may provide it to third parties to allow us to provide and improve the Service. For example, we may scan any sound recordings in the local library on your mobile device to identify such content, and we may use that information to restrict certain uses of the content, to pay copyright owners of such content, or to develop or provide other functionalities on the Service.

Communications. We may send email to the email address you provide to us (a) for customer service related purposes, (b) to provide you with updates or information relating to the Service, including promotions and other opportunities, or (c) for enforcement of the EULA or this Privacy Policy.

Aggregate Data. We may de-identify and aggregate information collected through the Service and use it for any lawful purpose.

THE COMPANY MAY DISCLOSE YOUR INFORMATION

We may share your information:

- with our third-party service providers;
- to comply with legal obligations;
- to protect and defend our rights and property and the rights, property and safety of our Users;
- and with your permission.

We do not rent, sell, or share Personal Information about you with other people or nonaffiliated companies for their direct marketing purposes, unless we have your permission.

We Use Vendors and Service Providers. We may share any information we receive with vendors and service providers retained in connection with the provision of the Service.

Social Networking and Other Websites. The Service may allow you to share information, including Personal Information, with social networking websites, such as Twitter, Facebook and Instagram. We do not share your Personal

Information with these social networking sites unless you direct the Service to share your Personal Information. The use of your Personal Information by any social networking websites will be governed by their privacy policies, and you may be able to modify your privacy settings on their websites.

User Content and Information. User Content you Post to the Service, such as UGVs, comments, Broadcast Content and your short biography, will be displayed on the Service and viewable by other users. In addition, your profile information, such as any photograph of you and your User name, will also be searchable and accessible by other Users. We are not responsible for the privacy practices of the other Users who will view and use this information, so you should carefully consider whether to Post any User Content on the Service or how you identify yourself on the Service. You should not disclose your home address or the address of your place of business, school or other locations you frequent on a regular basis in any User Content.

Marketing. We do not rent, sell, or share Personal Information about you with other people or nonaffiliated companies for their direct marketing purposes, unless we have your permission. The Service may allow you to opt-in to receive communications from third parties, including the record labels who own the rights to any sound recordings you use on the Service. If you give us your permission to share your Personal Information with such third parties, then you may receive communications from such third parties and you are solely responsible for your engagement with such third parties.

Location Information. We may share your location information with other Users by tagging your UGVs and/or Broadcast Content with your location information. We may share your approximate location, but not your exact location, with other Users.

As Required By Law and Similar Disclosures. We may access, preserve, and disclose your Personal Information or other account information if we believe doing so is required or appropriate to (a) comply with law enforcement requests and legal process, such as a court order or subpoena; (b) respond to your requests; or (c) protect your, our or others' rights, property, or safety. For the avoidance of doubt, disclosure of Personal Information may occur if you Post any Objectionable Content on or through the Service.

Merger, Sale, or Other Asset Transfers. If we are involved in a merger, acquisition, financing due diligence, reorganization, bankruptcy or liquidation where the business will not continue as a going concern, receivership, sale of the Company's assets, or transition of the Service to another provider, then your information may be sold or transferred as part of such a transaction as permitted by law and/or contract. The use of your Personal Information following any of these events will be governed by the provisions of this Privacy Policy in effect at the time the applicable Personal Information was collected.

Consent. We may also disclose your Personal Information with your permission.

SECURITY OF YOUR INFORMATION

We take steps to ensure that your information is treated securely and in accordance with this Privacy Policy. Unfortunately, the Internet cannot be guaranteed to be 100% secure, and we cannot ensure or warrant the security of any information you provide to us. We do not accept liability for unintentional access, use or disclosure.

CHILDREN'S PRIVACY

We do not knowingly collect information from children under 13 and we do not want it. We will take steps to delete it if we learn we have collected it.

We do not knowingly collect, maintain, or use Personal Information from children under 13 years of age, and no part of the Service is directed to children under the age of 13. If you learn that your child has provided us with Personal Information without your consent, then you may alert us at privacy@musical.ly. If we learn that we have collected any Personal Information from children under 13, then we will promptly take steps to delete such information and terminate the child's account.

INTERNATIONAL USERS

By using the Service, you will transfer data to the United States.

By choosing to visit the Service or otherwise provide information to us, you agree that any dispute over privacy or the terms contained in this Privacy Policy will be governed by the laws of the State of California and the adjudication of any disputes arising in connection with the Company or the Service will be in accordance with the EULA located here <http://musical.ly/term.html>.

If you are visiting the Service from the European Union or other regions with laws governing data collection and use, then please note that you are agreeing to the transfer of your information to the United States and/or Japan and processing globally. By providing your information to the Service, you consent to any transfer and processing in accordance with this Privacy Policy.

UPDATE YOUR INFORMATION OR POSE A QUESTION OR SUGGESTION

If you would like to update or correct any information that you have provided to us through your use of the Service or otherwise, or if you have suggestions for improving this Privacy Policy, then please send an e-mail to privacy@musical.ly.

CHANGES TO OUR PRIVACY POLICY AND PRACTICES

We may revise this Privacy Policy, so please review it periodically.

Posting of Revised Privacy Policy. We will post any adjustments to the Privacy Policy on this web page, and the revised version will be effective when it is posted. If you are concerned about how your information is used, then bookmark this page and read this Privacy Policy periodically.

