

Before the
FEDERAL TRADE COMMISSION
Washington, DC 20580

In the Matter of)
)
Request for Investigation of Mobbles)
Corporation's Violation of the Children's)
Online Privacy Protection Act in Connection)
with the Mobbles Mobile Application)

COMPLAINT AND REQUEST FOR INVESTIGATION

Submitted by

Center for Digital Democracy

Of Counsel:

Jessica Wang
Georgetown Law Student

Angela J. Campbell
Laura M. Moy
Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, NW
Suite 312
Washington, DC 20001
(202) 662-9535
Counsel for Center for Digital Democracy

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The Center for Digital Democracy (“CDD”), by its attorneys, the Institute for Public Representation (“IPR”), asks the Federal Trade Commission (“FTC”) to investigate and bring an action against Mobbles Corporation for operating the mobile application Mobbles in violation of the Children’s Online Privacy Protection Act (“COPPA”).

I. Background

Today, children are using mobile applications more than ever before. Indeed, the *Wall Street Journal* reported in June 2012 that 60% of children age 8 to 11 use phone apps, a 40% increase from 2011.¹ Many children have their own smartphones.² And this

¹ Anton Troianovski, Spencer E. Ante and Jessica E. Vascellaro, *Mom, Please Feed My Apps!*, *The Wall Street Journal* (June 11, 2012), <http://online.wsj.com/article/SB10001424052702303753904577452341745766920.html>. Children now have access to 12 mobile device apps on average. Children also spend approximately five days a week using mobile devices. *An Average of 12 Downloaded Apps Currently on mobile Devices Used by Children*, NPD Group (May 22, 2012), https://www.npd.com/wps/portal/npd/us/news/press-releases/pr_120522/.

² According to research by The Pew Center’s Internet and American Life Project, 43% of teens with cell phones received their phones before they were thirteen, and 10% of twelve year-olds with cell phones received their first cell phone before they were ten. Amanda Lenhart, *Is the Age at Which Kids Get Cell Phones Getting Younger?*, The Pew Research Center’s Internet & American Life Project (Dec. 1 2010), <http://pewinternet.org/Commentary/2010/December/Is-the-age-at-which-kids-get-cell-phones-getting-younger.aspx>.

number is likely to increase. A recent Nielsen survey found that 48% of children aged 6 through 12 wanted an iPad for the holidays, 36% wanted an iPad Mini, 36% wanted an iPod touch, 33% wanted an iPhone, and 16% wanted an Android Smartphone.³ Children can easily download apps and make in-app purchases, often without their parents' knowledge.⁴

Mobbles is a mobile application directed at children that is available for Apple and Android devices. It is a location-based game in which children collect, trade, and play with virtual pets. Because Mobbles collects personal information from children without providing any notice to parents and without even attempting to obtain prior, verifiable parental consent, CDD requests that the FTC investigate this application and take action to ensure compliance with COPPA.

A. Mobbles Corporation

Mobbles Corporation owns and operates the Mobbles virtual pet game. The Mobbles Corporation is incorporated in Delaware.⁵ The company was co-founded by Alexandre Curtelin, Pierre-Olivier Marec and Frédéric Hélie and incubated by i/o Ventures during its summer 2011 startup development program. The i/o Ventures startup program provides mentorship, seed money, and exposure to investors.⁶ Through the i/o

³ *U.S. Kids Continue to Look Forward to "iHoliday,"* Nielsenwire (Nov. 20, 2012), <http://blog.nielsen.com/nielsenwire/consumer/u-s-kids-continue-to-look-forward-to-iholiday/>.

⁴ One million children age 6 to 12 made in-game purchases from January to June 2012, according to research firm Interpret LLC. Troianovski, *supra* note 1.

⁵ *Mobbles Trademark Application* (Feb. 28, 2012), <http://tsdr.uspto.gov/documentviewer?caseId=sn85554433&docId=APP20120302065546>.

⁶ *Mobbles Lets Smartphone Owners Capture, Collect and Trade Cute Virtual Creatures*, Business Wire (May 30, 2012), <http://www.businesswire.com/news/home/20120530006331/en/Mobbles-Lets->

Ventures incubation program, Mobbles raised half a million dollars.⁷ Mobbles Corporation’s current investors include U.S. Venture Partners, a technology-focused venture capital firm that has invested in over 450 companies.⁸

Mobbles became available on iTunes and the Google Play store in May 2012.⁹ To date, Mobbles has ranked among the top 100 grossing “Entertainment” iTunes apps in 24 countries, and among the top 10 in ten countries.¹⁰ In the United States, Mobbles has ranked in the top 500 downloaded entertainment apps and among the top 100 grossing entertainment apps in iTunes. Tens of thousands of persons have downloaded the app from the Google Play store alone over the last 30 days in the United States.¹¹

B. The Mobbles Game Experience

Mobbles features animated virtual pets that children can hatch from purchased eggs, “capture” from real locations all over the world, and trade with each other. The object of Mobbles is to collect as many Mobbles as possible, and to care for them and help them evolve to new levels. Like other popular virtual pet games such as Neopets, Mobbles requires children to take care of their pets daily. Children feed and bathe their Mobbles,

Smartphone-Owners-Capture-Collect-Trade; Alexia Tsotsis, *Meet the Newest Startup Brood From i/o Ventures*, TechCrunch (June 28, 2011), <http://techcrunch.com/2011/06/28/meet-the-newest-startup-brood-from-io-ventures/>.

