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April 7, 2015

Donald Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, D.C. 20580

Re: Request for Investigation into Google's Unfair and Deceptive Practices in
Connection with its YouTube Kids App

Dear Mr. Clark:

The Center for Digital Democracy (CDD), Campaign for a Commercial Free Childhood (CCFC), American Academy of Child and Adolescent Psychiatry, Center for Science in the Public Interest, Children Now, Consumer Federation of America, Consumer Watchdog, Public Citizen, Corporate Accountability International, and Consumers Union call on the Commission to investigate whether Google's YouTube Kids app violates Section 5 of the FTC Act, which prohibits unfair and deceptive marketing practices. Our review of the app shows at least three different types of deceptive or unfair marketing.

- The videos provided to children on YouTube Kids intermix commercial and other content in ways that are deceptive and unfair to children and would not be permitted to be shown on broadcast or cable television.
- Many of the video segments endorsing toys, candy and other products that appear to be "user-generated" have undisclosed relationships with product manufacturers in violation of the FTC's guidelines concerning the use of endorsements and testimonials in advertising.

- In marketing the app to parents, Google claims that all ads are pre-approved by YouTube's policy team to ensure compliance with the app's rigorous advertising policy when, in fact, much of the content available on the app violates its own policies.

Therefore, we ask the FTC to take action to stop these and any other deceptive or unfair practices uncovered as a result of its investigation.

Background

Google launched the YouTube Kids app on February 23, 2015 with a blog describing the app as “the first Google product built from the ground up with little ones in mind.”¹ According to Shimrit Ben-Yair, the project's group product manager, YouTube developed the app because “Parents were constantly asking us, can you make YouTube a better place for our kids.” She also noted that that “family-friendly fare is a booming business on YouTube.”²

The app is available on the iTunes App store and Google Play where it is described as follows:

The official YouTube Kids app is designed for curious little minds to dive into a world of discovery, learning, and entertainment. This free app is delightfully simple and packed full of age-appropriate videos, channels and playlists. YouTube Kids features popular children's programming, plus kid-friendly content from filmmakers, teachers, and creators all around the world.³

Google explains that “[w]e've taken out the complicated stuff and made an app even little ones can navigate — that means big buttons, easy scrolling, and instant full-screen.”⁴ The iTunes store indicates that the app is “made for ages 5 and under.”⁵ The app also offers parental controls. As shown in Ex. 1-A, any child who can read can easily access these parental controls.

We downloaded the YouTube Kids app onto an Android tablet, an iPad, and an iPhone. As we examined the content, we were troubled by the large amount of commercial material that was presented as programming. Screen shots illustrating some of our concerns are included in Exhibit 1.

¹ Introducing the newest member of our family, the YouTube Kids app—available on the Google Play and the App Store, Official YouTube Blog (Feb. 23, 2015), available at <http://youtube-global.blogspot.com/2015/02/youtube-kids.html>.

² Marco della Cava, *YouTube unveils new app for kids*, USA Today, Feb. 23, 2015.

³ See Ex. 3 (Descriptions of YouTube Kids app from the iTunes app store and Google Play).

⁴ *Id.*; See Ex. 1-A (screenshots of the YouTube Kids home screen).

⁵ *Id.*

Ex. 1-A shows what children see when the YouTube Kids app is opened. They may select videos in four categories indicated by icons: shows, music, learning, and explore. Each section is further divided into channels. Selecting shows, for example, will bring up “channels” such as *Sesame Street* and *Thomas & Friends*. The channels have video segments ranging from less than 30 seconds to over an hour. Children select what they want by touching the tile on the screen. When the selected video segment is finished, another segment from the same channel starts automatically. Sometimes a 30 or 60 second video identified as an “ad” is shown before or after the video segment.

After the child has watched several segments, an additional category called “recommended” appears on the main page as shown in Ex. 1-A. This category appears to recommend videos that are similar to the ones watched previously. It is unclear how the app determines which videos to recommend. Is Google tracking children’s online viewing habits to make the recommendations? If so, has it given direct notice and obtained verifiable parental consent before tracking them as required by the COPPA Rule? There is no specific YouTube Kids privacy policy, so YouTube Kids falls under Google’s general privacy policy.⁶ We ask that the FTC investigate these questions.

YouTube Kids fails to separate commercial content from non-commercial content and is therefore unfair and deceptive to children

Much of the content on YouTube Kids would violate long-standing Federal Communications Commission (FCC) policies if it aired on television. It has long been recognized “that children — especially young children — have greater difficulty distinguishing programming from advertising than adults. If advertisements are to be directed to children, then basic fairness requires that at least a clear separation be maintained between the program content and the commercial message so as to aid the child in developing an ability to distinguish between the two.”⁷

For this reason, the FCC “requires that in television programs directed to children ages 12 and under, program material be separated from commercials by intervening and unrelated program material.”⁸ This separations principle is manifested in specific policies including (1) the “host-selling policy,” which prohibits the use of “program talent or other identifiable program characteristics to deliver commercials” during or adjacent to children’s programming featuring that character;⁹ (2) time limits on the amount of advertising;¹⁰ (3) the policy against “program-

⁶ Google Privacy Policy, available at <http://www.google.com/policies/privacy/>. Google last updated this policy February 25, 2015.

⁷ Ex. 3 (FCC Consumer Guide outlining children’s television rules and policies). This policy was originally adopted in *Children’s Television Report and Policy Statement*, 50 F.C.C.2d 1, 14 (1974) (*Children’s Television Report*).

⁸ Ex. 3 (FCC Consumer Guide outlining children’s television rules and policies). Congress codified and endorsed these policies in adopting the Children’s Television Act of 1990. The FCC expanded its policies to digital television. See *Children’s Television Obligations of Digital Broadcasters*, 19 FCC Rcd 22943 (2004).

⁹ Ex. 3 (FCC Consumer Guide outlining children’s television rules and policies).

¹⁰ 47 C.F.R. §73.670(a) (limits commercial matter to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays).

length commercials,” *i.e.*, a program associated with a product, in which commercials for that product are aired;¹¹ (4) a prohibition against “product placements” or “embedded advertisements;”¹² and (5) the website display rule, which prohibits the display of Internet website addresses for commercial websites during program material.¹³

These policies were adopted in response to behavioral and social science research finding that children, especially young children, lack the cognitive capacity to identify and understand advertising material as distinct from programming content.¹⁴ In the ensuing decades, additional research has reinforced the conclusion that children under five do not understand that advertisements are distinct from programming.¹⁵ And even when children can recognize the difference between ads and programming, they cannot understand that the ads are trying to sell them something, which renders them uniquely vulnerable to commercial influence.¹⁶

Google promotes YouTube to marketers by proclaiming that “in a world of short attention spans and increasing options, advertising is undergoing a sea change. More and more, ads are becoming content that people choose to watch.” It promises to help brands “develop ads that will resonate with today’s consumers” through what it labels “content marketing.”¹⁷ Much of the content on YouTube Kids is the same as that on YouTube.

This blending of children’s programming content with advertising material on television has long been prohibited because it is unfair and deceptive to children. The fact that children are viewing the videos on a tablet or smart phone screen instead of on a television screen does not make it any less unfair and deceptive.

Programs and advertisements on channels are not clearly identified or separated

Exhibit 1-B shows that if a child touches the TV icon for “shows,” she will be shown a screen displaying rectangles for different shows. She might choose the *Fireman Sam* channel or

¹¹ The Commission counts the entire duration of any program-length commercial as commercial matter for the purpose of the children's television commercial limits. *Children's Television Programming*, 6 FCC Rcd 2111, 2118, *recon. granted in part*, 6 FCC Rcd 5093, 5098 (1991).

¹² *Sponsorship Identification Rules and Embedded Advertising*, 23 F.C.C. Rcd. 10682, 10691-92 (2008).

¹³ 47 CFR §73.670(b)-(d)

¹⁴ *Children's Television Report*, 50 F.C.C.2d at 11. *See also* Dale Kunkel & Jessica Castonguay, *Children and Advertising: Content, Comprehension, and Consequences*, in HANDBOOK OF CHILDREN AND THE MEDIA 395-418 (2011); Samantha Graff, Dale Kunkel, and Seth E. Merriman, *Government Can Regulate Food Advertising To Children Because Cognitive Research Shows That It Is Inherently Misleading*, *Health Affairs*, 31, no.2 (2012): 392-398, 395-396.

¹⁵ *See* Kunkel & Castonguay at 403-405; Graff *et. al.* at 395-396.

¹⁶ *Id.* Furthermore, it is not until several years later that children develop awareness that commercial messages are biased and that claims and appeals in advertising should not be believed or accepted uncritically. *Id.*

¹⁷ The Creator Playbook for Brands, *available at* <https://www.thinkwithgoogle.com/research-studies/youtube-brand-playbook.html>.

the *My Little Pony Official* channel. The visual appearance and the label “channel” suggest that both would have programming similar to that seen on television.

In fact, Fireman Sam is a series of children’s videos that is available on Amazon. My Little Pony is a television program targeted to young girls that is shown on Hasbro’s children’s cable channel “The Hub.”¹⁸ Selecting Fireman Sam offers children short video programs while selecting My Little Pony bring up four options. Two of the four options are labeled “TV Commercial.” The other two are identified as “TV Clip” but are actually promotions for the My Little Pony program on the Hub.

This example illustrates two different violations of the separations principle. First, the “shows” page intermixes noncommercial and commercial offerings in such a way that children would not be able to identify which ones are ads. Second, for children old enough to read, the manner in which the commercials are presented on *My Little Pony Official* on YouTube Kids violates the separations principle by labeling commercials as “TV clips.”

To make matters worse, the YouTube Kids channels sometimes insert “ads” before or after a video as shown in Ex. 1-C. Children who can read are informed it is an ad and, in some cases, that it may be skipped after a certain period of time. However, there is no “bumper” before the ads as there would be on children’s television. We observed ads for movies and YouTube channels. Many were actually public service announcements produced by the Ad Council. Thus, these “ads” were often less commercial than the video segments that followed.

Branded channels present program length commercials and unidentified advertising

The lack of separation is also evident in the many branded channels on YouTube Kids. Brands with their own channels include McDonalds, Barbie, Fisher Price, and LEGO. Videos on these channels are mostly advertising even though they are not labeled as such. For example, the *LEGO Friends* channel promotes LEGO Friends, a line of dolls and building sets designed to appeal primarily to girls. The LEGO Friends sets include “mini-doll” figures, which are about the same size as the traditional mini-figures but are more detailed and realistic. The sets include pieces in pink and purple color schemes and depict scenes from suburban life set in the fictional town of Heartlake City.

The *LEGO Friends* channel offers many videos as shown in Ex. 1-E. They include: (1) full episodes of a cartoon featuring the LEGO Friends characters; (2) shorter “webisodes” featuring these characters; (3) videos showing a real person playing with the dolls and playsets; and (4) traditional TV-style commercials. There is no separation between the full episodes and

¹⁸ The program originally aired on broadcast television in the 1980s. Hasbro markets a line of My Little Pony plastic toys and playsets.

the commercials. Moreover, because the traditional TV-style commercials features the exact same LEGO Friends characters that appear in episodes of the adjacent program content, the entire channel is akin to what the FCC would consider a program-length commercial.

McDonald's also has its own channel on YouTube Kids as shown in Exhibit 1-D. It presents promotional videos styled as news reports on topics such as *What are McDonald's Chicken McNuggests made of?* These segments are not identified as advertising. The *McDonald's* channel also features television commercials, such as the one for Smurfy Happy Meals. Branded channels, such as the *McDonald's* channel, take advantage of children because they do not understand that the entire channel is actually advertising.

YouTube Kids includes "Unboxing" videos that mix commercial and program content

The lack of separation is also a feature of what are known as "unboxing videos."¹⁹ According to Kidscreen, "unboxing videos, as the name implies, typically feature not much more than a pair of hands opening a package and describing the toy as it's revealed."²⁰ For example, as shown in Exhibit 1-E, a nearly 8-minute segment entitled *Lego Friends 41038 Jungle Rescue Base with 41036 41033 and 41032 Speed Build* shows a man's hands opening several LEGO boxes and taking out the pieces. He then assembles the blocks and moves them around while happy sounding music plays.

McDonald's Happy Meal Surprise Egg!, shown in Ex 1-F, is another example of an unboxing video. This 7:41 minute video shows a woman opening a giant egg decorated with the McDonald's double arches to reveal Happy Meal toys inside. The video features children's background music and includes dolls from Disney's *Frozen* movie enjoying an ice cream sundae and a Sprite in a McDonald's cup. Throughout the clip, the narrator assembles, describes, and plays with Happy Meal toys. The video is in effect a seven-minute commercial for McDonald's — and, to a more limited degree, Sprite and *Frozen*. The video is therefore a program-length commercial and would be considered unfair and deceptive for children's television because the audience could not tell that the video is an advertisement. The video also violates the host-selling policy as the narrator endorses multiple products throughout the segment, and the characters from *Frozen* appear to be endorsing McDonald's and Sprite.

¹⁹ Google explains that "[u]nboxing is a genre of videos on YouTube where people quite literally unbox a product to get a feel for it. . . . These videos not only document the experience of opening a product, but they often dramatize it and, in turn, take on a quirky, playful spirit, showcasing products in all of their freshly unopened glory." Ex. 4 ("The Magic Behind Unboxing on YouTube," Think With Google, (Nov. 2014), available at <https://www.thinkwithgoogle.com/features/youtube-insights-stats-data-trends-vol7.html>.)