New Uses of Personal Information. From time to time, we may desire to use Personal Information for uses not previously disclosed in our Privacy Policy. If our practices change regarding previously collected Personal Information in a way that would be materially less restrictive than stated in the version of this Privacy Policy in effect at the time we collected the information, then we will make reasonable efforts to provide notice and obtain consent to any such uses as may be required by law.

(2) Privacy Policy for Users Under 13 of TikTok After Consent Decree

Attached is a .pdf of TikTok’s Privacy Policy for Younger Users, downloaded on May 5, 2020. The text of the policy can also be found below this document.

The image is a screenshot of the TikTok website's legal page. At the top left is the TikTok logo. Below it is a blue banner with the text "How TikTok is supporting our community through COVID-19" and a right-pointing arrow. The main heading is "Legal" in a large, bold, black font. Below this heading is a list of legal documents: "Cookies Policy", "Privacy Policy for Younger Users" (which is highlighted with a red vertical bar), "Open Source", "Virtual Items", "Intellectual Property Policy", "Law Enforcement", "Privacy Policy", and "Terms of Service". Below the list is a white box with a drop shadow containing the "Privacy Policy for Younger Users" document. The document title is "Privacy Policy for Younger Users" in bold. Below the title is the text "Last updated: January 2020". The main body of the document begins with the sentence: "TikTok Inc. ("TikTok", "we" or "us") is committed to protecting the privacy of children. This Privacy Policy for Younger Users explains our information collection practices with respect to information provided by users under the age of 13 on the under-13 experience of the TikTok mobile application for users in the United States ("Younger Users" or "you")." The next paragraph states: "The TikTok experience for Younger Users is designed especially for users under 13 residing in the United States. The experience allows these users to engage with TikTok's fun video features while limiting the information collected from them. Younger users can view videos from other creators and explore their creativity by capturing their own videos with music and special effects. While Younger Users may save these videos directly to their device, the videos will not be saved by us or viewable by other users. Younger Users also have a more limited interactive experience: for example, they can't exchange messages with other users, and other users can't view their profiles." The document ends with the bolded heading "What information do we collect from Younger Users?".

Privacy Policy for Younger Users

Last updated: January 2020

TikTok Inc. (“TikTok”, “we” or “us”) is committed to protecting the privacy of children. This Privacy Policy for Younger Users explains our information collection practices with respect to information provided by users under the age of 13 on the under-13 experience of the TikTok mobile application for users in the United States (“Younger Users” or “you”).

The TikTok experience for Younger Users is designed especially for users under 13 residing in the United States. The experience allows these users to engage with TikTok’s fun video features while limiting the information collected from them. Younger users can view videos from other creators and explore their creativity by capturing their own videos with music and special effects. While Younger Users may save these videos directly to their device, the videos will not be saved by us or viewable by other users. Younger Users also have a more limited interactive experience: for example, they can’t exchange messages with other users, and other users can’t view their profiles.

What information do we collect from Younger Users?

When a Younger User registers for TikTok, we collect only limited information, including username, password, and birthday.

We may also collect certain information automatically from the user’s device, including internet or other network activity information such as device ID, IP address, web browser type and version, country-level location, as well as certain app activity data, such as video watches, time in the app, and general usage data.

How do we use the information we collect?

We use the information we collect to provide and support our services. For example, we use username and password to authenticate Younger Users. We may use the information that is collected automatically to provide personalized content; serve contextual advertising; perform analytics and troubleshoot; protect the security or integrity of the user and our service; and ensure legal or regulatory compliance.

Younger Users cannot publicly share personal information, including videos or profile information.

How do we share the information we collect?

We share the information we collect with our corporate group and with service providers as necessary for them to perform a business purpose, professional service, or technology support function for us.

We may disclose personal information if permitted or required by law (i) in response to a court order or a subpoena; (ii) in response to a law enforcement or public agency's (including schools or children services) request; (iii) if we believe disclosure may prevent the instigation of a crime, facilitate an investigation related to public safety or protect the safety of Younger Users using our sites or applications; (iv) to protect the security or integrity of our sites, applications, and other technology, as well as the technology of our service providers; or (v) enable us to take precautions against liability.

The security of your information

We take steps to ensure that your information is treated securely and in accordance with this policy. Unfortunately, the transmission of information via the internet is not completely secure. Although we will do our best to protect your information, for example, by encryption, we cannot guarantee the security of your information transmitted through the Platform; any transmission is at your own risk.

We have appropriate technical and organizational measures to ensure a level of security appropriate to the risk of varying likelihood and severity for the rights and freedoms of you and other users. We maintain these technical and organizational measures and will amend them from time to time to improve the overall security of our systems.

TikTok does not sell the information of Younger Users to third parties.

Choices

You may submit a request to access or delete the information we have collected about you by sending your request to us at the email or physical address provided in the Contact section at the bottom of this policy. We will respond to your request consistent with applicable law and subject to proper verification. And we do not discriminate based on the exercise of any privacy rights that you might have.

Changes

We will generally notify all users of any material changes to this policy, through a notice on the platform. However, users should look at this policy regularly to check for any changes. We will also update the "Last Updated" date at the top of this policy, which reflects the effective date of such policy.

Contact

Questions, comments and requests regarding this policy should be addressed to:

Mailing Address: TikTok Inc., Attn: TikTok Legal Department 10100 Venice Blvd, Suite 401, Culver City, CA 90232, USA

Email Address: privacy@tiktok.com