⁷ Business Wire, *supra* note 6.

⁸ *Our Portfolio*, U.S. Venture Partners, <http://www.usvp.com/portfolio>; *About Us—The Short Story*, U.S. Venture Partners, http://www.usvp.com/our_firm/the_short_story.

⁹ *Mobbles*, <http://www.mobbles.com/>.

¹⁰ *Mobbles Rank History*, App Annie, <http://www.appannie.com/app/ios/mobbles/ranking/history/>.

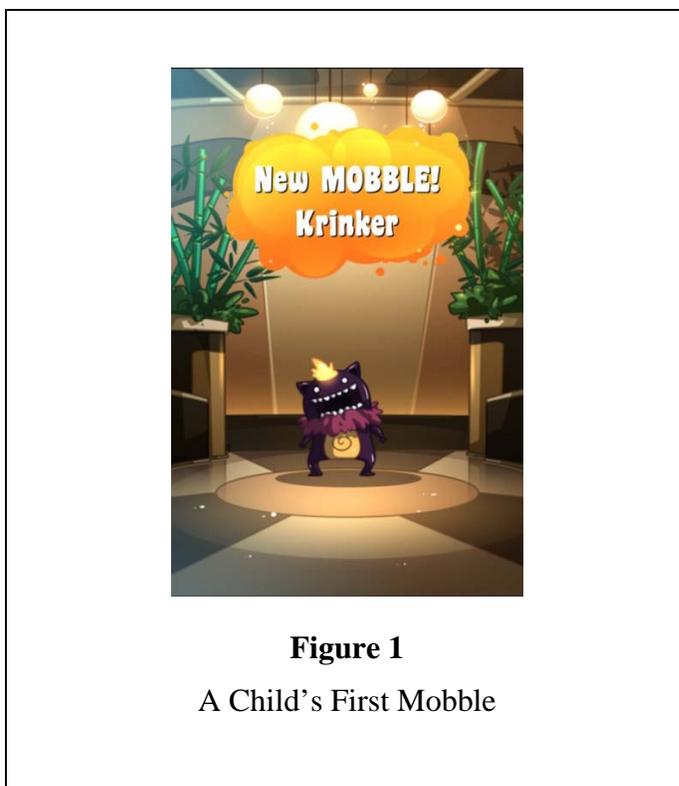
¹¹ *Mobble—Android Apps on Google Play*, Google Play, https://play.google.com/store/apps/details?id=com.mobblesgames.mobbles&feature=search_result#?t=W251bGwsMSwxLDEsImNvbS55tb2JibGVzZ2FtZXMuW9iYmxlcjJd [hereinafter “Mobbles Google Play Page”].

play with them, and put them to sleep. With continual play and care, the Mobbles evolve and children can unlock features like clothing and new rooms for their Mobbles.

Mobbles is currently offered for free in the iTunes store, where it is categorized as a children's app rated for ages "4+" and in the Google Play store, where it is rated for a "low maturity" audience.¹² Mobbles does not rely on advertising to provide revenue; instead, the game is monetized through in-app purchases of MobbDollars.

When a child downloads the game and opens it for the first time, she receives an egg that hatches a Mobble. A typical beginner Mobble is the small pet named Krinker, featured in Figure 1. Krinker is a toothy purple creature with a bright yellow flame spouting from its head. The child feeds pets such as Krinker by dragging food items from an inventory box and bathes them by dragging a sponge over them. Children can play with their Mobbles using the touch screen, flicking a finger to bounce them, rubbing to tickle them, and handing them a toy from the inventory box. Each Mobble has its own personalized toy. For example, the Hawaiian-themed dinosaur Sploon has a ukulele.

¹² The iTunes page for Mobbles is reprinted in Appendix A, *infra* p. A-1, and the Google Play page in Appendix B, *infra* p. A-2.



To “catch” additional Mobbles, children can use the “Catch a Mobble” feature. Clicking on “Catch a Mobble” opens the “Mobbles Radar” screen, shown in Figure 2. This screen shows a satellite map with a detailed bird’s-eye photographic view of the area and displays the child’s street address at the bottom of the screen.¹³ If a Mobble is located within the green 54-yard radius shown on the map, the child can catch it by tapping on the Mobble to make it dizzy and then tapping on the “Mobble vacuum” to capture it. Because children can only catch Mobbles within the green radius, the game encourages the child to wander around the neighborhood to find Mobbles within range.