²⁰ Ex. 5 (Gary Rusak, *How YouTube Kids is Changing the Face of Toy Marketing*, KidScreen (Feb. 9, 2015), <https://www.thinkwithgoogle.com/research-studies/youtube-brand-playbook.html>.)

Many other unboxing videos are found by touching the “Explore” icon as shown in Exhibit 1-F. Entire channels are devoted to unboxing videos with names like *EvanTubeHD*, *HobbyKidsTV*, *FunToyzCollector*, and *The Engineering Family*.

According to *Kidscreen*, *EvanTubeHD* is one of the most popular and profitable unboxing channels.

There is one name that looms large above all others in this space — *EvanTubeHD*. The affable eight-year-old boasts more than a billion views across his three dedicated channels, and an ever-growing subscription base that recently surpassed one million. What started out as a lark has, in fact, become a booming industry. *EvanTubeHD*’s short-form videos are stunningly simple. They consist of an off-camera adult voice (Evan’s dad and video producer Jared) engaging the charming youngster as he reviews toys with an infectious mix of enthusiasm and wonder.

The *EvanTubeHD* channel debuted in 2011. Although the star’s last name and location are a tightly guarded secret, his charisma is on display for all to see. The channel’s popularity is also aided by its partnership with YouTube talent hive *Maker Studios*. Founded in 2009, the aforementioned Disney-owned studio currently has a network of sites that includes more than 55,000 independent creators, working in more than 100 countries, and attracts an estimated nine billion views every month.

With the invaluable help of *Maker [Studio]*, *EvanTubeHD* now resides in the penthouse level of the YouTube influencer community. Evan has inked deals with Toronto, Canada-based *Spin Master* to promote its *Spy Gear* line and a number of other products. Additionally, retailer *Toys ‘R’ Us* has also signed on as a channel sponsor in a package that features filmed field trips to local TRUs with the company’s logo displayed in the lower right corner of each video. There are unconfirmed estimates that the grade-schooler pulls in more than US\$1 million a year through his channel views, sponsorship deals and endorsements.²¹

In fact, as shown in Exhibit 1-H, the 11 minute video *MINECRAFT Surprise Box + Skylanders TRAP TEAM Hunting at Toys “r” Us!!!* shows Evan visiting a *Toys-R-Us* store. He walks around the store showing and talking about toys including Disney’s *Marvel Kids* and

²¹ *Id.*

Activision’s Skylanders action figures. After visiting the store, Evan and his dad go to the car and open the toys they purchased.

Unboxing videos are, in effect, program-length commercials. They also violate the host-selling policy. As explained in *Kidscreen*,

“There are a few elements that make EvanTube, for example, stand out,” explains Maker Studios’ Pan. “He is incredibly authentic. He tells a full story that has a beginning, middle and end. His expression of joy, wonder and surprise when he is opening up a toy is really what connects with an audience.”

Advertisers know that children trust and are more persuaded by videos that appear to be user-generated. As one ad executive noted, “Kids trust other kids more so than they would an adult.”²² Thus, host selling takes unfair advantage of children’s trust.

Many Videos on YouTube Kids appear to violate the FTC’s Endorsement Guide

Unboxing videos may also violate the FTC’s Endorsement Guidelines. The FTC’s *Guide Concerning the Use of Endorsement Testimonials in Advertising*, which was revised in 2014 to take account of the Internet and social media, requires that a connection between an endorser and the seller of an advertised product that “is not reasonably expected by the audience” be “fully disclosed.”²³ To illustrate, the Endorsement Guide gives examples, including one in which a video game blogger receives software free of charge in exchange for posting about it on his blog. In that case, the blogger must “clearly and conspicuously disclose that he received the game free of charge.” The Commission explains that “because his review is disseminated via a form of consumer-generated media in which his relationship to the advertiser is not inherently obvious, readers are unlikely to know that he has received [compensation] in exchange for his review of the product, and . . . this fact likely would materially affect the credibility they attach to his endorsement.” In addition, the manufacturer should advise the blogger at the time it provides the gaming system that this connection should be disclosed, and it should have procedures in place to try to monitor his postings for compliance.²⁴

On its website for marketers, *Think with Google*, Google urges advertisers to “[c]onsider how unboxing videos might help your brand connect with consumers.” It explains that

²² Erica Tempesta, *Parents earn more than \$1 million a year making YouTube videos of their children playing with toys*, Daily Mail (March 16, 2015), available at <http://www.dailymail.co.uk/femail/article-2997797/Parents-earn-1-million-year-making-YouTube-videos-children-playing-toys.html>.

²³ The Guides are available at 16 C.F.R. § 255.5. See also *The FTC’s Revised Endorsement Guides: What People are Asking*, available at <https://www.ftc.gov/tips-advice/business-center/guidance/ftcs-revised-endorsement-guides-what-people-are-asking>.

²⁴ *Id.* Example 7.

“unboxing videos have gotten 57% more views since last year. Many are still user-generated videos, but brands are starting to get in on the action, playfully showcasing products in all of their freshly unopened glory.”²⁵

Many of the videos on YouTube Kids appear to be user-generated. Some, however, have undisclosed relationships with product manufacturers. For example, the Disney-owned Maker Studios has agreements with five popular YouTube channels — *DisneyCarToys*, *HobbyKidsTV*, *TheEngineeringFamily*, *ToysReviewToys*, and *AllToyCollector*.

According to *Variety* in November 2014,

While content on [these five] channels has featured Disney toys and products, the channels were not affiliated with the Walt Disney Co. prior to the new pacts with Maker, . . .

DisneyCarToys ranks as the second largest toy creator YouTube channel with 1.1 million subscribers. . . .

Under the deals, Maker will work with the YouTube channel creators to optimize content and line up branded content partnerships, including via programs that span Disney divisions.²⁶

All five YouTube channels affiliated with Disney’s Maker Studios are also available on YouTube Kids. The *McDonald’s Happy Meal Surprise Egg* video discussed above, which features dolls from Disney’s hit movie *Frozen*, is on the *ToysReviewToys* channel. The video does not disclose any relationship between the host and either Disney or Maker Studios.²⁷

Disney is not the only company that has formed affiliations with many of these “independent” video creators. Many toy companies have affiliations with the hosts of these channels, who are usually children themselves, in which the online talent endorses various

²⁵ See Ex. 4 (“The Magic Behind Unboxing on YouTube”) Google analyzed its search results and conducted consumer survey to determine why unboxing video were so popular that “It would take more than seven years to watch all the videos on YouTube with “unboxing” in the title” as of November 2014. It further found that unboxing videos are especially effective during holiday periods. Indeed, just a month before Christmas, an executive at Maker Studios, stated that “[w]e look forward to working with [these YouTube channels] ahead of the holiday season to offer viewing families great information and entertainment that help guide and inform their holiday buying decisions.” Gina Hall, *Disney’s Maker Studios Partners with Toy Review Channels*, *The Wrap* (Nov. 25, 2014), <http://www.thewrap.com/disneys-maker-studios-partners-with-five-top-toy-review-channels/>. Conducting our research shortly before Easter, we observed countless unboxing videos showing Kinder chocolate eggs and other Easter eggs that were opened to review toys or candy inside. See, e.g., Ex. 1-J.

²⁶ Ex. 6 (Todd Spangler, *Disney’s Maker Studios Signs 5 Toy-Review YouTube Channels*, *Variety* (Nov. 25, 2014), <http://variety.com/2014/digital/news/disneys-maker-studios-signs-5-toy-review-youtube-channels-1201364617/>).

²⁷ Gina Hall, *Disney’s Maker Studios Partners with Toy Review Channels*, *The Wrap* (Nov. 25, 2014), <http://www.thewrap.com/disneys-maker-studios-partners-with-five-top-toy-review-channels/>.

products in exchange for some form of compensation, often toys or money.²⁸ These arrangements are not disclosed to children viewing the segment (or their parents). Thus, they have no way to know they are watching a paid endorsement rather than an independent review of a product by a child. Indeed, the success of this marketing strategy depends on the ability to disguise advertising material as entertaining content that viewers will choose to watch.

Simply requiring a disclosure that a video is “advertising” or that there is a relationship between the endorser and the product manufacturer, however, would be insufficient to protect children from unfair and deceptive practices. Because most children under 6 cannot read, written disclosures would not be effective. Moreover, even if disclaimers were provided orally, the cognitive limitations of children under 6 or even 8 means that they cannot understand that the purpose of advertising is to persuade and to defend against such persuasion.

Google Makes False and Deceptive Claims in promoting YouTube Kids to Parents

Google also makes false and deceptive claims in promoting the YouTube Kids app to parents. On its official blog, YouTube assures parents that they can “rest a little easier knowing that videos in the YouTube Kids app are narrowed down to content appropriate for kids.” Google’s YouTube Kids ad policy acknowledges, “YouTube Kids is ad-supported, but we only show ads that are classified as family friendly.”²⁹ The ad policy prohibits certain types of advertising, and it claims that “all ads undergo a rigorous review process for compliance with our policies.” These statements are clearly intended to encourage parents to download the app for their children. However, because so many of the videos are actually program-length commercials or utilize unfair and deceptive advertising practices with respect to children, it is misleading to claim the videos are “appropriate for kids.”

Google’s YouTube Kids ad policy also deceptively promises that it will only display 30-second non-skippable ads or 60-second skippable ads. This policy overlooks the reality that much of the app’s video content includes long commercials targeting children. That is, although the policy appears to limit the length of ads that are displayed before or after a video segment, many of the videos themselves are ads as well. For example, the *My Little Pony Official* channel features a 1:08 minute commercial for a toy entitled *My Little Pony Canterlot Wedding Toy & Playset (TV Commercial)*.³⁰ Thus, Google is actually serving much more advertising to children than it claims.

Google’s YouTube Kids ad policy further states that “ads need to be clearly branded by the advertiser and/or product marketed in the video . . . [and] the ad needs to be clearly

²⁸ See Ex. 5 (Kidscreen article: “How YouTube is changing the face of toy marketing)

²⁹ Ex. 7 (YouTube Kids Advertising Policy, *available at* <https://support.google.com/youtubekids/answer/6130541?hl=en>.)

³⁰ See Ex. 1-B.

distinctive to the user that this is an ad, and not general YouTube content.”³¹ But as discussed above, young children cannot distinguish between segments labeled “ads” and others that look similar to ads and prominently include brand names and logos. Thus, Google’s ad policy misrepresents its actual practices.

The YouTube Kids ad policy falsely states that no ads are permitted for certain product categories such as food and beverages

The YouTube Kids ad policy also prohibits ads for certain product categories including food and beverages. Parents reading this ad policy would reasonably believe their children would not be exposed to ads for junk food on YouTube Kids, yet such promotions are rife throughout the app.³² For example, as discussed above, McDonald’s has its own channel featuring ads such as the 30-second television commercial advertising Happy Meals with toys from the Smurfs 2 movie.³³

Other channels also feature advertising for food and beverages in violation of YouTube Kids’s ad policy. For example, an eight-minute “unboxing” video on Hobbykids promotes Domino’s Pizza. It shows children pulling toys from a “surprise pizza egg.” At the beginning of the segment, the children dive into a pizza while the mother exclaims, “Domino’s Pizza! Cheese Pizza! HobbyKids love pizza. Do you love pizza?”³⁴

The YouTube Kids ad policy also prohibits advertising for “electronic video games (and related accessories) that may be played on a video game console, the computer, or another electronic device such as a cell phone or tablet.”³⁵ Yet, as shown in Exhibit 1-K, a 47-second video segment on the Strawberry Shortcake channel is an ad for its new Berry Rush app. The app allows children to play games in which Strawberry Shortcake runs through a field collecting coins and strawberries. The child must quickly maneuver Strawberry Shortcake over rocks, under bridges, and across ramps to stay in the game and collect coins. Coins are needed to purchase enhancements such as additional characters and accessories, as well as to save one’s place in the game. Coins can be “earned” by watching commercials for other apps or purchased in amounts ranging from \$0.99 to \$19.99. This segment advertising the app clearly violates the prohibition on commercials for video games.³⁶

³¹ Ex. 7 (YouTube Kids Advertising Policy).

³² See, e.g., Ex. 1-D, 1-F, and 1-J.

³³ Ex. 1-D.

³⁴ Ex. 1-J.

³⁵ See Ex. 7 (YouTube Kids Advertising Policy). An exception for ads for “apps or web content with interactive educational content such as puzzles, worksheets, math problems, language learning exercises” would not apply to this example.

³⁶ Another example of an advertisement for electronic video games and accessories is the commercial for Disney Infinity 2.0 Marvel Superheroes shown shown in Ex. 1-K.

In sum, the advertising practices employed on YouTube Kids clearly take unfair advantage of children and violate long-standing legal protections afforded to children on television. Children should receive comparable legal protection from such unfair and deceptive practices when they watch videos on a mobile phone or tablet rather than on a television. Because even our cursory exploration of YouTube Kids revealed so many misleading and unfair advertising practices, we urge the Commission to promptly initiate a full investigation and take action to stop these practices.

