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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

United States of America,)	CASE NO.
Plaintiff,)	
v.)	COMPLAINT FOR PERMANENT
Yelp Inc.,)	INJUNCTION, CIVIL PENALTIES
)	AND OTHER RELIEF
Defendant.)	

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("FTC" Commission"), for its Complaint alleges that:

1. Plaintiff brings this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), 16(a), and 19 of the Federal Trade Commission Act ("FTC Act") 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), 56(a), and 57b, and Sections 1303(c) and 1306 of the Children's Online Privacy Protection Act of 1998 ("COPPA"), 15 U.S.C. §§ 6502(c) and 6505, to obtain monetary civil penalties, a permanent injunction, and other equitable relief for Defendant's violations of the Commission's Children's Online Privacy Protection Rule ("Rule" or "COPPA Rule"), 16 C.F.R. Part 312.

1 COMMERCE

2 7. At all times material to this Complaint, Defendant has maintained a substantial
3 course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act,
4 15 U.S.C. § 44.
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6 DEFENDANT’S BUSINESS PRACTICES

7 8. Since 2004, Yelp has provided a free service that aims “to connect people with
8 great local businesses” and purports to be the “leading local guide for real word-of-mouth on
9 everything from boutiques and mechanics to restaurants and dentists.” Yelp allows users to read
10 and create reviews of local businesses, and connect with others online and at local events.
11 Businesses may advertise with Yelp, communicate with users publicly and privately, and create
12 special deals for Yelp users.
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14 9. In 2008, Yelp launched its first mobile application for Apple, Inc.’s iOS operating
15 system. Since then, Yelp has released mobile applications for Google, Inc.’s Android operating
16 system, and for Microsoft Corporation’s Wi
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1 “Comments” about businesses. Since January 2011, the Yelp App has been downloaded more
2 than 25 million times.

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4 DEFENDANT’S BUSINESS PRACTICES REGARDING

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1 15. In 2009, Defendant introduced a registration feature in the Yelp App, allowing
 2 users to register for new accounts through the application. Previously, users could only register
 3 through the website, where Defendant had a screening mechanism to prohibit users under the age
 4 of 13 from registering. However, Defendant failed to implement a functional age-screen
 5 mechanism in the new in-app registration feature. As a result, the Yelp App accepted
 6 registrations from users who input dates of birth indicating they were under the age of 13. Over
 7 a year later, as part of a mobile certification process, Defendant hired a third party who
 8 performed a privacy review of the Yelp App. The July 2010 results of the third-party test
 9 erroneously noted that the iOS application prohibited registrations from users under the age of
 10 13. In fact, both the iOS and Android versions of the Yelp App accepted these registrations;
 11 indeed, an iOS user registered with an age under the very same day as the test. Defendant did
 12 not test the age-restriction aspect of the registration feature of the iOS version of the Yelp App
 13 again, and never tested it in the Android version. From April 2009 to April 2013, both the iOS
 14 and Android versions of the Yelp App accepted registrations from users who inputted any date of
 15 birth, including dates of birth indicating that the user was under the age of 13.

16 16. Users who initiated registration through the Yelp App by providing a first name,
 17 last name, email address, and ZIP code and, optionally, a date of birth and gender, were then
 18 required to confirm their email addresses to complete their registration. All users who completed
 19 registration, including those who provided birthdates indicating that they were under 13, were
 20 granted full access to the Yelp service through the Yelp App and the Yelp website. For example,
 21 they could add information to their personal profiles, including photos of their current city,
 22 hometown, and any other information they chose to provide in free-form text fields. They could
 23 also “check-in” at local businesses and post “Tips” and “Comments” about such businesses.
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1 17. Yelp also collected certain information automatically from the phones of Yelp
2 App users. Specifically, Yelp collected users' Mobile Device IDs, or unique identifiers assigned
3 to devices, in order to obtain metrics about its entire user base. In addition, in order to provide
4 location-based services such as local search results, Yelp collected the precise locations of users'
5 phones based on Global Positioning Systems contained in the phones of those users who chose to
6 allow Yelp to use their location.
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8 18. As set forth in Paragraphs 15 through 17, Defendant collected personal
9 information, including but not limited to full names and email addresses, from several thousand
10 individuals who input birthdates indicating that they were between the ages of 9 and 13. A
11 portion of these users completed the registration process and were able to post reviews and
12 provide other information through Yelp's service.
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14 19. Because Defendant collected information from users who provided birthdates
15 indicating that they were under 13, Yelp is deemed to have had "actual knowledge" under the
16 COPPA Rule that it was collecting information from several thousand children under 13, in
17 violation of the COPPA Rule.

18 20. Despite the fact that Yelp's Privacy Policy states that Yelp "is intended for
19 general audiences and is not directed to children under 13," by failing to implement a functional
20 age-screen, Yelp:
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- 22 a. did not clearly, completely, or accurately disclose all of Defendant's information
23 collection, use, and disclosure practices to children under age 13, as required by
24 the Rule;
- 25 b. did not provide parents with a direct notice of its information practices prior to
26 collecting, using, or disclosing children's personal information; and
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c. did not obtain verifiable consent from parents prior to collecting, using, or disclosing children’s personal information.

DEFENDANT’S VIOLATION OF THE COPPA RULE

21. In numerous instances, in connection with operating the Yelp App, Defendant collected, used, and/or disclosed, with actual knowledge, personal information online from

1 disclosure practices for such information, among other required content;
2 and

3 c. Section 312.5(a)(1) of the Rule, 16 C.F.R. § 312.5(a)(1), which requires an
4 operator to obtain verifiable parental consent before any collection, use,
5 and/or disclosure of personal information from children.

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7 24. Defendant's acts or practices, as described in Paragraph 23 above, violated the
8 COPPA Rule, 16 C.F.R. Part 312.

9 25. Pursuant to Section 1303(c) of COPA, 15 U.S.C. § 6502(c), and Section
10 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or
11 deceptive act or practice in affecting commerce, in violation of Section 5(a) of the FTC Act,
12 15 U.S.C. § 45(a).

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14 THE COURT'S POWER TO GRANT RELIEF

15 26. Defendant violated the Rule as described above with the knowledge required by
16 Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

17 27. Each collection, use, or disclosure of child's personal information in which
18 Defendant violated the Rule in one or more of the ways described above constitutes a separate
19 violation for which Plaintiff seeks monetary civil penalties.

20 28. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by
21 Section 4 of the Federal Civil Penalties and Non Adjustment Act of 1990, 28 U.S.C. § 2461, and
22 Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98, authorizes this Court to
23 award monetary civil penalties of not more than \$16,000 for each such violation of the Rule on
24 or after February 10, 2009.

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