

Congress of the United States

Washington, DC 20510

December 6, 2019

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

Dear Chairman Simons:

As the holiday season approaches, millions of parents will head into stores looking for gifts for their children. Often the perfect gift is one that their child has been asking for, perhaps repeatedly.

Unfortunately, few parents know that their children's requests to receive certain toys are increasingly the result of covert marketing schemes by social media personalities. Child-directed videos are now often laden with undisclosed sponsorships and hidden advertisements that manipulate young audiences and violate our consumer protection laws. It is time for the Federal Trade Commission to take aggressive action against these predatory online influencers and their sponsors to send a clear, unequivocal message that the deceptive targeting of children will not be tolerated.

The popularity of YouTube with children has created a new generation of child-directed "online influencers," video channels starring kids and young adults who play, live their lives, and review toys with their friends and family for millions of viewers. What parents may not see is that many of these channels are little more than hidden advertisements for toymakers, movies, and fast food. Videos will often promote a sponsor's toys and brand in play and reviews without informing viewers about financial ties and endorsement deals. Marketing to children by online influencers is becoming a booming industry, with advertisers spending tens of thousands of dollars per paid post and popular YouTube channels bringing in tens of millions in endorsements.¹ Eager to exploit this new social media gold rush, many advertisers and sponsors have thrown basic ethics and the law out the window, disregarding even the minimal standards adopted to protect children.

¹ Maheshwari, Sapna. "Online and Making Thousands, at Age 4: Meet the Kidfluencers." New York Times, March 1, 2019. <https://www.nytimes.com/2019/03/01/business/media/social-media-influencers-kids.html>.

O'Connor, Clare. "Forbes Top Influencers: Meet The Kids Making Millions Reviewing Toys, Rapping And More." Forbes, December 20, 2017. <https://www.forbes.com/sites/clareoconnor/2017/12/20/forbes-top-influencers-meet-the-kids-making-millions-reviewing-toys-rapping-and-more/>.

One such alarming case is “Ryan ToysReview,” a YouTube channel focused on the childhood activities of a seven-year-old and his family that has amassed an audience of 20 million subscribers, thousands of posted videos, and more than 30 billion views. The consumer protection organization Truth in Advertising has meticulously documented in a recent FTC complaint numerous examples of Ryan ToysReview failing to disclose paid endorsements in videos directed to children.² Ryan ToysReview regularly mixes routine, non-commercial content with sponsored reviews of toys, trips to fast food restaurants, or games promoting commercial brands. This promotional strategy is extremely lucrative, by some estimates bringing in up to \$22 million from endorsements and product placements for Ryan ToyReview’s media operation.³ Parents have no way of knowing that Ryan ToysReview’s videos are often little more than several-minute-long, undisclosed ads.

There are many more examples of influential YouTube channels and social media personalities blurring the lines with sponsored content and hiding financial ties.⁴ For example, the YouTube channel EvanTube failed to adequately disclose dozens of sponsorships by toy companies.⁵ Even where those ties were disclosed, the required notice was usually inadequate – tucked away in credits or extremely brief. Extremely young children and entire families are now increasingly being used as props to sell embedded ads.⁶ Child advocates, public interest organizations, and members of Congress have repeatedly raised concerns about the conduct of numerous child-directed online influencers and celebrities who appeal to children, some of whom have promoted vaping, junk food, and other unsafe products.⁷

The FTC has made it clear that hidden advertising and undisclosed sponsorships are unlawful as a deceptive practice under Section 5 of the Federal Trade Commission Act.⁸ Content creators, advertising firms, and sponsoring companies can and should be held liable under the law for their misrepresentations and failures to disclose ads. The FTC must be willing to take problematic advertising companies to court to impose injunctions and secure equitable relief, including the disgorgement of ill-gotten gains, where appropriate.⁹ The FTC has warned that

² “Re: Ryan ToysReview’s Deceptive Native Advertising.” Truth in Advertising, Inc., August 28, 2019. https://www.truthinadvertising.org/wp-content/uploads/2019/08/8_28_19-ltr-to-FTC-re-Ryan-ToysReview_Redacted.pdf.

³ “Ryan ToysReview on YouTube Earns \$22M.” CBS This Morning, December 4, 2018. <https://www.cbsnews.com/video/7-year-old-of-ryan-toysreview-youtube-channel-earns-22-million/>.

⁴ “In the Matter of Complaint, Request for Investigation, and Request for Policy Guidance on the Deceptive Practice of Influencer Marketing Directed to Children,” Campaign for a Commercial-Free Childhood, Center for Digital Democracy, and Public Citizen, October 21, 2016. <http://www.commercialfreechildhood.org/sites/default/files/FTCInfluencerComplaint.pdf>.

⁵ “‘EvanTube’ YouTube Channels to Disclose Sponsored Videos as Advertising Following CARU Inquiry,” Children’s Advertising Review Unit, September 12, 2016. <https://asrcreviews.org/evantube-youtube-channels-to-disclose-sponsored-videos-as-advertising-following-caru-inquiry/>.

⁶ “How Brands Can Capitalize on Kid Influencers,” Mediakix, <https://mediakix.com/blog/kid-influencers-social-media-marketing/>.

⁷ “TINA.ORG’S Social Media Influencers Actions.” Truth in Advertising, Inc., <https://www.truthinadvertising.org/tina-orgs-social-media-influencers-actions/>.

⁸ “Warner Bros. Settles FTC Charges It Failed to Adequately Disclose It Paid Online Influencers to Post Gameplay Videos,” Federal Trade Commission, July 11, 2016. <https://www.ftc.gov/news-events/press-releases/2016/07/warner-bros-settles-ftc-charges-it-failed-adequately-disclose-it>.

⁹ “Devumi, LLC,” Federal Trade Commission, October 29, 2019. <https://www.ftc.gov/enforcement/cases-proceedings/182-3066/devumi-llc>.

these advertisers have heightened responsibilities when it comes to content directed at children and teenagers.¹⁰ Despite repeated attempts by the FTC to inform, warn, and persuade online influencers, so far little has changed to protect children and parents. Even prominent child-directed channels have ignored clear warnings and continue to flout the law.¹¹ Without real action from the FTC, this manipulative behavior will continue.

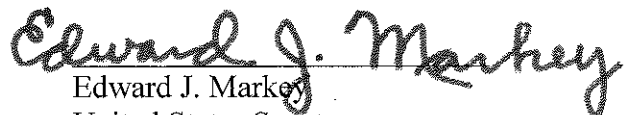
Parents should be able to trust that their kids' favorite cartoons and online shows are not merely covert schemes to open up their wallets. It is well past time for FTC to investigate and take enforcement action against individuals, advertisers, and media companies preying on children.

The FTC must act now.

Sincerely,



Richard Blumenthal
United States Senate



Edward J. Markey
United States Senate



Anna G. Eshoo
Member of Congress

¹⁰ "Advertising to Kids and the FTC: A Regulatory Retrospective That Advises the Present," Federal Trade Commission, 2014. https://www.ftc.gov/sites/default/files/documents/public_statements/advertising-kids-and-ftc-regulatory-retrospective-advises-present/040802adstokids.pdf.

¹¹ "Influencers Defy Ftc Rules on Disclosure Despite Warnings," Truth in Advertising, Inc., March 4, 2019. <https://www.truthinadvertising.org/influencers-defy-ftc-rules-disclosure-despite-warnings/>.