Respectfully submitted,

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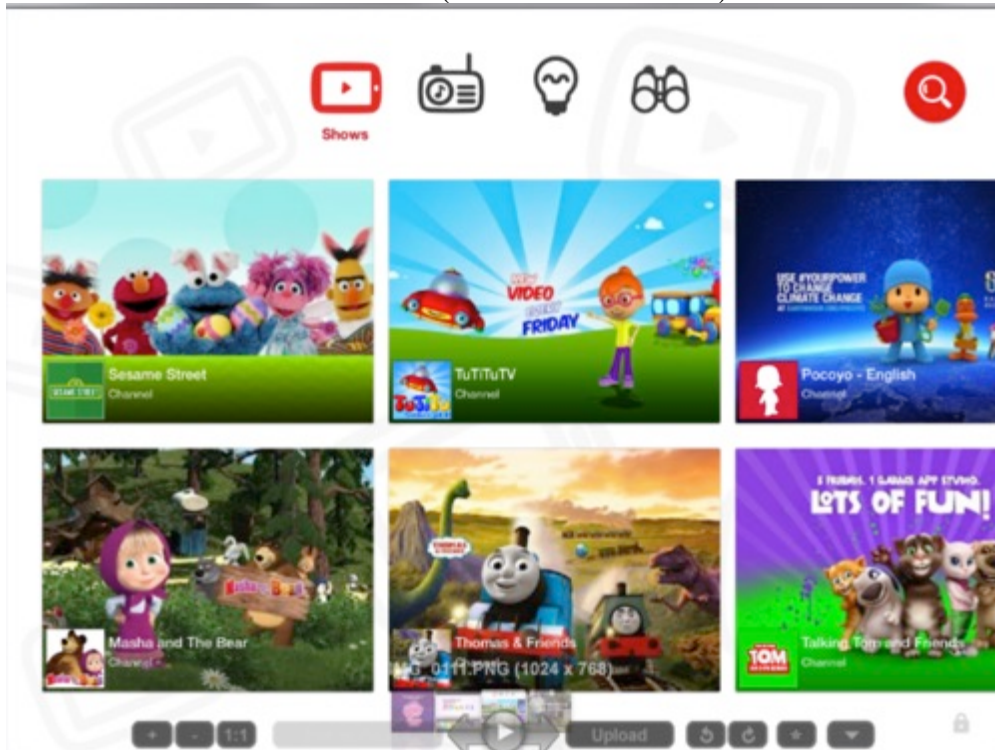
LIST OF EXHIBITS

- EXHIBIT 1: Screen shots from YouTube Kids
- EXHIBIT 2: Descriptions of the YouTube Kids app from the iTunes app store and Google Play
- EXHIBIT 3: FCC Consumer Guide outlining children’s television rules and policies
- EXHIBIT 4: *The Magic Behind Unboxing on YouTube*, THINK WITH GOOGLE (Nov. 2014).
- EXHIBIT 5: Gary Rusak, *How YouTube is Changing the Face of Toy Marketing*, KIDSCREEN (Feb. 9, 2015).
- EXHIBIT 6: Todd Spangler, *Disney’s Maker Studios Signs 6 Toy-Review YouTube Channels*, VARIETY (Nov. 25, 2014).
- EXHIBIT 7: YouTube Kids Advertising Policy

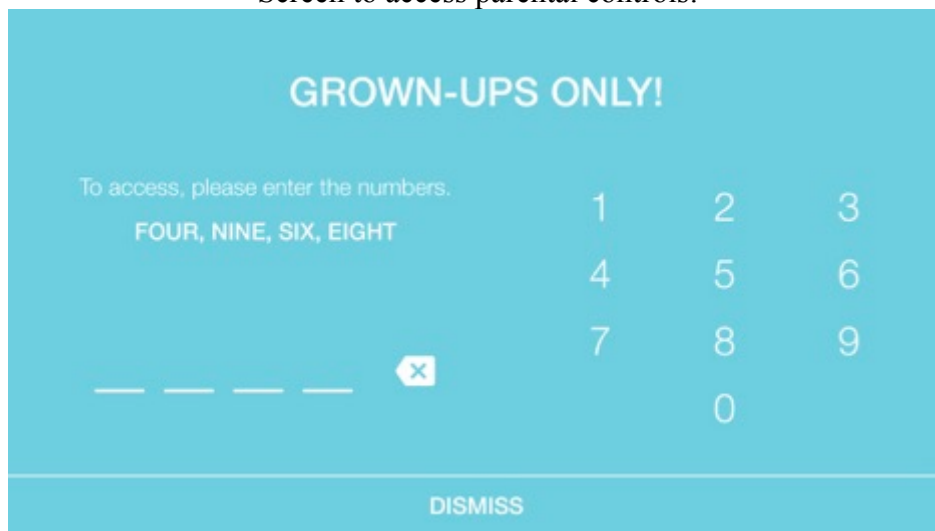
EXHIBIT 1 Screen shots from the YouTube Kids app

A. Screenshots of YouTube Kids home screen

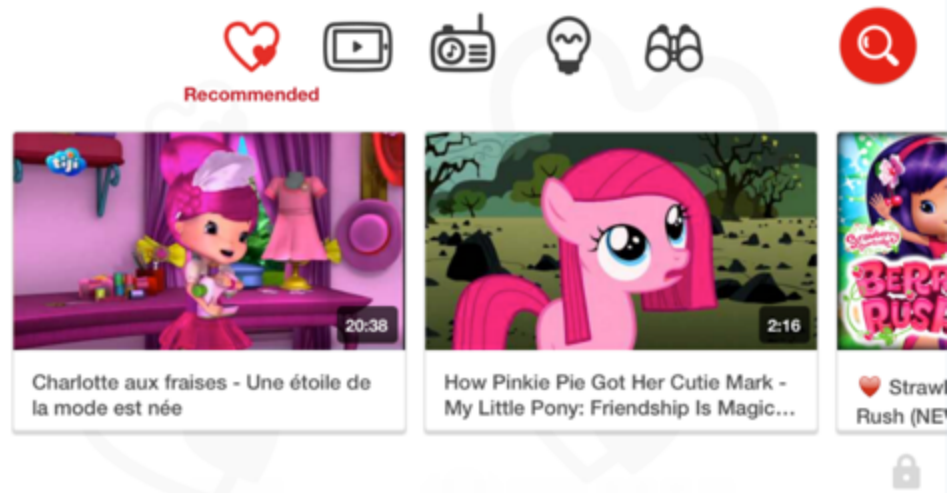
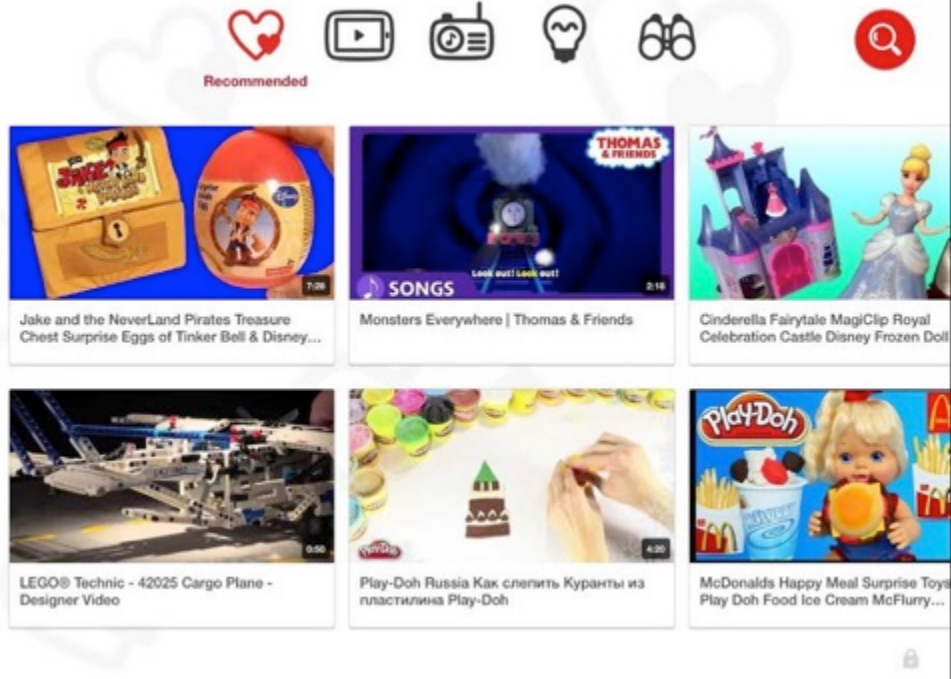
Home Screen (no recommendations)”:



Screen to access parental controls:

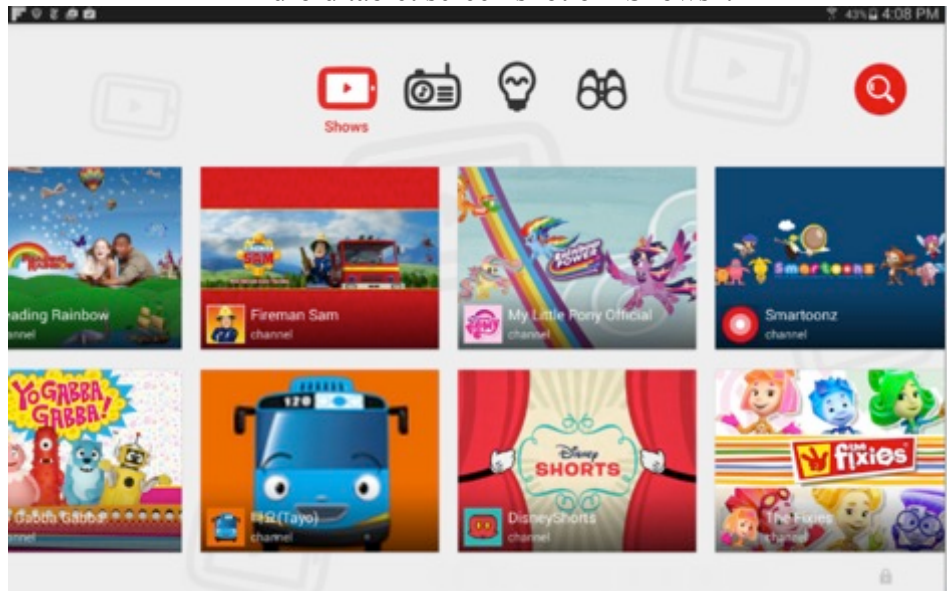


Opening screens with recommendations From iPad and iPhone:

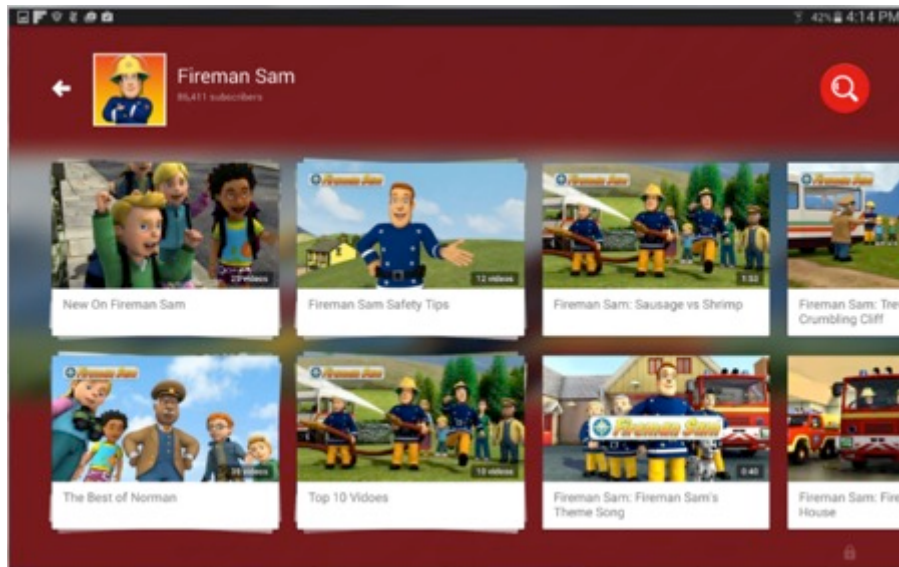


B. Examples of “Shows”

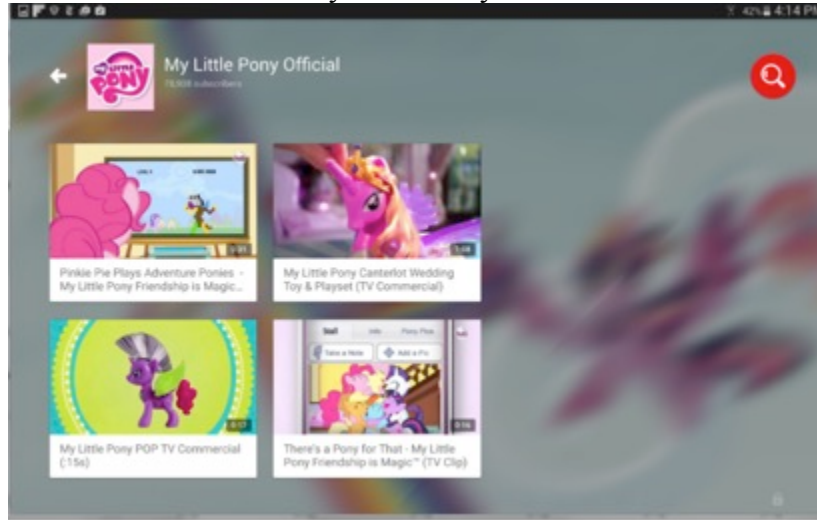
Android tablet screen shot of “Shows”:



Android tablet screen shot of “Fireman Sam”:



Screen shot of My Little Pony Official Channel:



Screen shot from My Little Pony POP TV Commercial:

