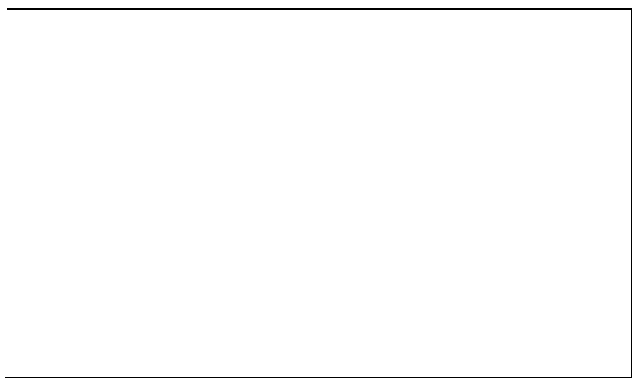


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1 Plaintiff, the United States of America, acting upon notification and authorization to the  
2 Attorney General by the Federal Trade Commission (“FTC” or “Commission”), for its  
3 Complaint alleges:

4 1. Plaintiff brings this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of  
5 the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and  
6 56(a), and Sections 1303(c) and 1306(d) of the Children’s Online Privacy Protection Act of 1998  
7 (“COPPA”), 15 U.S.C. §§ 6502(c) and 6505(d), to obtain monetary civil penalties, a permanent  
8 injunction, rescission or reformation of contracts, restitution, the refund of monies paid,  
9 disgorgement of ill-gotten monies, and other equitable relief for Defendant’s violations of the  
10 Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R.  
11 Part 312, and Section 5 of the FTC Act.  
12  
13

14 **JURISDICTION AND VENUE**

15 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a),  
16 1345, and 1355 and 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a).

17 3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and (c)(2), and 15  
18 U.S.C. § 53(b).  
19

20 **THE CHILDREN’S ONLINE PRIVACY PROTECTION ACT RULE**

21 4. Congress enacted COPPA in 1998 to protect the safety and privacy of children  
22 online by prohibiting the unauthorized or unnecessary collection of children’s personal  
23 information online by operators of Internet Web sites or online services. Congress directed the  
24 Commission to promulgate a rule implementing COPPA. The Commission promulgated the  
25 Children’s Online Privacy Protection Rule, 16 C.F.R. Part 312, on November 3, 1999, under  
26 Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative  
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13. On subsequent screens, Explore Talent requested that users input their telephone number, eye color, hair color, and birthdate, including year. The following is a screenshot of the page where Explore Talent requests users' birth year:



14. In requiring that users input their age range and birth year, Explore Talent did not place any li6( a)6(n32-,>>BDC 0ubs)10ub60.004 Tr(n32-,>>BDC 0ubs)10 160.004 Tr(n32-,>>BDC 0ubs)

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1           26.     Although Explore Talent allows users to create free accounts on its Web site,  
2 users with free accounts cannot apply for the listed opportunities. Rather, ExploreTalent.com  
3 users must pay for a “pro” membership to apply for the opportunities. The monthly price for a  
4 pro membership is \$39.95.

5           27.     Explore Talent users can register and pay for a pro membership on  
6 ExploreTalent.com. On its Web site, Explore Talent entices consumers to “Upgrade to Pro” with  
7 the representation:  
8

9                   Want to land Auditions and get Hired?

10                   Agents constantly needing [*sic*] new faces, Upgrade to PRO so they can find you

11                   Apply to Unlimited Auditions and Jobs  
12

13           28.     On its Web site, Explore Talent also posts “Success Stories” of users who found  
14 opportunities through ExploreTalent.com.  
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1 telemarketers represented to a user that the casting director for a sequel of “Jack Reacher”  
2 starring Tom Cruise was particularly interested in auditioning the user for a paid speaking role in  
3 that film, but that the user first needed to upgrade to a pro membership. Before paying for such a  
4 membership, however, the user directly contacted the casting director, who told the Explore  
5 Talent user that the film was not working with Explore Talent and that all speaking roles in the  
6 film already were cast. Another of Defendant’s telemarketers specifically promised an Explore  
7 Talent user a role in an upcoming “Fast and Furious” movie if she paid for a pro membership.  
8 The user paid for the pro membership but received no contact about any such role.  
9