¹³ In this particular example, as well as other locations tested, the screen displayed an exact street address. In other test cases, it displayed a two-block range, e.g. “6700-6998 Millwood Road.”

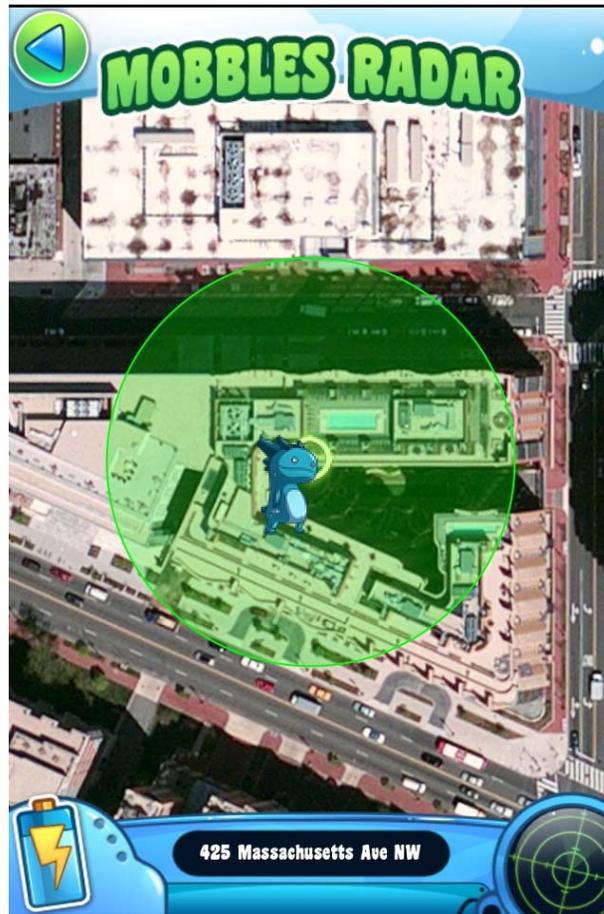


Figure 2

“Catch A Mobble” Geolocation Feature

Some Mobbles are rarer than others and may only be caught at certain times or in certain places. For instance, the nocturnal Mobble named Nox appears more often on the full moon.¹⁴ Because users must be within 54 yards of a Mobble to catch it, the game encourages children to wander around at night to get close enough to catch an out-of-

¹⁴ *Mobbles*, www.mobbles.com. Other Mobbles similarly appear only at certain times of day. Skratch, a DJ-inspired Mobble, “will make himself scarce and won’t show himself until the night falls.”¹⁴ Doog is only available in the early morning (7:00 a.m. to 9:00 a.m.) and early evening (7:00 p.m. to 9:00 p.m.). *Id.*

range Mobble.¹⁵ Other Mobbles are limited to certain continents: Ponos, a “native of the Canadian forests,” is found in North America;¹⁶ Kahoni, a surfer-themed Mobble, is found mostly near Australia and some Pacific Islands;¹⁷ Sapo, a froglike Mobble, is available only in South America.¹⁸ The game’s description of Sapo encourages children to trade: “Friends in South America, catch Sapo from now on, and trade it with the rest of the world! Don’t forget that you can find friends to trade on our Facebook page.”¹⁹

Mobbles sends children push notifications to let them know when someone is trying to trade with them or when they are in range of a Mobble. Even when the child is not playing Mobbles, it can send the child a push notification, which pops up on the device’s screen like a text message. One such message reads, “MOBBLE DETECTED,” and lets the child choose to “Catch” the Mobble or “Close” the message.

Each time a child opens the game, a checklist of tasks appears with instructions to feed or bathe each Mobble, play with it, or put it to sleep for a specific amount of time. Bouncing, tickling, or playing with a pet produces “hearts” that raise the pets’ “affection level.” The game also rewards children with “crystals” for playing with their Mobbles. The crystals function as an in-game currency that children can use to purchase food, toys, and new rooms for their pets.

However, many items in the game—including rare Mobbles that cannot be caught—may only be purchased with MobbDollars. MobbDollars can only be purchased using real money. Children can use MobbDollars to buy more rooms to house additional

¹⁵ Business Wire, *supra* note 6.

¹⁶ *Mobbles*, www.mobbles.com.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

Mobbles, to purchase eggs to hatch new pets, and to recharge the “Mobble vacuum” used to catch Mobbles in the wild.

The process of buying MobbDollars is shown in Figure 3. In the Mobbles Shop, users can purchase 20 MobbDollars for \$1.99, 40 MobbDollars for \$4.99, 80 MobbDollars for \$7.99, and 160 MobbDollars for \$11.99. When a child opts to purchase MobbDollars using an iPhone or iPad, a dialog box appears asking for confirmation. After the child confirms the purchase by clicking “Buy,” the child can complete the purchase by entering the password to the iTunes account linked to the mobile device. Under the iPhone’s default settings, a password is not required for an in-app purchase if the mobile device has been used to make another purchase or download in the last fifteen minutes because the device remains logged into the iTunes account.²⁰

²⁰ See iPhone “Restrictions” page.