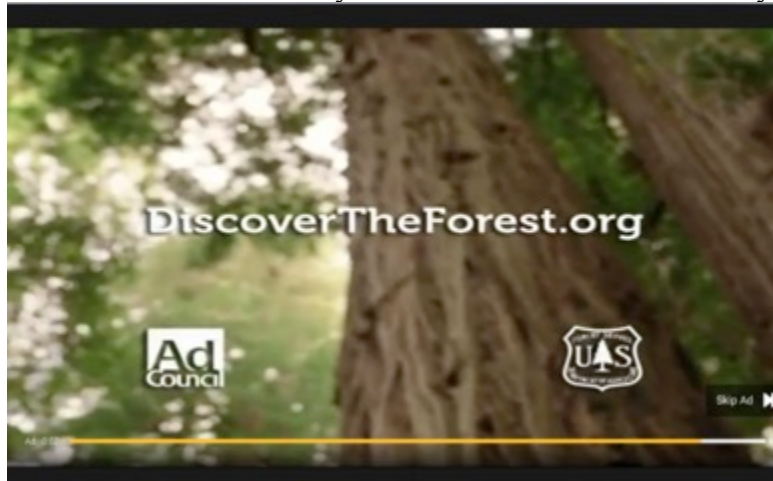


Screen shot from There is a Pony for That (TV Clip):



C. Examples of “Ads” shown in before or in between video segments

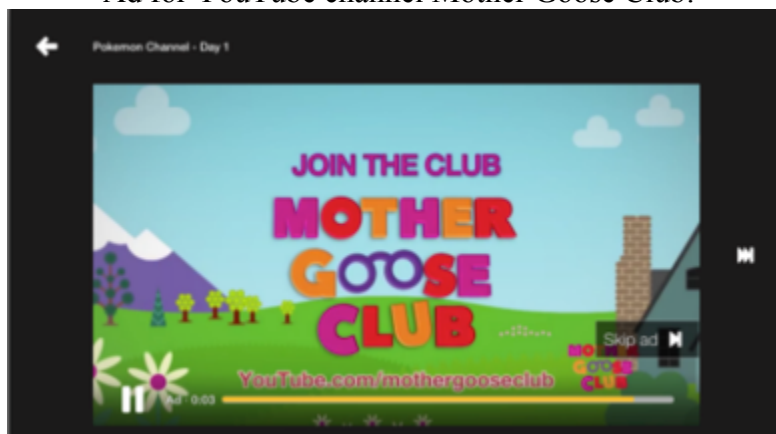
A public service announcement by the Ad Council and US Forestry Service:



A public service announcement by the Ad Council and Adopt US Kids:

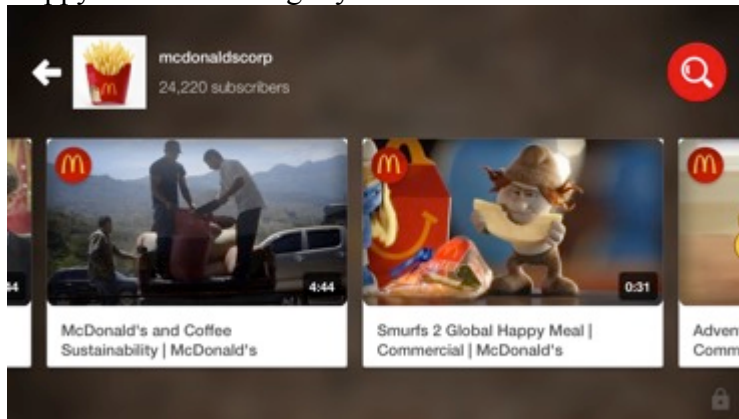


Ad for YouTube channel Mother Goose Club:



D. McDonalds Channel screenshots

The McDonaldscorp channel features traditional TV style ads as well as additional “content” segments that are really promotions for McDonald’s products. For example, below a 4:44 segment “McDonald’s and Coffee Sustainability” appears next to a commercial for Happy Meals featuring toys from the movie Smurfs 2.

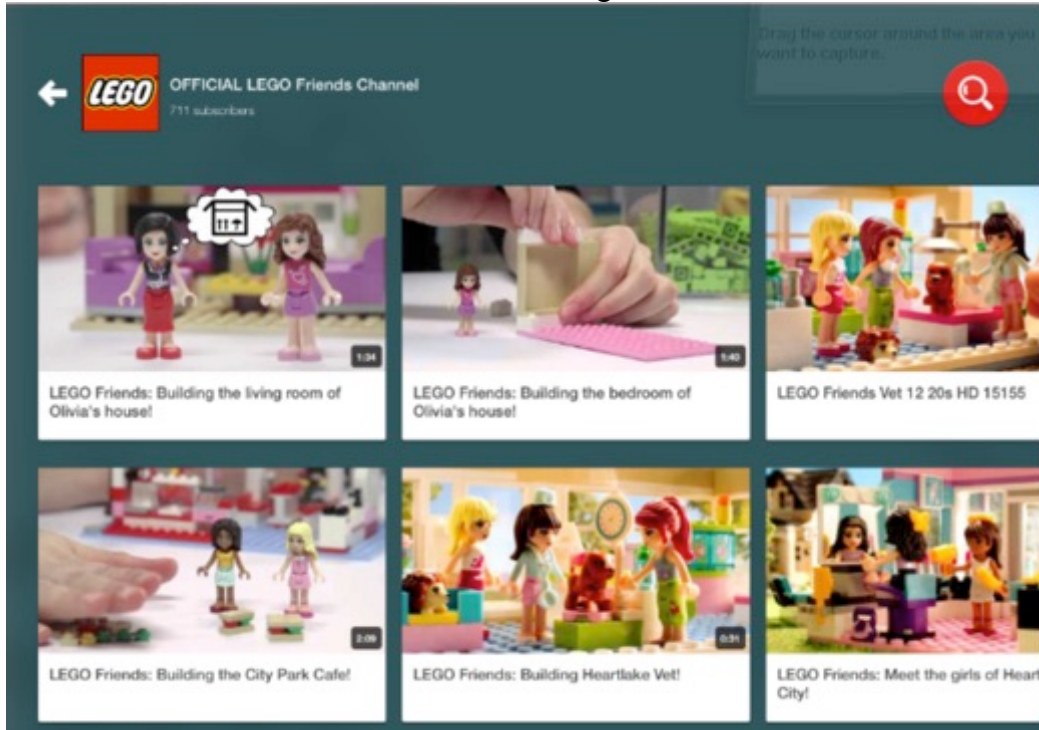


A 30-second commercial on the McDonaldsCorp Channel advertises McDonald’s Happy meals with toys from the Smurfs 2 movie:

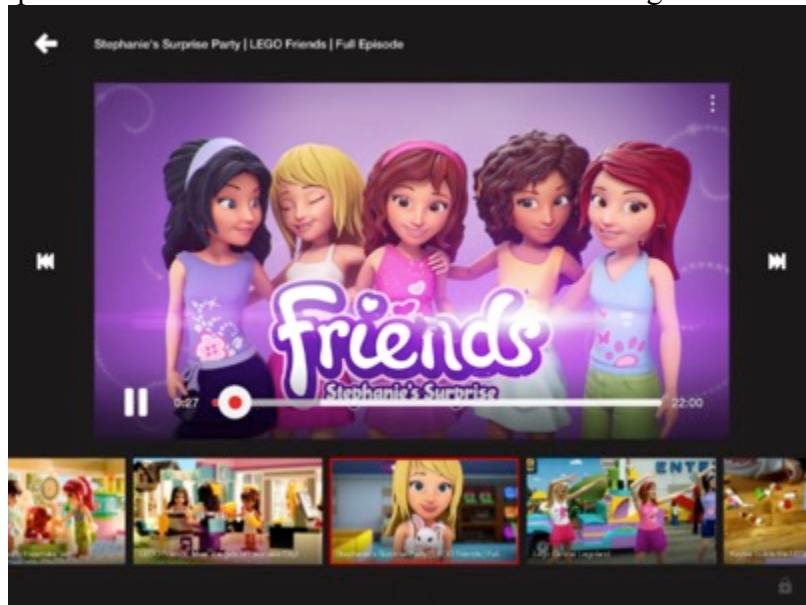


E. Lego Videos on YouTube Kids

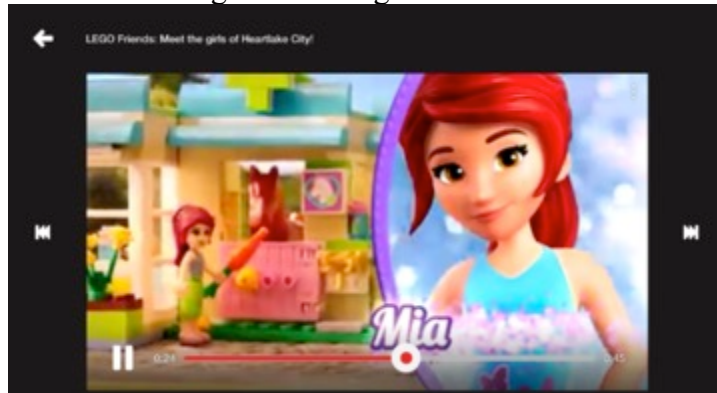
iPad Screen shot of Official Lego Friends Channel:



A full episode of the cartoon available on the Official Lego Friends Channel:



A short video, Meet the Girls of Heartlake City! on the Official Lego Friends channel introducing the five Lego Friends characters:



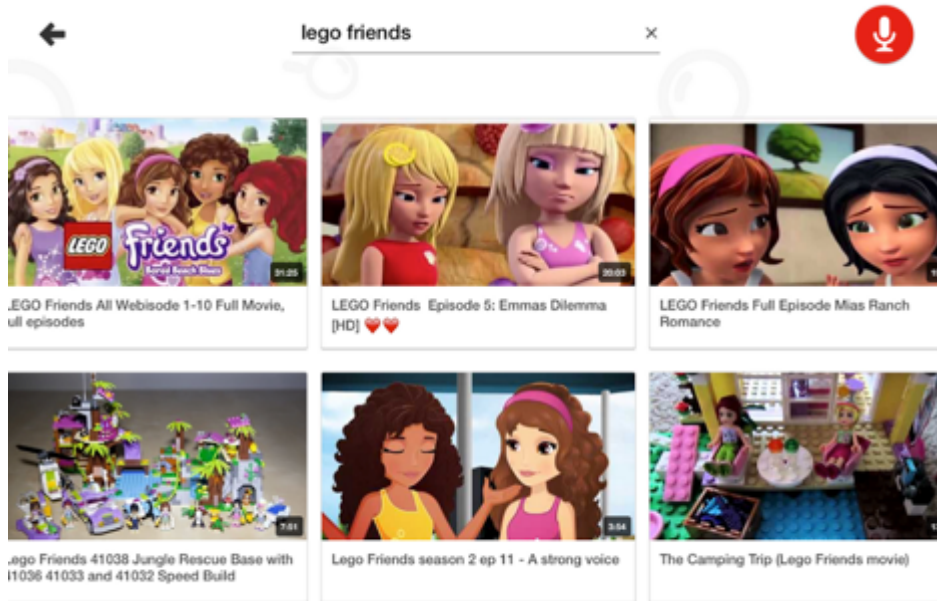
This short video on the Official Lego Friends Channel shows Lego Friends designer Fenella playing with the City Park play set. Upbeat music plays in the background.



This video Official Lego Friends Channel looks like a traditional 30-second television commercial.



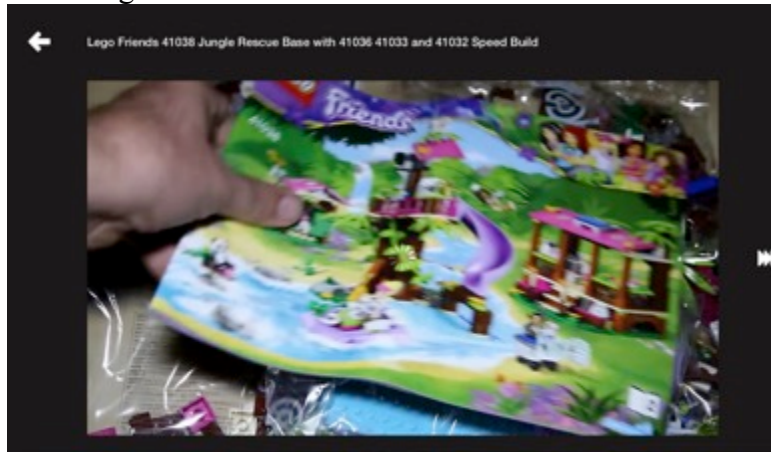
By searching with the term “lego friends” we found more videos:



The segment on the lower left of the screenshot above is an example of an “unboxing video”:



The lego bricks and instructions are taken from the box.



The sets are assembled.



The host displays some of the completed toys.



F. Example of a McDonald's themed "unboxing video"

This 7:41 segment is essentially a 7-minute long commercial for McDonald's. The entire segment is filmed in a play scene of McDonald's where dolls from Disney's Frozen movies enjoy toy versions of McDonald's products. According to the person in the video, "We are at McDonald's with Elsa and Ana... Ana is having her favorite ice cream sundae and Elsa is having a Sprite."