10 31. Defendant’s representations about acting opportunities are false or not  
11 substantiated. Defendant has made these claims without knowledge of any specific expressed  
12 interest by casting directors in the user, and without knowledge of users having been chosen for  
13 specific opportunities. Users who have paid to upgrade to a pro membership have not received  
14 the promised solicitations from casting directors or the specific casting opportunities touted by  
15 Defendant’s telemarketers.  
16

17 **DEFENDANT’S VIOLATIONS OF THE COPPA RULE**

18 **COUNT I**

19 32. In numerous instances, in connection with operating its talent search network,  
20 Defendant has collected, used, and/or disclosed, with actual knowledge, personal information  
21 from children under the age of 13. In doing so, Defendant has failed to: (1) provide sufficient  
22 notice on its Web site or online services of the information it collects online from children and  
23 how it uses such information, among other required content; (2) provide direct notice to parents  
24 of the information Defendant collects online from children and how it uses such information,  
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1 among other required content; and (3) obtain verifiable parental consent before any collection or  
2 use of personal information from children.

3 33. Defendant is an “operator” as defined by the COPPA Rule, 16 C.F.R. § 312.2.

4 34. Through the means described in Paragraphs 10 through 24 above, Defendant  
5 violated:

6 a. Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d), which requires an  
7 operator to provide sufficient notice on its Web site or online services of  
8 the information it collects online from children, how it uses such  
9 information, and its disclosure practices for such information, among other  
10 required content;  
11

12 b. Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b), which requires an  
13 operator to provide direct notice to parents of the information Defendant  
14 collects online from children, how it uses such information, and its  
15 disclosure practices for such information, among other required content;  
16 and  
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18 c. Section 312.5(a)(1) of the Rule, 16 C.F.R. § 312.5(a)(1), which requires an  
19 operator to obtain verifiable parental consent before any collection, use,  
20 and/or disclosure of personal information from children.  
21

22 35. Defendant’s acts or practices, as described in Paragraph 34 above, violated the  
23 COPPA Rule, 16 C.F.R. Part 312.  
24

25 36. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section  
26 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or  
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1 43. In truth and in fact, in numerous instances in which Defendant has made the  
2 representations set forth in Paragraph 42 of this Complaint, such representations were false or  
3 misleading, or were not substantiated at the time Defendant made them.

4 44. Therefore, the making of the representations set forth in Paragraph 42 of this  
5 Complaint constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15  
6 U.S.C. § 45(a).

7  
8 **THE COURT'S POWER TO GRANT RELIEF**

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

11 46. Each collection or use of a child's personal information in which Defendant  
12 violated the Rule in one or more of the ways described above, constitutes a separate violation for  
13 which Plaintiff seeks monetary civil penalties.

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

19 48. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant  
20 injunctive and such other relief as the Court may deem appropriate to halt and redress violations  
21 of any provision of law enforced by the FTC.  
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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff United States of America, pursuant to Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the FTC Act, 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a), and the Court's own equitable powers, requests that the Court:

(1) Enter a permanent injunction to prevent future violations of the FTC Act and the COPPA Rule by Defendant;

(2) Award Plaintiff monetary civil penalties from Defendant for each violation of the COPPA Rule alleged in this Complaint; and

(3) Award such other and additional relief as the Court may determine to be just and proper.

Dated: February 5, 2018

FOR THE FEDERAL TRADE  
COMMISSION

MATTHEW H. WERNZ  
SAMUEL A.A. LEVINE  
Federal Trade Commission

FOR PLAINTIFF  
THE UNITED STATES OF AMERICA

CHAD A. READLER  
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/s/ Kathryn A. Schmidt  
KATHRYN A. SCHMIDT  
Trial Attorney