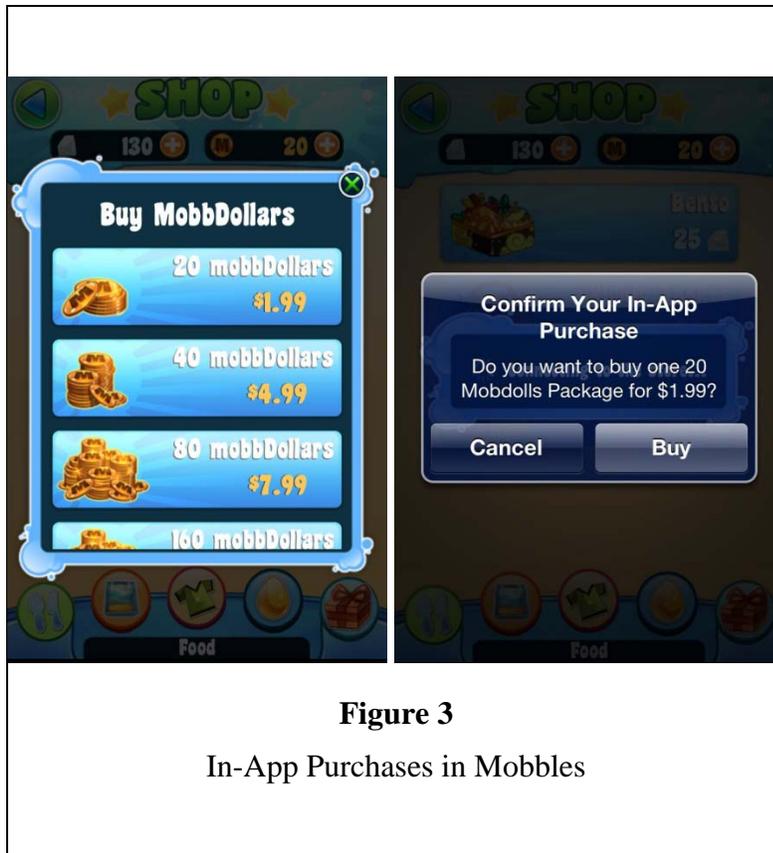


Figure 3

In-App Purchases in Mobbles

The game also encourages children to trade Mobbles with other children. When a Mobble is caught, it is no longer available for other users to catch.²¹ Therefore, children must trade with other players to complete their Mobble collection. To trade, they have to sign up with a user name and email address, as shown in Figure 4. Then they can trade with their friends and invite new friends to join.

Mobbles players have formed an unofficial fan site at mobblescollectors.com to share news about the game and communicate. Forum participants frequently post about trading for rare Mobbles.²² For example, a typical post in the Mobbles forum states:

²¹ Business Wire, *supra* note 6.

²² *Mobbles Collectors Forum*, <http://www.mobblescollectors.com/forum>.

“Please help. Need Cuby to complete my collection.”²³ Children may also create “wish lists” of Mobbles needed to complete a collection. Appendix C shows a typical “wish list” posted by user Urge2Splurge, who is listed as a twelve year-old.²⁴

Mobbles offers child-oriented in-game rewards for users who supply their email addresses, email their friends to join Mobbles, or make in-app purchases. For example, as shown in Figure 4, a child signing up for the newsletter receives 200 crystals to use for in-game purchases. The email newsletter also offers children updates about new Mobbles and “coupons” for obtaining exclusive Mobbles or free items. For example, Appendix D shows a screen shot of the August 31 newsletter offering a coupon for an “exclusive room” available only for the first 250 players who redeem the coupon.²⁵

²³ *Posting to Mobbles Collectors Forum* (June 14, 2012), <http://www.mobblescollectors.com/t746-please-help-need-cuby-to-complete-my-collection-closed>.

²⁴ *Posting to Mobbles Collectors Forum* (Oct. 29, 2012), www.mobblescollectors.com/t1020-urge2splurge-s-wishlist.

²⁵ *Posting to Mobbles Collectors Forum* (June 22, 2012), <http://www.mobblescollectors.com/t505-free-coupon-august-31-2012-event-ended>. See Appendix D: Sample Mobbles Coupon, *infra* p. A-4.

Sign up

Username:

Email:

Subscribe to the newsletter
(and get reward with 200 🎁)

Password:

Sign up

Figure 4
Signing Up to Trade Mobbles

II. Mobbles Violates the Children’s Online Privacy Protection Act

COPPA makes it unlawful for any operator of a website or online service directed to children to collect personal information from a child unless it complies with certain requirements. These requirements include providing notice of the information collection and obtaining “verifiable parental consent for the collection, use or disclosure of personal information from children.”²⁶

²⁶ 15 U.S.C. § 6502.