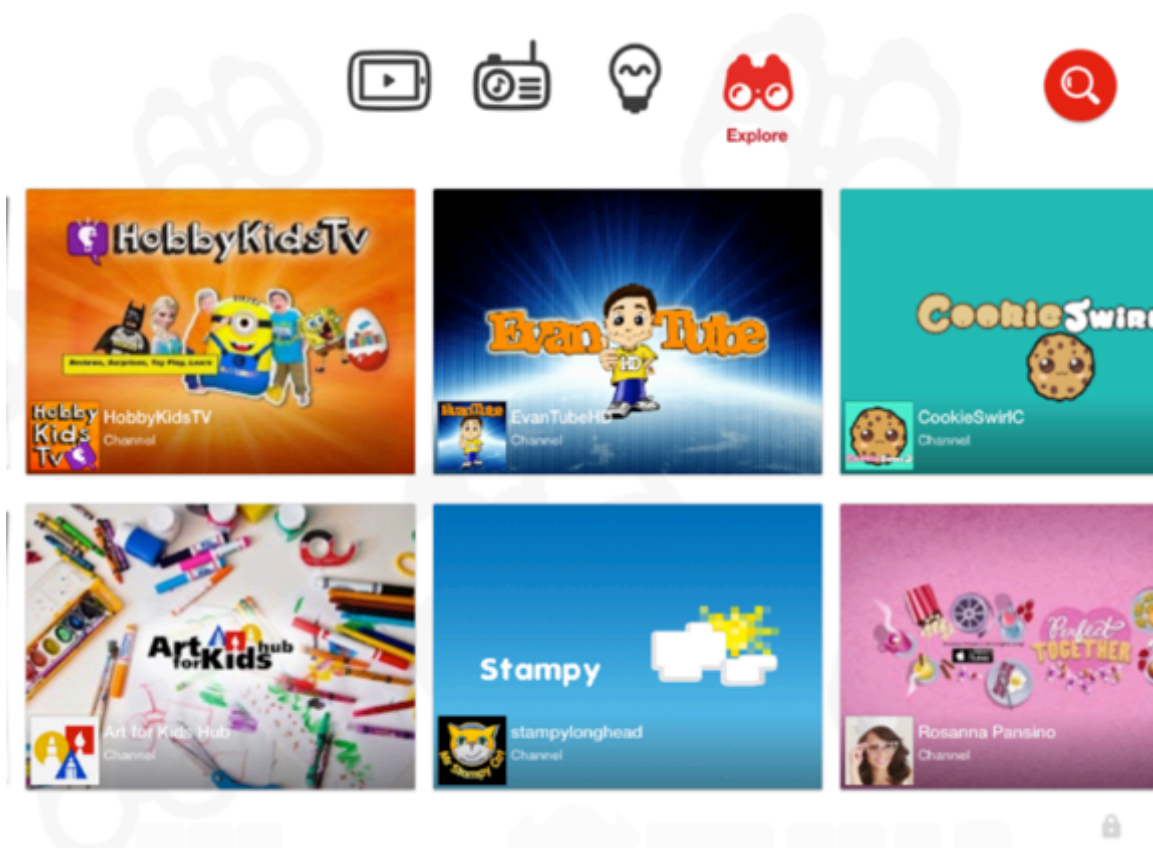
It depicts a woman pulling McDonald's Happy Meal toys out of a McDonald's egg.



She then assembles and plays with the toys from the egg.

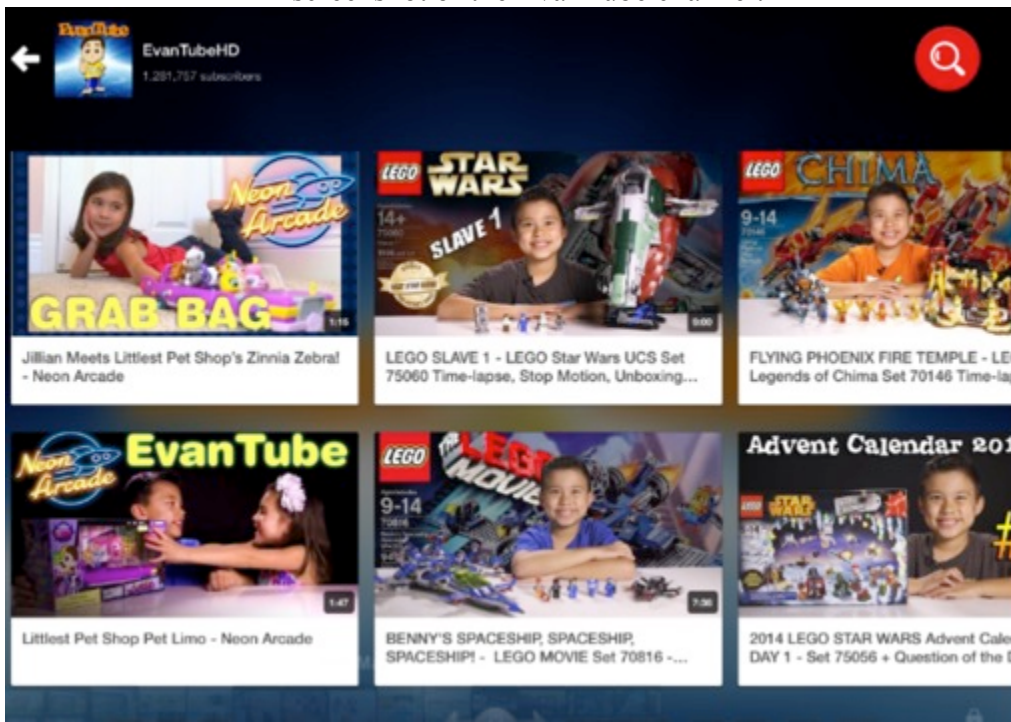


G. Screen Shot from “Explore”

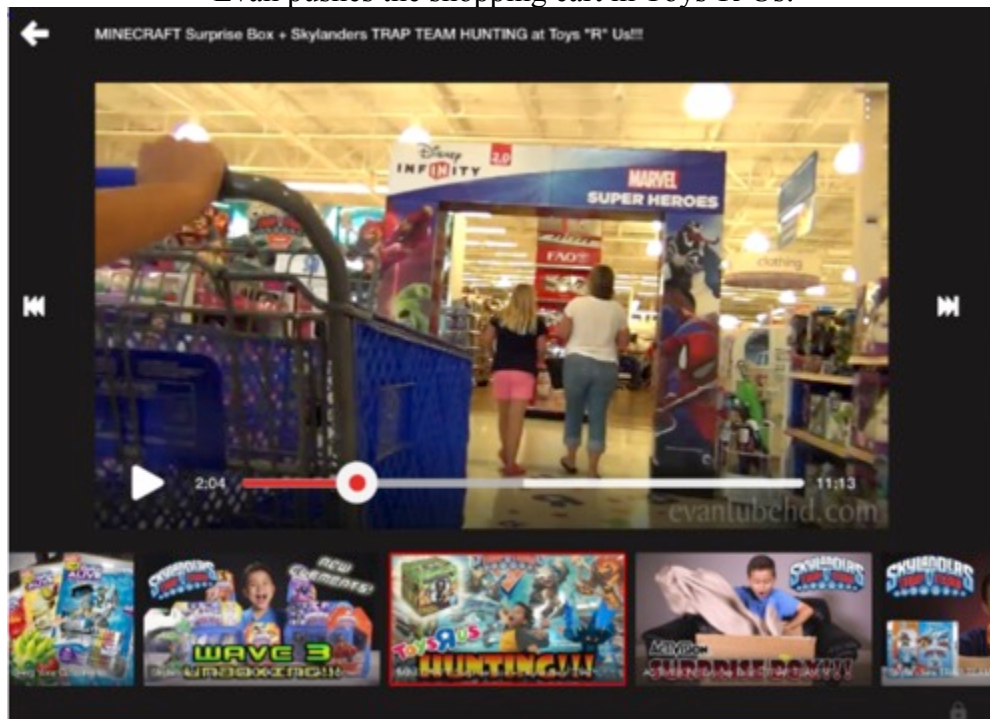


H. Screen shots from EvanTubeHD Channel

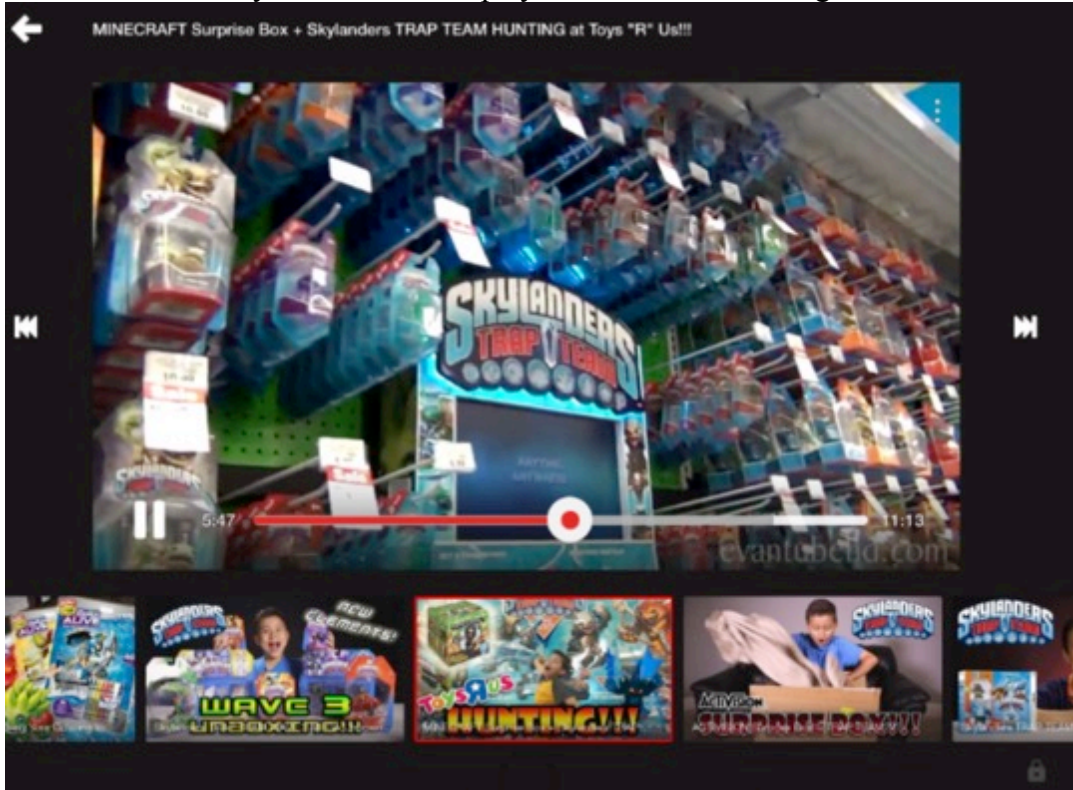
A screenshot of the EvanTube channel:



Evan pushes the shopping cart in Toys-R-Us:



Skylander Toys on display at Toys-R-Us. Skylanders are a series of action-adventure fantasy video games published by Activision. The game reads chips placed inside toy figurines so that the toys can be used as playable characters in the game.

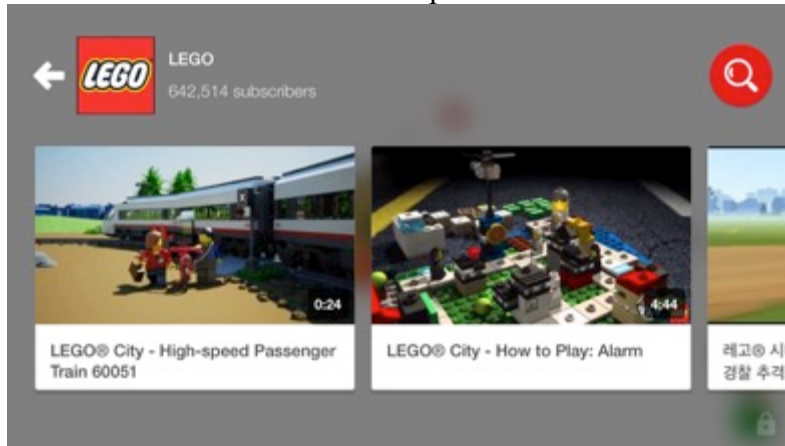


Evan opens packages in the car.



I. Examples of Commercials longer than 60 seconds

This 4:44 segment, *LEGO City – How to Play: Alarm* is a nearly 5-minute commercial for a LEGO product.



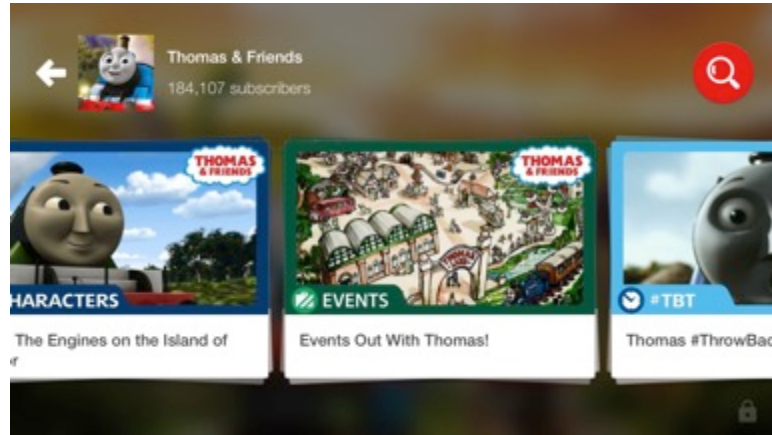
The commercial explains the rules of the game while animated LEGO pieces go through the motions:



A picture of the product is displayed at the end.



This 1:32 segment, *Events out with Thomas*, on the *Thomas and Friends Channel* encourages children to visit the Thomasland theme park so that they can “meet Thomas and his friends in real life!”



