



May 10, 2021

Mark Zuckerberg
Chief Executive Officer
Facebook
1 Hacker Way
Menlo Park, CA 94025

Dear Mr. Zuckerberg:

We, the attorneys general of Colorado, Pennsylvania, North Dakota, and Arizona write to request information regarding Facebook's announced plans to launch a version of its Instagram social media platform for users under the age of 13.¹ We share many of the concerns raised by our fellow state attorneys general in their letter dated May 10, 2021² and by Senators Markey and Blumenthal and Representatives Castor and Trahan in their letter dated April 5, 2021.³

Online social media platforms such as Facebook and Instagram impose a hefty privacy cost by tracking users' online behavior and selling or releasing user data to third-party entities for commercial purposes. Internet privacy concerns are particularly acute for young children, who are highly impressionable and less able to fully comprehend the privacy and safety implications of allowing collection of their personal information and online behavior patterns. As state attorneys general, we are committed to protecting the welfare of children in our states and protecting against unfair, deceptive, and harmful acts and practices by businesses, including by enforcing the Children's Online Privacy Protection Act ("COPPA").⁴

As your company has announced its intent to cater to young children, we pose the following questions to elucidate Facebook's plans for ensuring full compliance with COPPA and the Federal Trade Commission's COPPA Rule.⁵ We ask that you provide us by June 1, 2021

¹ Kim Lyons, *Facebook is working on a version of Instagram for kids under 13*, THE VERGE, Mar. 18, 2021, <https://www.theverge.com/2021/3/18/22338911/facebook-instagram-kids-privacy-coppa>.

² NAT'L ASS'N OF ATTORNEYS GEN., Letter re: Facebook's Plans to Develop Instagram for Children Under the Age of 13 (May 10, 2021), <https://1li23g1as25g1r8so1lozniw-wpengine.netdna-ssl.com/wp-content/uploads/2021/05/NAAG-Letter-to-Facebook-Final-1.pdf>.

³ Letter from Sen. Edward J. Markey, Rep. Kathy Castor, Sen. Richard Blumenthal, and Rep. Lori Trahan to Mark Zuckerberg, CEO, Facebook (Apr. 5, 2021), https://www.markey.senate.gov/imo/media/doc/instagram_kids_letter.pdf.

⁴ 15 U.S.C. §§ 6501-6506.

⁵ 16 C.F.R. §§ 312.1-312.13.

with answers to the below questions and the questions previously posed to your company by Senators Markey and Blumenthal and Representatives Castor and Trahan.⁶

The COPPA Rule requires covered operators to post a clear and comprehensive online privacy policy describing their information practices for personal information collected online from children.⁷ The COPPA Rule requires operators, upon request by a parent whose child has provided information to the operator, to enable the parent to review any personal information collected from the child by the operator and to allow the parent to direct that the child's personal information be deleted.⁸ With that in mind, we ask the following:

1. What items, types, or categories of information on child users of the Instagram for children platform does Facebook intend to track or collect?
2. How and for what purposes does Facebook intend to use information tracked or collected from child users of the Instagram for children platform?
3. How will Facebook provide parents with a conspicuous notice of their right to request a review of any personal information collected from their child?
4. What mechanisms will Facebook deploy to provide parents with simple, timely, and easy-to-use means of reviewing any personal information collected from their child and a simple, timely, and easy-to-use mechanism for requesting that all such information be deleted?

The COPPA Rule requires covered operators to provide direct notice to parents and “obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children.”⁹

5. What steps does Facebook intend to take to ensure young children do not use the Instagram for children platform without express parental consent?
6. How will Facebook verify that consent is provided by a parent rather than by a young child or an unauthorized adult?

⁶ In their letter, Senators Markey and Blumenthal and Representatives Castor and Trahan ask fourteen questions of Facebook. *See* Markey et al., *supra* note 3, at 2-4, https://www.markey.senate.gov/imo/media/doc/instagram_kids_letter.pdf. We ask that Facebook provide our offices with answers to those fourteen questions, as well as answers to the questions we ask in this letter.

⁷ 16 C.F.R. § 312.4(d).

⁸ 16 C.F.R. § 312.6.

⁹ 16 C.F.R. § 312.5(a)(1).

The COPPA Rule requires an operator to “give the parent the option to consent to the collection and use of the child's personal information without consenting to disclosure of his or her personal information to third parties.”¹⁰

7. Will Facebook, as a default setting requiring affirmative parental action to change, prohibit data on young child users collected on the Instagram for children platform from being shared with third parties for commercial purposes? Why or why not?
8. Does Facebook intend to share data on young child users collected on the Instagram for children platform with other Facebook subsidiaries (i.e. “Facebook Companies”)? Will Facebook, as a default setting requiring affirmative parental action to change, prohibit data on young child users collected on the Instagram for children platform from being shared with other Facebook Companies? Why or why not?
9. What parental monitoring features will Facebook provide on the Instagram for children platform? Will young child users be able to turn off or override parental monitoring features?
10. What steps does Facebook have in mind to protect young child users from viewing photos and videos from users who could present a danger to them and have not been approved by their parents?

The COPPA Rules requires covered operators to “protect the confidentiality, security, and integrity of information collected from children[,]” including by taking reasonable steps to release such information only to parties capable of maintaining its confidentiality, security, and integrity, and who provide assurances that they will maintain the information in such a manner.¹¹

11. Please describe in detail Facebook’s plans for prohibiting unauthorized parties and individuals from accessing information regarding child users of the Instagram for children platform.
12. Please describe in detail Facebook’s plans for vetting the confidentiality and security capabilities of any party that may have access to information collected from child users of the Instagram for children platform.

Any Facebook product that targets children below the age of 13, including an Instagram for children platform, not only must comply with COPPA, but should meet the highest standards for user privacy and safety. We look forward to receiving Facebook’s answers to the above questions and appreciate Facebook’s willingness to inform us and the public on how your company will protect young children who use your new platform.

¹⁰ 16 C.F.R. § 312.5(a)(2).

¹¹ 16 C.F.R. § 312.8.

Sincerely,

Handwritten signature of Phil Weiser in black ink.

Phil Weiser
Colorado Attorney General

Handwritten signature of Josh Shapiro in blue ink.

Josh Shapiro
Pennsylvania Attorney General

Handwritten signature of Wayne Stenehjem in black ink.

Wayne Stenehjem
North Dakota Attorney General

Handwritten signature of Mark Brnovich in blue ink.

Mark Brnovich
Arizona Attorney General