A. Mobbles Is Directed to Children Under the Age of 13

A company is subject to COPPA if it operates a website or online service directed to children, defined as individuals “under the age of 13.”²⁷ To determine whether a website or online service is directed to children, the Commission considers

[T]he subject matter, visual or audio content, age of models, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition; evidence regarding the intended audience; and whether a site uses animated characters and/or child-oriented activities and incentives.²⁸

Based on its subject matter, audio, and visual content, Mobbles is clearly directed to children. Mobbles features animated characters that appeal to children. When a child first enters the game, a cartoon character greets her and introduces her to her first virtual pet, a colorful, animated animal like the Mobble in Figure 1. The virtual pets each have distinct, characteristic sound effects. They laugh when “tickled” by a player rubbing the touchscreen, and yawn when they wake up. Throughout game play, cheerful music plays in the background.²⁹

Advertising for Mobbles likewise uses audio content and animated visual content that is directed to children. On the Mobbles website, a video trailer advertising the game

²⁷ 16 C.F.R. § 312.2-3.

²⁸ 16 C.F.R. § 312.2.

²⁹ The Mobbles background music can be heard on the game review posted by Gamer’s Intuition. Gamer’s Intuition, *Mobbles: Sploon*, Youtube (June 15, 2012), <http://www.youtube.com/watch?v=jT-HWnWwQVk>.

shows videos of game play accompanied by music and sound effects.³⁰ The trailer opens with an animated Mobble bouncing onto the screen and then being beamed into a mobile phone. As the music plays and various Mobble giggles are heard, the trailer encourages viewers to “Trade with friends” and asks, “Can you collect them all?”

Mobbles offers child-oriented activities. For instance, each Mobble has a checklist of tasks for a child to complete, such as feeding, bathing, playing with the Mobble, or putting it to bed. Children perform these tasks by clicking and dragging food items or toys from their inventory into their pet’s “room.” A different set of tasks appears when children play the game during different parts of the day.

Mobbles also offers child-oriented incentives. Children win “crystals,” a form of in-app currency, and also receive “hearts” to raise their pets’ “affection level.” The pets evolve to new levels that let the children buy clothing and new rooms for them. Children may win hearts by completing the checklist tasks and playing with, tickling, or bouncing their Mobbles.

Mobbles is also marketed as intended for children. In the iTunes store, Mobbles is rated as ages 4+, the lowest age rating possible. Apple explains that “Applications in this category contain no objectionable material.”³¹ In the Google Play store, Mobbles has a “low maturity” content rating, the lowest maturity rating short of the content rating “everyone.”³² Google explains that it awards a “low maturity” rating to applications that:

³⁰ Mobbles Official, *Mobbles Official Trailer*, Youtube (May 29, 2012), http://www.youtube.com/watch?feature=player_detailpage&v=17Bk8_0bX6A.

³¹ *Application Ratings*, iTunes, <http://itunes.apple.com/WebObjects/MZStore.woa/wa/appRatings> (viewed in iTunes application).

³² *Application Content Ratings*, Google Play, <http://support.google.com/googleplay/bin/answer.py?hl=en&answer=1075738>.

[M]ay include instances of mild cartoon or fantasy violence or other potentially offensive content. Applications may collect user location data for the purpose of providing location specific information or otherwise improving the user experience, but should not share the data with other users. Applications may include some social features but should not focus on allowing users to find and communicate with each other.³³

Google’s inclusion of “mild cartoon or fantasy violence” within the “low maturity” rating is similar to the TV-Y7 rating, indicating suitability for children aged seven and older, of the TV Parental Guidelines. TV-Y7 permits “mild fantasy violence or comedic violence.”³⁴ Thus, Google Play’s “low maturity” rating indicates that the Mobbles application is intended for children under age thirteen.

The game description in the iTunes and Google Play stores further shows that Mobbles is directed to children. For example, here is how the Google Play store describes the game: “Mobbles are small and fun creatures living around us! Catch them in your smartphone and raise them!”³⁵ The description further exhorts children to “[b]uy fun clothes for your little creatures and put them in cool rooms!” As shown in Appendix A, the iTunes page’s description is similar.

Other games downloaded and viewed by Mobbles players also indicate that Mobbles is marketed to children. In the Google Play store, people who viewed Mobbles also viewed the games “Aqua Pets,” “Tiny Zoo Friends,” “Grow,” and “Pets LIVE,” which are virtual pet games that clearly appeal to children.³⁶ Users who downloaded

³³ *Id.*

³⁴ *The TV Parental Guidelines*, <http://www.tvguidelines.org/ratings.htm>.

³⁵ See Appendix B: Mobbles Page in the Google Play Store, *infra* p. A-2.

