

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

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On December 9, 2019, representatives from the DanTDM YouTube channel met with Commissioner Christine Wilson and FTC staff<sup>1</sup> regarding the FTC's request for public comment on the Children's Online Privacy Protection Rule ("COPPA"). Appearing on behalf of DanTDM were Daniel Middleton, Elspeth Rae (Mr. Middleton's manager), and Tahir Basheer (Mr. Middleton's lawyer).

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

During the December 9, 2019 meeting, DanTDM representatives raised concerns about the application of COPPA to YouTube content creators. In particular, DanTDM representatives noted that it has been challenging for YouTube content creators to determine whether a website or online service is directed to children. Representatives from DanTDM specified that the definition of a "website or online service directed to children" is not clear. Mr. Middleton explained the challenge his team faces when attempting to determine the ages of users who view DanTDM videos because of limited analytics information available from YouTube. Mr. Middleton further raised concerns about the financial impact of YouTube's new approach to implementing the Rule following the Google/YouTube settlement with the FTC, because creators on general platforms are not in a position to seek or obtain parental consent to behavioral advertisements.

Mr. Middleton asserted that creators who produce content that targets a mixed-use audience need additional guidance regarding COPPA compliance obligations on general audience platforms.

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