The segment is shot in a toy store where an adult woman talks to young children about the theme park and tells them how they can interact with their favorite Thomas and Friends characters in real life by visiting Thomasland.



The segment even shows kids playing with toy versions of Thomas characters back to back with drawings of the “real-life” versions at the theme park.

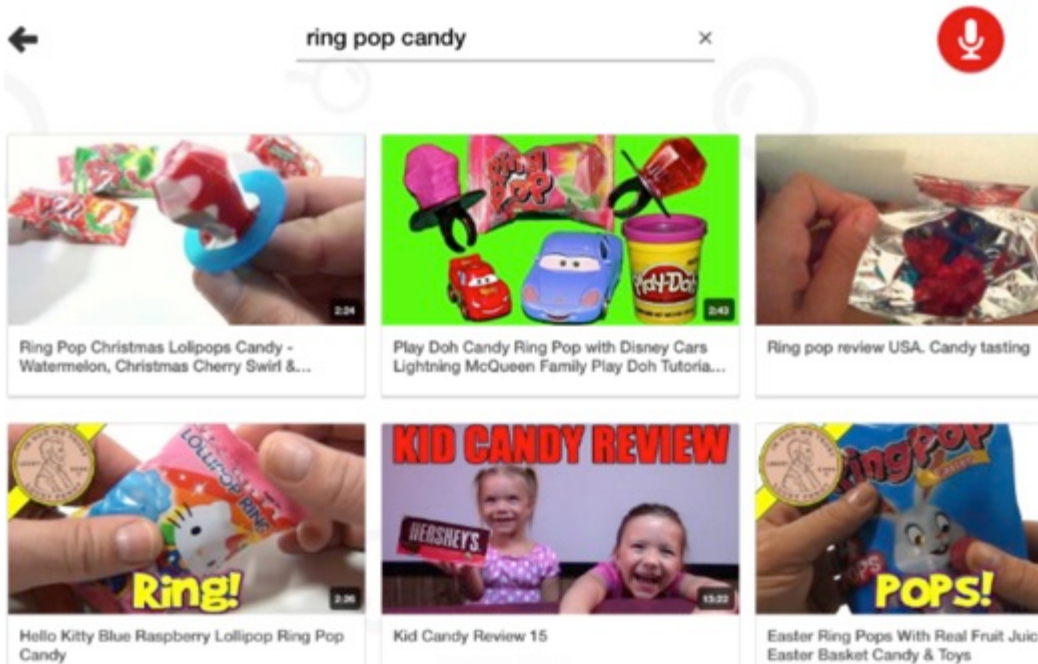


J. Examples of advertisements for foods and beverages

This 8-minute segment on HobbyKids TV depicts children pulling toys from a “surprise pizza egg.” At the beginning of the segment, the children dive into a Domino’s Pizza, and the mother behind the camera exclaims, “Domino’s Pizza! Cheese Pizza! HobbyKids love pizza. Do you love pizza?”



A few of the videos featuring candy:



Screen shots of Thomas the Train with Kinder Surprise Eggs:



K. Examples of Ads for Video Games

47-second segment on the Strawberry Shortcake channel advertising its Berry Rush app:



The Berry Rush app allows children to play Strawberry Shortcake-related games.



To purchase characters and other items, the child needs coins that can be earned by certain activities or purchased with real money.



Screenshots from nearly 3-minute advertisement for Disney Infinity 2.0 Marvel Super Heroes Game, a game rated 10 and up:





EXHIBIT 2

Descriptions of the YouTube Kids app from the iTunes app store
and Google Play

2/25/2015

YouTube Kids on the App Store on iTunes


iTunes Preview

Overview Music Video Charts

YouTube Kids

By Google, Inc. [View More by This Developer](#)

Open iTunes to buy and download apps.



[View in iTunes](#)




⊕ This app is designed for both iPhone and iPad

Free
Category: [Entertainment](#)
Released: Feb 23, 2015
Version: 1.0
Size: 45.0 MB
Language: En
Seller: Google, Inc.
© Google Inc. 2015
[Rated 4+](#)
Made for Ages 5 and Under

Compatibility: Requires iOS 7.0 or later. Compatible with iPhone, iPad, and iPod touch. This app is optimized for iPhone 5 and iPhone 6.

Customer Ratings
Current Version:
★★★★ 389 Ratings

More by Google, Inc.

-  [YouTube](#)
[View In iTunes >](#)
-  [Chrome – web browser by Go...](#)
[View In iTunes >](#)
-  [Google](#)
[View In iTunes >](#)

Description

The official YouTube Kids app is designed for curious little minds to dive into a world of discovery, learning, and entertainment. This free app is delightfully simple and packed full of age-appropriate videos, channels and playlists. YouTube Kids features popular children's programming, plus kid-friendly content from filmmakers, teachers, and creators all around the world.

DESIGNED FOR KIDS
We've taken out the complicated stuff and made an app even little ones can navigate — that means big buttons, easy scrolling, and instant full-screen.

VIDEOS KIDS WILL LOVE
Kids can enjoy favorites like Sesame Street, Thomas & Friends, and Dreamworks, online hits like Mother Goose Club, TuTiTu, and Super Simple Songs, plus anything else they're into — music, gaming, science, crafts, and more.

VIDEOS PARENTS CAN FEEL GOOD ABOUT
We're as focused on kids' safety as you are, so we've built the YouTube Kids app to be a family-friendly place to explore.

When your child browses the app's home screen, they'll find a vast selection of kid-appropriate channels and playlists. When families search in the app, we use a mix of input from our users and automated analysis to categorize and screen out the videos that make parents nervous.

And for added peace of mind, parents can quickly notify YouTube if they see anything questionable directly from the app.

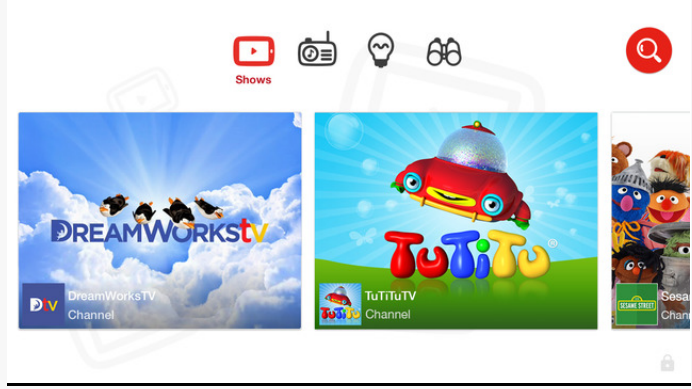
SETTINGS FOR PARENTS
You can turn off search for an even more contained experience. Or set the built-in timer to let your kids know when it's time to stop watching (so you don't have to). The app puts these settings behind a grown-ups-only lock, out of kids' reach.

YouTube Kids. Made for curious little minds.

[YouTube Kids Support >](#) [Application License Agreement >](#)

Screenshots

iPhone | iPad



<https://itunes.apple.com/us/app/youtube-kids/id936971630?mt=8>

1/2

2/25/2015

YouTube Kids on the App Store on iTunes



[Gmail - email from Google](#)
[View In iTunes >](#)



[Google Drive - free online sto...](#)
[View In iTunes >](#)

Customer Reviews

Good but not without problems ★★★
by thejohnstoncrew

While this version greatly limits bad content, within a few hours my child found Minecraft videos that also showed content about Five Nights at Freddy's. This is a horror video that should never be shown to children. You should give parents the ability to remove certain content or provide a forum to report inappropriate content so that they can
[...More](#)

Thank you! Finally my mind is at ease ★★★★★
by kjbowling

I have been struggling with my 8 year old for awhile now and despite all the restrictions and content monitoring I could never get the videos on regular you tube restricted enough. Agree as one review said you can get to the Freddie videos but trust me this is the lesser of the evils. The app is awesome, amazing and the user interface is
[...More](#)

A Free App Worth a Million ★★★★★
by lamGreemy

Thanks, Google. Absolutely love the new app and so does my 8 month old granddaughter. There's so much about this app I love and very little I don't. I see some complaining about ads, but someone has to pay for the app. Besides, there are very few of them and most are for the websites included in this app. The content in this app is just
[...More](#)

App Store on Facebook and Twitter



Discover and share new apps.
Follow us on @AppStore.



11m

iTunes on Facebook



Discover and share new music, movies, TV, books, and more.



33m

iTunes on Twitter



Follow us @iTunes and discover new iTunes Radio Stations and the music we love.



iTunes

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Features
iTunes Charts

More iTunes
Digital Music Basics
iTunes Gifts
iTunes U
iPod + iTunes Support
AirPlay
Accessibility

Working with iTunes
Overview
Sell Your Content
Enhance Your Content
Market with iTunes
Link to iTunes

iTunes Store
Browse iTunes Store
Browse App Store
Buy Music Now
Buy iTunes Gift Cards
Redeem iTunes Gift Cards
iTunes Corporate Sales
Free Single of the Week

Shop the [Apple Online Store](#) (1-800-MY-APPLE), visit an [Apple Retail Store](#), or find a [reseller](#).

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EXHIBIT 3

FCC Consumer Guide outlining children's television rules and policies



Children's Educational Television

Background

Recent data indicates that children in the United States on average spend more than three hours a day watching television. This invited "guest" into our homes has the potential to significantly shape our children's development. In view of this, Congress determined that broadcast television stations – both commercial and non-commercial – have an obligation to offer educational and informational children's programming. In addition, television licensees, cable operators and satellite providers must limit the amount of commercials aired during children's programs.

In 1990, Congress enacted the Children's Television Act (CTA) <http://thomas.loc.gov/cgi-bin/bdquery/z?d101:HR01677:@@L&summ2=m&> to increase the amount of educational and informational programming for children available on television. The CTA requires each broadcast television station in the United States to serve the educational and informational needs of children through its overall programming, including programming specifically designed to serve these needs ("core programming"). It also limits the amount of time broadcasters and cable operators can devote to advertisements during children's programs.

The Federal Communications Commission (FCC) has adopted rules and guidelines to carry out the CTA's educational programming mandate. Under the FCC's rules and guidelines, television stations must:

- air at least three hours per week of core programs;
- identify core programs by displaying the symbol E/I throughout the program; and
- provide parents and consumers with advance information about core programs and when they are being aired.

Core Programming

Core programming is specifically designed to serve the educational and informational needs of children 16 years of age and under, including the child's intellectual/cognitive or social/emotional needs. In addition, core programming:

- serves the educational and informational needs of children as a significant purpose;
- is at least 30 minutes in length;
- is aired between the hours of 7:00 a.m. and 10:00 p.m.;
- is a regularly scheduled weekly program; and
- is identified as specifically designed to educate and inform children by the display of the symbol E/I on the television screen throughout the program.

Getting Information about Children's Programming

A central goal of the FCC's rules is to provide parents and other members of the public with more information about educational television programming. This information helps parents guide their children's television viewing and also encourages an ongoing dialogue between the public and TV stations about TV station performance under CTA.



To help accomplish this, the FCC's rules require commercial television stations to identify a core educational program by displaying throughout the program the "E/I" symbol denoting that the program is a core educational and/or informational program. Commercial television stations must also provide information identifying these programs to publishers of program guides and TV listings.

The rules also require commercial TV stations to complete and file with the FCC quarterly reports regarding their educational programming and to make these reports available to the public. These reports - Children's Television Programming Reports (FCC Form 398) - identify the station's core programs and other efforts to comply with their educational programming obligations. The reports can be obtained from the station's online public inspection file at <https://stations.fcc.gov> or from www.fcc.gov/encyclopedia/childrens-educational-television-reporting-form-398. More information is also available at www.fcc.gov.

Commercial Time Limitations

The FCC's rules limit the amount of commercial matter that can be aired in certain children's television programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. These requirements apply to television broadcasters, cable operators, and satellite providers. These limitations are prorated for programs that are shorter than one hour in duration. The programming at issue for the commercial time limits is programming originally produced and aired primarily for an audience of children 12 years old and younger.

Commercial television broadcasters are required to place in their local public inspection files certification that they have complied with the commercial time limits. Alternatively, they must identify any overages. At the time the station files an application to renew its FCC license, it must certify that no commercial overages occurred during the license term, or it must explain any overages.

The commercial time limits do not apply to non-commercial educational television stations because these stations are generally prohibited from airing commercials. Cable operators and satellite providers must also maintain records to verify compliance and make these records available for public inspection.

The FCC also requires that, in television programs directed to children ages 12 and under, program material be separated from commercials by intervening and unrelated program material. The purpose of this separation policy is to protect young children who have difficulty distinguishing between commercial and program material and are therefore more vulnerable to commercial messages. If a program fails to adequately separate program and commercial material, the entire duration of the program may be counted as commercial material (a "program-length commercial").

Additional Children's Programming Obligations

Since adopting its initial children's programming rules, the FCC has extended its children's educational and informational programming obligations to digital broadcasters and has restricted the display of commercial website addresses during children's programming. Digital broadcasters must air at least three hours per week of core programming on the station's main programming stream. In addition, for digital broadcasters that choose to multicast more than one stream of video programming, the minimum amount of core programming the station must air increases in proportion to the amount of free video programming offered by the broadcaster on multicast channels.

In addition, the FCC's limit on the amount of commercial matter (10.5 minutes per hour on weekends and 12 minutes per hour on weekdays) applies to all digital video programming, free or pay, directed to children 12 years old and under.