³⁶ *Id.*

Mobbles in iTunes also downloaded children’s games such as “Bean Bag Kids present Pinocchio,” “Alphabet – iBlower,” and the children’s drawing game “Whorl!”³⁷

The user reviews provide additional evidence that children constitute much of Mobbles’s actual audience. One reviewer describes Mobbles as a “[v]ery good game for kids . . . [g]ood for distracting my daughter. . . .”³⁸ Another comments, “Cool for younger kids . . . It is a cool app to keep kids entertained,”³⁹ and yet another, “My four year old is having a great time . . . taking care of her Mobbles.”⁴⁰ Other reviews sound like they may actually be written by children: “its so much fun funner than pokemon [sic].”⁴¹

In sum, applying the COPPA criteria, it is clear that Mobbles is an app directed to children and therefore, the app may not collect personal information from children without parental notice and consent.

B. Mobbles Collects Several Types of Personal Information from Children

COPPA Rule § 312.2 defines “personal information” as “individually identifiable information about an individual collected online.” It defines “collects” as “the gathering of any personal information from a child by any means, including but not limited to . . . [r]equesting that children submit personal information online.”⁴² As the Commission explained in its Statement of Basis and Purpose when it published the COPPA Rule in

³⁷ *Mobbles by Mobbles Corp.*, iTunes, <https://itunes.apple.com/us/app/mobbles/id504286934?mt=8> (viewed in iTunes application) [hereinafter “Mobbles iTunes Page”].

³⁸ Comment of Sept. 13, 2012, *Mobbles User Reviews*, Mobbles Google Play Page.

³⁹ Comment of Nov. 25, 2012, Mobbles iTunes Page.

⁴⁰ Comment of Nov. 29, 2012, *id.*

⁴¹ Comment of Dec. 2, 2012, *Mobbles User Reviews*, Mobbles Google Play Page.

⁴² 16 C.F.R. § 312.2.

1999, “the definition of collects or collection has been modified to cover any request by the operator that children submit information online.”⁴³

Mobbles collects several types of personal information from children. The “Catch a Mobble” feature of the game collects physical addresses of children. Mobbles also collects online contact information of both the child playing the game and her friends. Finally, Mobbles collects unique personal identifiers to enable push notifications to children.

1. Physical Address

Under the COPPA rule, personal information includes a “home or other physical address including street name and name of a city or town.”⁴⁴ In its 2011 Notice proposing revisions to the COPPA Rule, the Commission explained that “any geolocation information that provides precise enough information to identify the name of a street and city or town is covered already under existing paragraph (b) of the definition of ‘personal information.’”⁴⁵

Mobbles identifies a child’s physical location when he or she plays the “Catch a Mobble” game. The game uses the location services on the user’s mobile device to determine the user’s precise location. As seen in Figure 2, the game generates a satellite map of the area where the child is located and displays the location at the bottom of the screen, precisely enough to show a street name and either a range of house numbers or

⁴³ Children’s Online Privacy Protection Rule, Final Rule, 64 Fed. Reg. 59,888, 59,889 (1999).

⁴⁴ 16 C.F.R. § 312.2.

⁴⁵ Children’s Online Privacy Protection Rule, Proposed Rule, 76 Fed. Reg. 59804, 59813 (Sept. 27, 2011). “Catch a Mobble” also collects a child’s geolocation information, which the 2011 NPRM proposes to classify as personally identifiable information. *Id.*

the exact home address. The Mobbles page in the Google Play store explains that Mobbles can “get your *precise location* using the Global Positioning System (GPS) or network location sources such as cell towers and Wi-Fi. . . . Apps may use this to determine where you are.”⁴⁶ Thus, Mobbles collects the physical addresses of children.

2. Online Contact Information

The definition of personal information includes “an e-mail address or other online contact information, including but not limited to an instant messaging user identifier, or a screen name that reveals an individual’s e-mail address.”⁴⁷ Mobbles collects children’s online contact information in two ways.

First, Mobbles collects children’s email addresses to send newsletters. As described above, Mobbles offers incentives for children to subscribe to the newsletter. While a child is playing Mobbles, pop-up messages frequently appear urging the child to subscribe to the newsletter. For example, Figure 5 shows a pop-up exhorting children to subscribe to the newsletter by entering their email address. By subscribing, they will “receive exclusive Mobbles by getting coupons!”

⁴⁶ Description of Mobbles Permissions, Google Play, *reprinted in* Appendix E, *infra* p. A-5 (emphasis added).

⁴⁷ 16 C.F.R. § 312.2.

