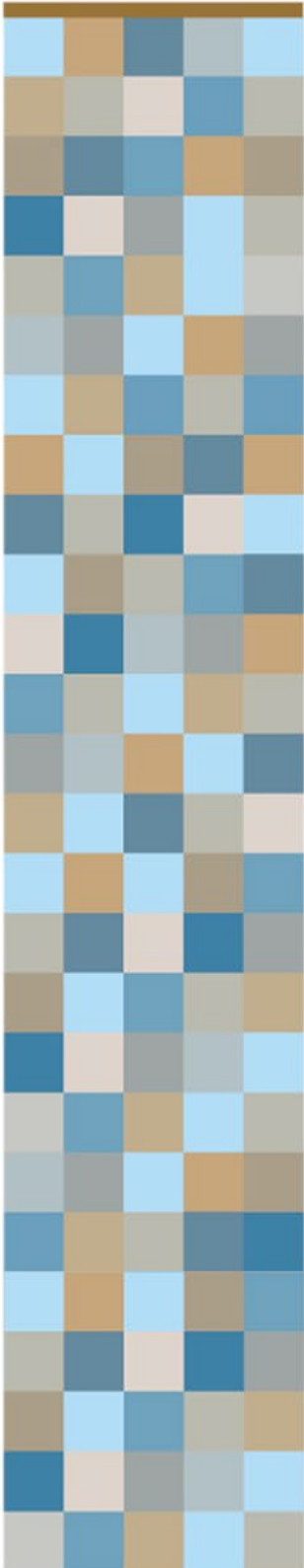


# ALERT



August 2024

## FTC Sues TikTok – Again – For Violating COPPA Rules On Children’s Data Privacy and Parental Consent

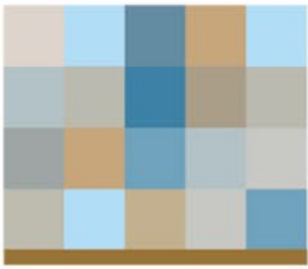
*By: Terese L. Arenth*

Once again, the Justice Department, acting upon notification and referral from the Federal Trade Commission (FTC), has filed a lawsuit against the video-sharing platform TikTok and its parent company for alleged flagrant violations of the Children’s Online Privacy Protection Act (COPPA). The complaint not only charges TikTok and its owner, ByteDance, with failing to notify and obtain consent from parents before collecting, using and retaining personal information from children under age 13 – a basic COPPA requirement – but also maintains that TikTok violated a 2019 consent order it slapped on TikTok and its then-parent, Musical.ly, for similarly breaching COPPA’s mandatory privacy and permission provisions back then. That directive (which the Justice Department claims TikTok began defying soon after it became official) stipulated that TikTok must implement specific compliance measures.

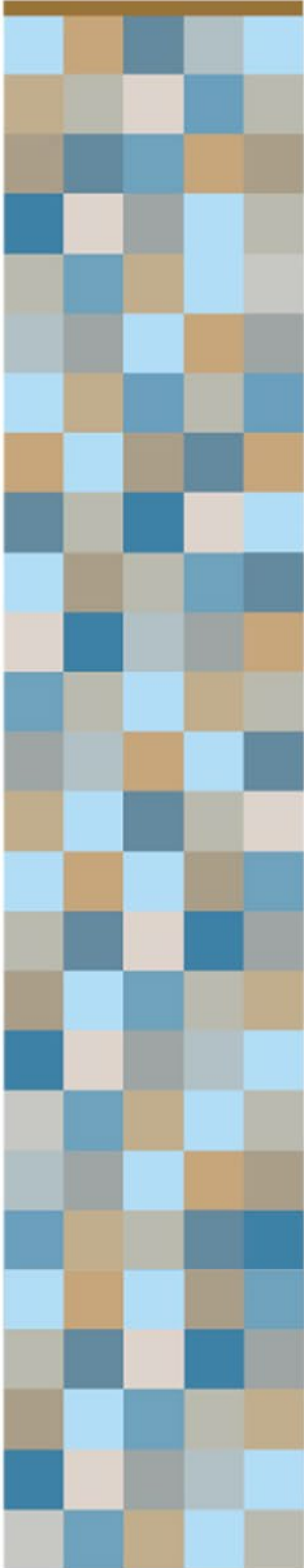
### Exposing Kids’ Data While Ignoring Parents’ Requests

In its new [complaint](#), the FTC contends that, since 2019, TikTok knowingly allowed children to create regular TikTok accounts, as well as create, view, and share short-form videos and messages with adults and others on its regular platform; and that TikTok collected and retained voluminous personal information from these children without telling or getting consent from their parents.