Finally, the display of Internet website addresses during programs directed to children ages 12 and under is permitted only if the website meets the following criteria:

- it offers a substantial amount of bona fide program-related or other non-commercial content;
- it is not primarily intended for commercial purposes, including either e-commerce or advertising;
- the website's home page and other menu pages are clearly labeled to distinguish the non-commercial from the commercial sections; and
- the page of the website that viewers are directed to is not used for e-commerce, advertising or other commercial purposes (for example, contains no links labeled "store" and no links to another page with commercial material).

What Is "Host Selling?"

The Commission's "host-selling policy" prohibits the use of "program talent or other identifiable program characteristics to deliver commercials" during or adjacent to children's programming featuring that character. The FCC also restricts host selling in websites where the website address is displayed in a children's program.

Television broadcasters and cable operators can not display website addresses during or adjacent to a children's program if, on website pages with non-commercial content regarding that program or a program character, products are sold featuring a character in the program, or a program character is used to sell products. These website requirements apply to both analog and digital programming.

The display prohibition applies only when website addresses are displayed during program or promotional material not counted as commercial time. It does not apply to certain public service announcements, station identifications and emergency announcements.

For more information on children's television issues, please visit the FCC's Parents' Place website at www.fcc.gov/parents.

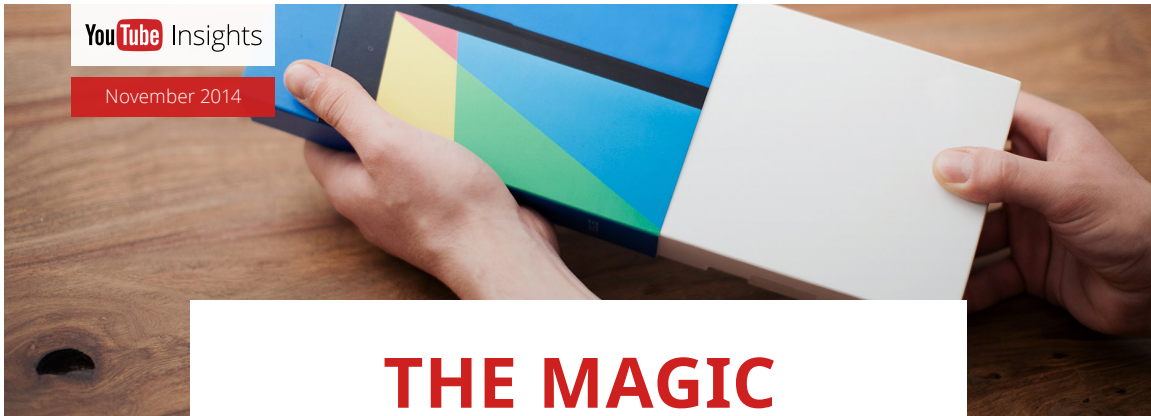
Filing a Complaint with the FCC

If you believe that any of these rules have been violated, you can file a complaint using an online complaint form found at www.fcc.gov/complaints. There is no charge for filing a complaint. You also can file your complaint with the FCC's Consumer Center by calling 1-888-CALL-FCC (1-888-225-5322) voice or 1-888-TELL-FCC (1-888-835-5322) TTY; faxing 1-866-418-0232; or writing to:

Federal Communications Commission
Consumer and Governmental Affairs Bureau
Consumer Inquiries and Complaints Division
445 12th Street, SW
Washington, DC 20554



EXHIBIT 4
“The Magic Behind Unboxing on YouTube”



**THE MAGIC
BEHIND UNBOXING
ON YOUTUBE**

THE **RUNDOWN**

The holidays are just around the corner, which means the anticipation of giving and getting gifts is growing fast. That anticipation can be felt on YouTube, too, where unboxing videos have gotten 57% more views since last year. Many are still user-generated videos, but brands are starting to get in on the action, playfully showcasing products in all of their freshly unopened glory. Consider how unboxing videos might help your brand connect with consumers.

think with **Google**

Unboxing is a growing phenomenon

The holidays are just around the corner, which means the anticipation of giving and getting gifts is building with each day we cross off the calendar. That anticipation is felt everywhere: From town squares adorned with holiday decorations to picturesque window displays, and even on YouTube, where unboxing videos are watched and uploaded with increasing popularity.

Unboxing video views have grown 57% over the past year, and uploads have grown more than 50%. But it's not just the growth in the unboxing genre that's impressive—it's the sheer volume, too. It would take more than seven years to watch all the videos on YouTube with "unboxing" in the title that have been uploaded so far just this year. And those videos have more than a billion views in this year alone.



57% growth in unboxing
video views since last year

Source: YouTube data, 2013–2014, videos with unboxing in the title.

Unboxing is a genre of videos on YouTube where people quite literally unbox a product to get a feel for it. Many are user-generated videos, but brands are starting to get in on the action, too. These videos not only document the experience of opening a product, but they often dramatize it and, in turn, take on a quirky, playful spirit, showcasing products in all of their freshly unopened glory. As of Nov. 17, there are more than 20 million search results on YouTube for "unboxing." Now one in five consumers¹ report that they've actually watched an unboxing video, according to Google Consumer Surveys. What is the magic behind unboxing, really? How can marketers make sense of this intriguing genre of videos to better connect with their consumers on YouTube?

¹Source: Google Consumer Surveys, October 2014.

Unboxing fuels anticipation and provides useful product information

To dig into these questions, we turned to the data behind YouTube unboxing videos, looking at watchtime and views for 2013 and 2014 to characterize trends. The results, combined with Google Consumer Surveys of 1,500 consumers conducted in October 2014, show that the magic behind unboxing videos might be connected to the feeling of anticipation we get in watching them. This becomes especially apparent when we consider that unboxing videos are most often watched during the holiday season, when giddy, child-like anticipation is running high anyway. In fact, 34% of the views² for unboxing videos related to food, electronics, toys and beauty/fashion happen in the October to December time frame—that's 1.5x higher than the average volume of unboxing video views in other quarters.

More than the emotional feeling that unboxing videos elicit, there's also a practical side to them. We found through research with TNS and Ogilvy earlier this year that [66% of recent purchasers](#) of beauty products said YouTube allowed them to visualize the product they're going to buy. So it's no surprise that according to the recent Google Consumer Surveys, 62% of people who view unboxing videos³ do so when researching a particular product. In this sense, unboxing videos can help marketers build anticipation while providing useful product information during the holiday season (and even beyond).

1. Spans all categories

You may think that unboxing videos are just for electronics and gadgets. It's true, those categories are wildly popular for unboxing videos. But these days, there are unboxing videos for just about any category imaginable. From clothing and lipstick to toys and even food, unboxing videos span all types of products. Regardless of what your products are, if they're tangible, you should consider how unboxing videos might play a role for your brand.

²Source: YouTube data, October 2013–2014, videos with unboxing in the title.

³Source: Google Consumer Surveys, October 2014.

 Three fast-growing unboxing categories



Food & Drink
+42%



Fashion & Style
+90%



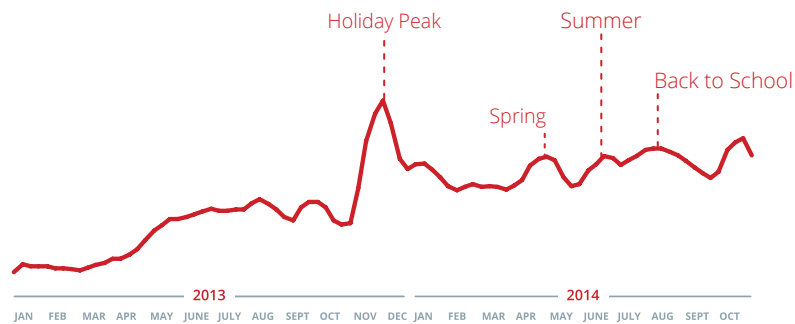
Mobile Phones
+200%

Source: Google Trends data, September 2013–2014, unboxing queries on YouTube.

2. Relevant year-round

As a marketer, unboxing videos should definitely be on your radar for the holiday season, but there's an opportunity to think about them playing a role for your brand year-round, too. While toys, food and electronics unboxing videos see a definite holiday spike, we see pretty steady viewership of unboxing videos throughout the year. This presents an opportunity for marketers to tap into the anticipation that builds around cultural moments and seasons throughout the entire year from summer and spring to Black Friday and Back to School.

When are we unboxing?



(Aggregate time spent watching Electronic, Fashion/Style, Food and Toy related unboxing videos)

Source: YouTube data 2013–2014, videos with unboxing in the title.

Making the most of the unboxing phenomenon

The magic behind unboxing videos is that they tap into the child-like anticipation we all feel for something shiny and new. But the videos are practical, too, giving consumers a look into what exactly they can expect when they get a product off the shelf and into their hands. To take advantage of the unboxing phenomenon for your brand, keep the following tips in mind:

UNBOXING IS RELEVANT FOR NEARLY ANY PRODUCT



If you thought unboxing videos were only for people who geek out over gadgets, think again. We're seeing unboxing videos in just about every category. So chances are, if you have a tangible product, you should be thinking about how you can create unboxing videos to connect with your audience. From the super simple to the intricately detailed and overly dramatic, unboxing videos run the gamut of styles. Take, for example, the recent ["Experience the power of a bookbook"](#) video by IKEA. This parody video is a great example of a brand leveraging the unboxing genre in a fresh new way.

THINK OUTSIDE THE [HOLIDAY] BOX



Look for occasions in your marketing calendar when anticipation runs high—definitely around the holidays, but even beyond. Spring break, summer vacation, Valentine's Day and even Back to School are just a few of the relevant moments you might start to consider. And don't forget about your product launches. As a starting point, ask yourself when people feel excited about your brand, and think about when unboxing videos can play a role. Sony, for example, created a [cinematic unboxing video](#) for the release of its eagerly awaited PlayStation 4 to connect with its audience in a highly relevant and anticipatory moment.

EXHIBIT 5

Kidscreen article: “How YouTube is changing the face of toy marketing”

3/24/2015

How YouTube is changing the face of toy marketing » Kidscreen



How YouTube is changing the face of toy marketing



February 9, 2015 by [Gary Busak](#)

A new class of tastemakers is disrupting the world of toy marketing. And the seat of power in the evolving landscape is being filled largely by kids. Handles like EvanTubeHD, KittiesMama and MommyandGracieShow are becoming very familiar to those in the toy industry, after 2014 witnessed the incredible flowering of YouTube as a platform of powerful influence. Disney, for one, got in seemingly early with the US\$500-million acquisition of



Maker Studios last March. The Culver City, California-based outfit provides production and marketing services to independent video creators, and Disney's purchase is an indication of just how much the world's largest entertainment licensor values the growing clout of YouTube. "It's a totally new way of advertising," notes BMO Capital Markets analyst Gerrick Johnson, who specializes in the toy biz. "[The YouTube channels] are becoming more and more important."

Unboxing the hits

There is one name that looms large above all others in this space—EvanTubeHD. The affable eight-year-old (pictured) boasts more than a billion views across his three dedicated channels, and an ever-growing subscription base that recently surpassed one million. What started out as a lark has, in fact, become a booming industry. EvanTubeHD's short-form videos are stunningly simple. They consist of an off-camera adult voice (Evan's dad and video producer Jared) engaging the charming youngster as he reviews toys with an infectious mix of enthusiasm and wonder.

The EvanTubeHD channel debuted in 2011. Although the star's last name and location are a tightly guarded secret, his charisma is on display for all to see. The channel's popularity is also aided by its partnership with YouTube talent hive Maker Studios. Founded in 2009, the aforementioned Disney-owned studio currently has a network of sites that includes more than 55,000 independent creators, working in more than 100 countries, and attracts an estimated nine billion views every month.

"The creator-consumer market has exploded," says Bonnie Pan, EVP of programming at Maker. "Companies are looking to us for the opportunity to show their toys." And along those lines, Toronto, Canada-based toyco Tech 4 Kids was among the first companies to harness the power of EvanTubeHD.

"We identified him early on and were able to get exposure for our Mash'ems Angry Birds line," says Brad Pedersen, president and CEO of Tech 4 Kids. He first heard of EvanTubeHD around the Christmas season of 2012, when a member of the company's marketing team mentioned the channel during one of its regular weekly roundtables. "He had been combing through YouTube and said there was a cute kid who told a good story," Pedersen recalls. "We then sent Evan some toys—it was as simple as that."

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From that discovery—and the minimal shipping costs incurred—Pedersen estimates that EvanTubeHD's review of the Angry Birds Mash'ems line received upwards of 80 million total views, helping to establish the toys and give the company serious leverage at retail. "We had a good run with Evan," Pedersen remarks.

With the invaluable help of Maker, EvanTubeHD now resides in the penthouse level of the YouTube influencer community. Evan has inked deals with Toronto, Canada-based Spin Master to promote its Spy Gear line and a number of other products. Additionally, retailer Toys 'R' Us has also signed on as a channel sponsor in a package that features filmed field trips to local TRUs with the company's logo displayed in the lower right corner of each video. There are unconfirmed estimates that the grade-schooler pulls in more than US\$1 million a year through his channel views, sponsorship deals and endorsements.

But this story does not begin and end with EvanTubeHD. There is a plethora of reviewers and unboxers who have found a substantial online audience. The unboxing videos, as the name implies, typically feature not much more than a pair of hands opening a package and describing the toy as it's revealed. The most popular channels in this category include Maker Studios' ToysReviewToys and indie DC Toys Collector, a channel operated by a 21-year-old Westchester, New York woman whose manicured digits have entranced 3.5 million subscribers and attract more than 400 million views a month.