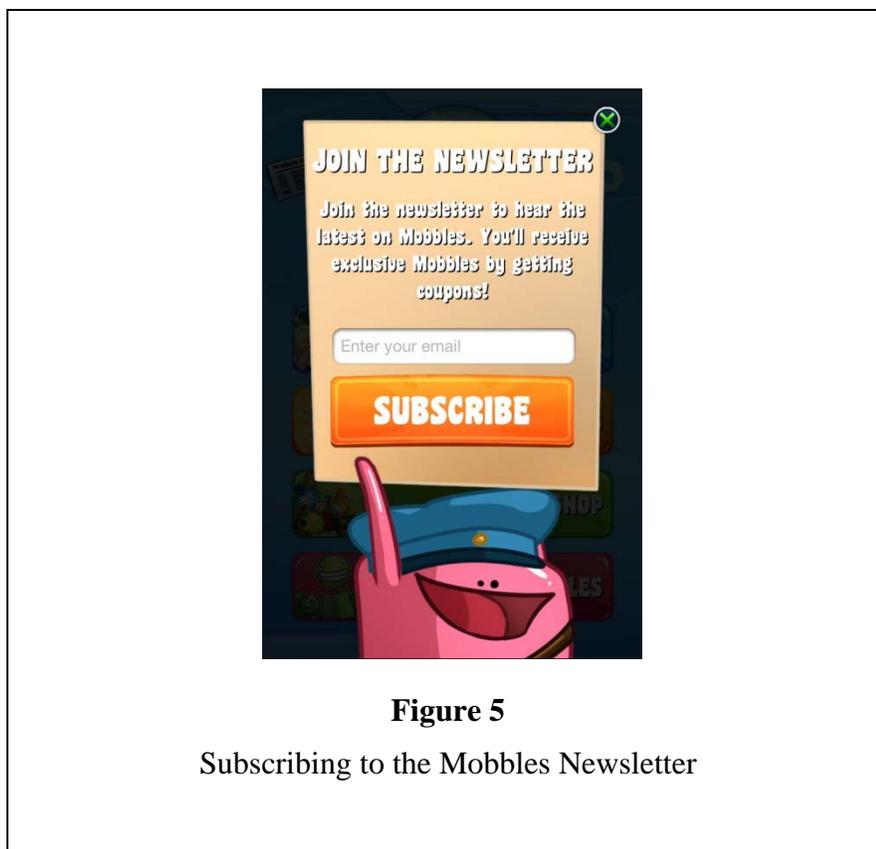


Figure 5
Subscribing to the Mobbles Newsletter

Second, Mobbles collects children’s online contact information by encouraging them to sign up to trade Mobbles with friends. As shown in Figure 4, one of the ways to sign up for trading is to provide a username and email address.⁴⁸

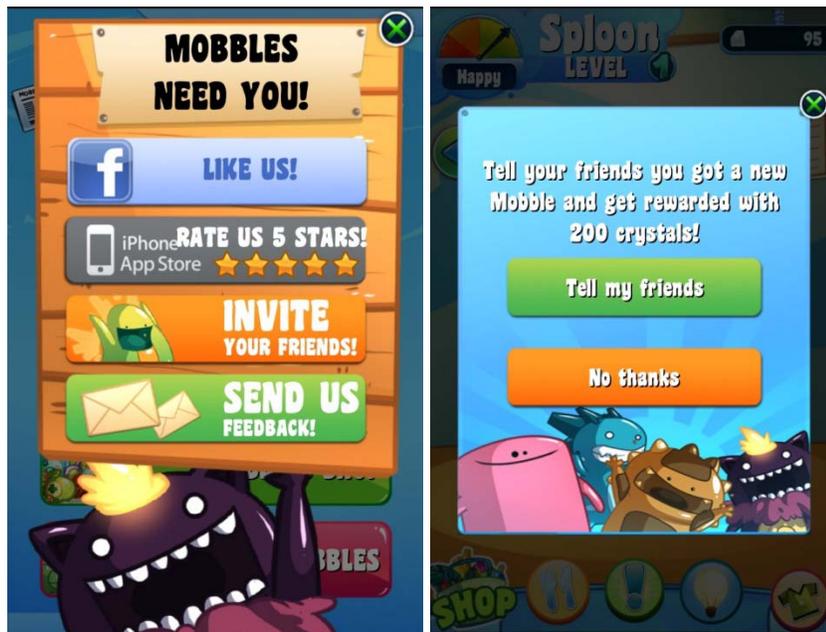
3. Online Contact Information of Children’s Friends

Mobbles also may collect online contact information for a child’s friends, who are likely to be other children. Mobbles offers children incentives to invite their friends to

⁴⁸ Children also have the option to sign up with a Facebook account. Although children under thirteen are not supposed to be on Facebook, it is a well-known fact that many are. *See, e.g.,* Diane Bartz, *Why Are 5 Million Kids on Facebook if it Doesn’t Want Them?*, Reuters (Sept. 19, 2012), <http://www.reuters.com/article/2012/09/19/us-facebook-children-idUSBRE88I1G620120919>. If a child under thirteen registers for Mobbles trading with a Facebook account, then Mobbles will be able to collect much more personally identifying information.