Beyond that, the complaint says that TikTok even illegally collected and kept children’s email addresses and other information for accounts established in Kids Mode, a smaller version of TikTok intended for kids under 13. TikTok compounded the offense by failing to honor the requests of parents to expunge the accounts and the information they contained after the parents found out about the accounts – another primary COPPA directive. After parents managed to complete the multiple steps required for submitting a deletion request, TikTok frequently didn’t comply with those requests. Moreover, TikTok tacked on irrelevant and redundant obstacles for parents who wanted to have their children’s data removed.



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## **Insufficient Internal Safeguards**

TikTok also had faulty and ineffective internal standards and methods for identifying and deleting accounts which children created, according to the complaint.

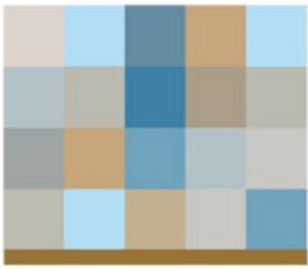
For instance, while TikTok had adopted a policy in 2020 of maintaining accounts of children it knew were younger than 13 unless the children openly admitted their age, its human reviewers reportedly only spent five to seven seconds, on average, reviewing each account in order to determine if the account holder was a child. The platform then continued obtaining personal data from the children, including data that enabled TikTok to target advertising to them, without obeying the COPPA requirement to notify their parents and obtain their consent. Although it supposedly changed this policy so that the children didn't have to admit their age, TikTok continued to wrongly maintain and use their personal information.

The complaint also accused TikTok of installing back doors into its platform that let children avoid the age portal that screened children under 13; and of allowing kids to create accounts without providing their age or getting parental consent by tapping into credentials from third-party services such as Google and Instagram. TikTok reportedly called these "age unknown accounts," of which there were millions.

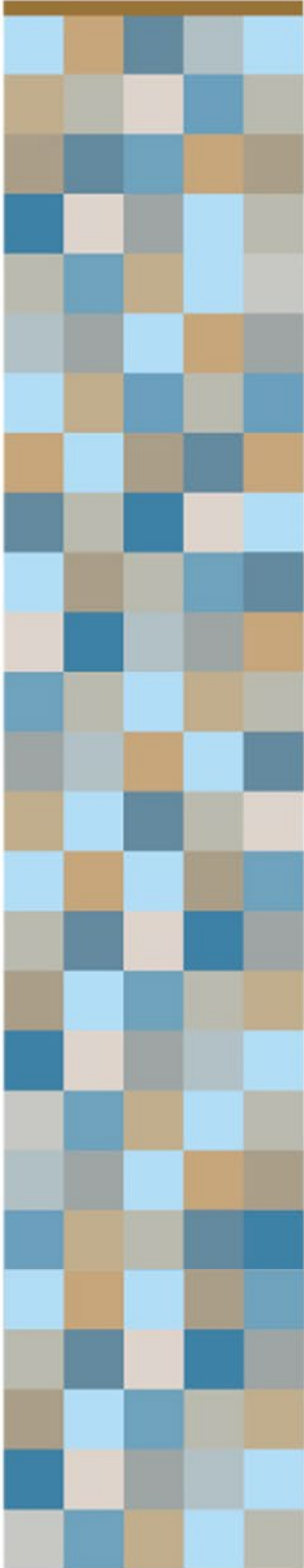
In seeking civil penalties and permanent injunctive relief, the Justice Department noted that TikTok was a repeat offender operating on a massive scale, and that it had deliberately put the safety of millions of children at risk.

## **Seeking Ways to Strengthen Children's Online Privacy**

The FTC actions signal a continuing willingness by the federal government to crack down on social-media forums that attempt to circumvent children's data privacy rights by using advanced digital applications. Just last month, a bipartisan group of U.S. House and Senate members sent a letter to Attorney General Merrick Garland urging him to bring the very lawsuit that the Department of Justice has just filed. In hopes of strengthening COPPA's privacy protections, the FTC since last December has been seeking updates to the law to toughen security requirements for sensitive personal information, restrict data retention, require that users separately opt in for targeted advertising, and stop operators from sending push notifications that persuade kids to remain online. Also, on July 30, 2024, the Senate passed a pair of bipartisan bills, the Kids Online Safety Act (KOSA) and the Children and Teens' Online Privacy Protection Act – or COPPA 2.0 – which would expand the law's protections up to age 16, close loopholes that let platforms ignore underage usage of those



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platforms, ban advertising directed to kids and teens, and make it easier for parents to delete their data.

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