Other popular channels include DisneyCarToys, the number-two YouTube toy channel in the world, boasting 1.4 million subscribers. It features short-form videos that essentially show kids playing with, and creating their own stories from, Disney-themed toys.

With these big subscription numbers, it might be difficult for toy marketers to keep in mind that there is much to be gained from seeking out smaller content creators, who also have a potent connection with their audience. "There is nothing that takes the place of paying attention," explains [Bill Graham](#), VP of business development at Jazwares, the Sunrise, Florida-based toyco that licenses Minecraft and has had a successful online campaign for its own IP, Fliptastic Bungees. "I think a lot of people are looking at it like the Wild West again," he says. "There are a lot different people to embrace."

Krista DiBerardino, CMO of Toronto, Canada-based Spin Master, says the company casts a wide net with its outreach efforts. "We provide product to between 300 and 400 different influencers," she says. "We are always on the lookout to see who is the most appropriate for us and who we should reach out to."

Right product, right channel

An example of a successful partnership between an online personality and a toyco is Spin Master's Chatster campaign with 11-year-old YouTuber Sophia Grace. Her girl-skewing musical channel SofiaGraceBrownlee was first propelled into the spotlight by US daytime talk show host Ellen DeGeneres, who took a liking to Grace's pop music cover performances. Since Grace's appearance on Ellen, SofiaGraceBrownlee's popularity has skyrocketed and it currently has more than 600,000 subscribers. Last year, Spin Master inked a partnership with Grace to promote its Chatster interactive doll on her channel in the run-up to the product's debut at New York Toy Fair. "We felt it was a good fit for the product," says DiBerardino, adding that there was a close alignment of content, tone and demographic.

Tech 4 Kids' Pedersen says he looks beyond raw subscription numbers and has found success by digging deeper into the YouTube universe. "There is RadioJH Audrey who has 243,000 subscribers," he says, indicating that the number is a fraction of EvanTubeHD's haul. "But we know she is a big fan of our Squishy Pop products, so the partnership made sense." He adds that having an ear to the ground can pay off when a company places the right product on the right channel.

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Seeking out the most appropriate partners is one way to navigate the sheer number of players and exponential growth of online video, says Victor Lee, VP of digital marketing at Pawtucket, Rhode Island-based Hasbro. Making prudent decisions about who to partner with is the name of the game.

"We are really picky in terms of finding the right person," he says, explaining that label-slapping is as ineffective in this medium as any other. "We don't want it to feel like wallpaper," he says. "It's not just 'insert your brand here.' That won't work. The partner has to match the brand in terms of tone and voice."

Like authentic, authentic

There is a single characteristic that ties together both the big-name reviewers and unboxers and their more niche counterparts—authenticity.

"There are a few elements that make EvanTube, for example, stand out," explains Maker Studios' Pan. "He is incredibly authentic. He tells a full story that has a beginning, middle and end. His expression of joy, wonder and surprise when he is opening up a toy is really what connects with an audience."

Spin Master's DiBerardino agrees that the key to the success of any YouTube celebrity is a quality that cannot be faked. "Kids want authenticity and they want to be entertained," she says. "They hunger for that real authentic voice."

For a generation brought up in an environment inundated with commercial messaging, the siren song of an authentic voice is proving hard to resist. Marc Rosenberg, a toy marketing veteran who is currently the CEO of SkyBluePink Concepts, chalks up the growing popularity of the low-tech reviewers to a level of media literacy among kids that has far outpaced that of their parents.

"As a marketer, I feel like I can fool any parent into thinking that some toy is absolutely necessary for them to buy for their kid," he says. "But I can't fool a seven-year-old for one second. They are just smarter and more intuitive—and you have to respect that."

[Carol Spieckerman](#), president of the Bentonville, Arkansas-based retail consultancy newmarketbuilders, sees it in starker terms. "Authenticity is a key word with these YouTube stars," she says. "The advertising piece is obscured because it is an authentic medium. If you make it brand-forward, you are going to miss out on something."

The inherent contradiction

Toycos are by-and-large reluctant to disclose the terms of their deals with YouTube influencers—though it appears that everything is pretty much on the table. "Some [online talent] take toys as compensation, some take straight-up compensation," explains Pedersen. "We consider both options and take it on a case-by-case basis."

But a paradox emerges pretty quickly—while YouTube stars have the subscription numbers to support their influencer status, their viewers expect them to maintain independent and objective perspectives. Closely aligning with brands, then, can destroy the very thing that makes influencers popular in the first place.

"When you get people who think they are going to turn this into a business relationship, the fanbase goes away very quickly," says Rosenberg. Similarly, Pan says that toycos partnering with Maker's channels are cognizant of the nature of the appeal of key talent, and accordingly use a light touch. "Our creators are so authentic, that the deals are about providing access. It's not endorsement," she contends.

Jim Silver, editor-in-chief and CEO of *Time to Play* magazine, says marketers are only now finding their footing in this new and evolving landscape. "It's still a grey area," he says. "If

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reviewers are being paid for their reviews, well, that changes everything."

Conversation starters

The rise of EvanTubeHD and its ilk indicates a more sweeping realignment of the relationship between consumers and brands. In fact, a "give-and-take" between consumers and brands has emerged that never existed before. Perhaps the real power of influential YouTube reviewers and unboxers is their ability to initiate this new conversation. However, it is up to the companies themselves to engage and react once the dialog starts flowing.

"We aren't shouting at our consumers," explains Hasbro's Lee. "In this day and age, brands don't drive brands, consumers drive brands."

This sea change is illustrated by the architecture of every YouTube posting. Although it is taken for granted now, the fact that each video page contains a comments section is telling.

"The difference between marketing now and marketing when I started 25 years ago is that now it's a two-way dialog," says Rosenberg. "When you put a product out there, you have to realize that it is the beginning of a conversation." He adds that successful brands are now learning to embrace the dialog, rather than cling to the notion that they must control every aspect of a brand's message. "You have to have a thick skin," he adds. "You have to realize that a few negative comments won't destroy your business."

DiBerardino says Spin Master has adopted methods to better participate in the emerging two-way discussion. "We do a great deal of social listening," she says. "We want to be able to react and know when opportunities present themselves."

There are many examples of how the new paradigm has already altered the toy landscape. For instance, Hasbro recently crowd-sourced new Monopoly pieces and added words to its Scrabble dictionary at the behest of vocal consumers.

A good illustration of both the power and unpredictability of this new landscape can be found in a simple uploading accident on the Tech 4 Kids' YouTube page. "We mistakenly posted an [unfinished] ad online," recounts Pedersen. "All of sudden, we noticed that people really liked it and it really took off." The component that went viral was a spoken "squish, squish" sound bite being used as a placeholder in the ad until a slicker, more professional sound effect could be inserted in post-production. "It was a total mistake, but it was really compelling to the audience," he says. The video, posted in March 2013, now has more than 750,000 views with hundreds of associated comments. "We ended up utilizing some of the comments and incorporating them into our next marketing campaign," he adds.

There are a number of takeaways from Pedersen's story. First, there is no formula or metric that can predict what will resonate online. "If you look at the top 10 videos of 2014 on YouTube, you just can't put a line through all 10 and say what makes them work," says Hasbro's Lee. "Some are heavily produced, some are totally random. It's impossible to pin down."

Second, brand owners can no longer expect to control their message, and perhaps more importantly, the way that the message is received. "There are a lot of touch points," says Rosenberg. "The way kids are interacting with them isn't in a straight line."

Retail extension The industry is now left to ponder whether or not these new touch-points can be extended into the retail environment, and ultimately to product sales. Retailers are continuing to develop experiential formats to drive foot-traffic in their physical locations, so

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has been leading the way with its sponsorship of EvanTubeHD videos, indicating that the retailer is taking the power of this new platform to heart. Whether a more comprehensive integration is in the cards, though, is a matter of debate.

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"Retailers usually have to make their plans 12 to 18 months in advance," says Silver. "How long are these kids going to last? On the internet, one day you're hot and the next you're not." He posits that the biggest retailers will shy away from investing too deeply in the unboxer and reviewer tier of YouTube stardom because the currency of online popularity is too fickle to warrant the dedication of bricks-and-mortar shelf space. "These kids are going to grow up, and then what?"

However, Spieckerman believes that retail has evolved into a far more nimble enterprise in just the last few years. "Maybe the traditional wisdom is that retailers are old and clunky and resistant to change," she says. "But they have become more agile. I would say it's more the rule than the exception to do short-term planning and develop quick, opportunistic relationships."

Additionally, major retailers like Walmart are already heavily invested in the short-form video format along with other content plays. Spieckerman points to Walmart's extensive "Made in America" campaign and its localized price-comparison videos. "Walmart is doing an excellent job right now," she says. "People are engaged with its video content. It can be done on a shoestring budget, and the videos score real authenticity points."

She contends that retailers are searching for brand owners that are willing to complement the retailers' own content strategies. The biggest opportunity lies in creating a tighter connection between retailers, brands and online influencers. "Retailers are hungry for a plan that will connect these different touch points," she says. "It can be a fruitful extension for retail to tie in with well-known YouTube stars; to bring that environment where it has never been before."

For Maker Studios, a predominate gatekeeper of online power in the kids space, it's an intriguing proposition. "That would be great," says Pan. "Having a space in a toy store where people can see the content in real time. I think it would ultimately push more product."

This article originally appeared in the February/March 2015 issue of Kidscreen

Tags: [Disney](#), [EvanTubeHD](#), [KittiesMama](#), [MommyandGracieShow](#), [SofiaGraceBrownlee](#), [Spin Master](#), [Toy Fair](#), [Toy unboxing](#), [Toys 'R' Us](#), [YouTube](#)

EXHIBIT 6

Disney's Maker Studios Signs 5 Toy-Review YouTube Channels | Variety

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NOVEMBER 25, 2014 | 11:35AM PT

Todd Spangler
NY Digital Editor
[@xpankler](#)

Disney-owned [Maker Studios](#) has signed five popular toy-review channels on [YouTube](#), which the multichannel network plans to bring more closely into the Mouse House merchandising fold.

Request for Investigation of YouTube Kids

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Disney's Maker Studios Signs 5 Toy-Review YouTube Channels | Variety

The five YouTube channels — DisneyCarToys, HobbyKidsTV, TheEngineeringFamily, ToysReviewToys and AllToyCollector — rank among the top 40 toy channels worldwide, according to Maker. While content on the channels has featured Disney toys and products, the channels were not affiliated with the Walt Disney Co. prior to the new pacts with Maker, the multichannel network operator said.

DisneyCarToys (pictured above) ranks as the second-largest toy creator YouTube channel with 1.1 million subscribers. No. 1 is DisneyCollectorBR, which counts 3 million followers with nearly 4 billion views to date (and isn't affiliated with Maker).

Under the deals, Maker will work with the YouTube channel creators to optimize content and line up branded-content partnerships, including via programs that span Disney divisions. In addition, videos from the five channels will be syndicated across Maker's proprietary web platforms, including Maker.tv.

"Toy review channels have captured the imaginations of families around the world and become the authority on the hottest toys on the market, as well as one of the fastest-growing genres of family programming online," Maker chief audience officer Chris Williams said in announcing the pacts.

[Disney bought Maker Studios](#) earlier this year in a deal worth up to \$950 million.

The MCN's five new toy-review partners are:

- [DisneyCarToys](#): Features toys from popular movies like "Frozen" and "Cars," plus TV shows like "Mickey Mouse Clubhouse" and "Peppa Pig," with narrative content from the perspective of the toys (140 million monthly views)
- [HobbyKidsTV](#): Covers toys and games including Play-Doh and Legos with toy unboxings, reviews and hands-on play videos (58 million monthly views)
- [TheEngineeringFamily](#): Videos span range of toys for the whole family, from Disney princess toys to Play-Doh (60 million monthly views)
- [ToysReviewToys](#): Sister channel to DisneyCarToys that focuses on toy unboxing and reviews including "Mickey Mouse Clubhouse" toys, Play-Doh and Barbie (30 million monthly views)
- [AllToyCollector](#): Covers toys for all ages with videos featuring characters from Disney's "Frozen," "Brave," "The Little Mermaid" and the Disney princesses (20 million monthly views)

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EXHIBIT 7 YouTube Kids Advertising Policy

Advertising on YouTube Kids - YouTube Help

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Advertising on YouTube Kids

All advertisements in the YouTube Kids app must comply with the advertising policies outlined below as well as YouTube's general [advertising policies](#). This applies to both Google and partner-sold ads. Additionally, advertisements must comply with applicable laws and regulations (including any relevant self-regulatory or industry guidelines). **All ads must be pre-approved by YouTube's policy team prior to serving in the YouTube Kids app.**

Ad Format Requirements

- Format: At this time we only accept the in-stream video ad format in YouTube Kids.
- Maximum time length: 30 seconds for non-skippable and 60 seconds for skippable.
- Destination URLs: Destination URLs and outbound links (including call-to-action overlays and infocards) are disabled from the app. Ads in YouTube Kids will not be clickable.
- Site-served: All ads must be hosted on YouTube. Third-party served ads are prohibited.

Ad Targeting and Data Collection

- We prohibit interest-based advertising in YouTube Kids.
- Ads with remarketing or other tracking pixels are prohibited.

Restricted Product Categories

Ads for the following products are prohibited in YouTube Kids.

Age Sensitive Media Content

Beauty and Fitness

Dating or Relationship

Food and Beverages

Products related to consumable food and drinks are prohibited, regardless of nutrition content.

Illegal or Regulated Products

<https://support.google.com/youtube/answer/6168681>

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