join Mobbles. Within the game, a small Mobble often appears in the corner of the screen, and when a child taps it, it displays the screen shown in Figure 6. The message exclaims “Mobbles need you!” and urges users to “like” Mobbles on Facebook, invite friends to join, rate Mobbles in the App Store, and send feedback. As shown in Figure 7, when a child purchases or catches a new Mobble, she is prompted to “Tell your friends you got a new Mobble and get rewarded with 200 crystals!” When a child taps on “Tell my friends,” she can invite friends to play Mobbles using email, SMS, or Facebook. Mobbles also lets children “discover” friends already playing Mobbles by scanning their mobile device’s address book or Facebook friend list.⁴⁹

⁴⁹ Mobbles does not reveal how it uses the contact information contained in a child’s address book when she chooses to discover friends or invite friends using email or SMS. Google Play discloses that Mobbles has the ability to read a user’s contact data, which means it can “read all of the contact (address) data stored on your [tablet or] phone.” Description of Permissions, Mobbles Google Play Page, *reprinted in* Appendix E, *infra* p. A-5. Other iOS apps that use the address book to check whether a user’s friends also use the same app have been known to upload and store data from users’ address books to their servers. *See, e.g.*, Sarah Jacobsson Purewal, *Path Isn’t Only App to Upload and Store Address Book Data*, PCWorld (Feb. 15, 2012), http://www.pcworld.com/article/250007/path_isnt_only_app_to_upload_store_address_book_data.html.



Figures 6 and 7

Mobbles Messages Encouraging Children to Invite Friends

Mobbles can access a wide range of contact information for a child’s friends. The Google Play page for Mobbles states that Mobbles has access to a user’s contact data, which “allows the app to read data about your contacts stored on your phone, including the frequency with which you’ve called, emailed, or communicated in other ways with specific individuals. This permission allows apps to save your contact data, and malicious apps may share contact data without your knowledge.”⁵⁰ The app’s permissions on Android devices also allow Mobbles to “read phone status and identity . . . to determine

⁵⁰ See Appendix E: Mobbles Permissions in Google Play, *infra* p. A-5.

the phone number and device IDs, whether a call is active, and the remote number connected by a call.”⁵¹

4. Unique Identifiers that Enable Push Notifications

Mobbles also collects information that allows it to push notifications to specific children. For example, it sends the child notifications when a Mobble appears in range of the child or when someone else has initiated trading activity with her. Mobbles continues to send push notifications even when the application is not active, as shown in Figure 8 depicting the home screen on a user’s iPad.

⁵¹ *Id.*

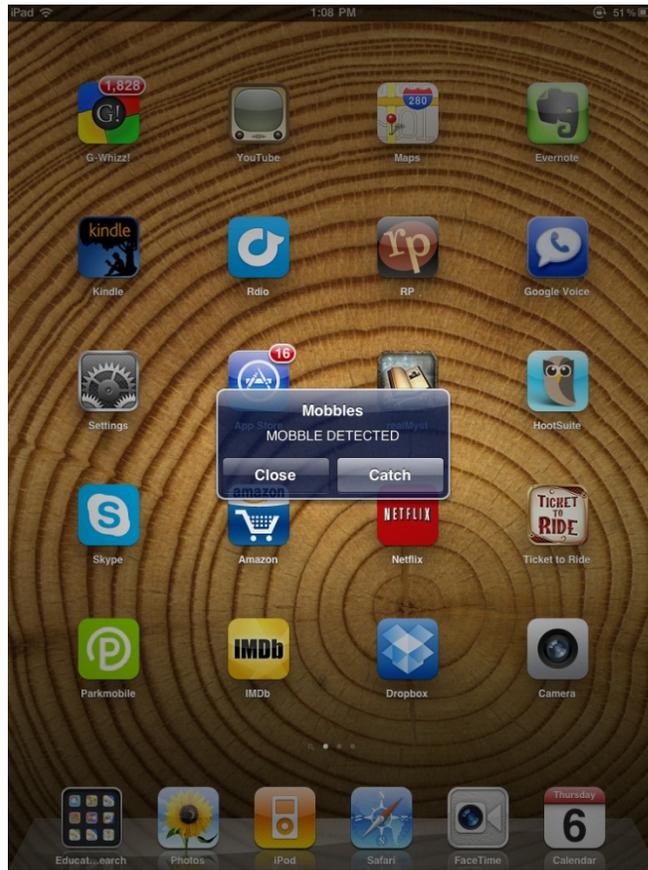


Figure 8
Push Notification Telling Children that a Mobbles Is Near

Push notifications look like text messages and can be targeted to specific children.⁵²

Developers can also segment users based on their location, time, preferences, and behavior.⁵³

⁵² For example, they can be customized to send birthday messages. Ashley Smith, *Parse, Don't Be Pushy: 10 Useful Tips for Awesome Push Notifications*, Parse Blog, <http://blog.parse.com/2012/11/26/dont-be-pushy-10-useful-tips-for-awesome-push-notifications/>. Developers can tailor push notifications to send personal messages to a particular individual's mobile phone. For an illustration, see *Fun with Push Notifications*, Guilty Squid (Apr. 27, 2012), <http://guiltysquid.com/?p=3339>.

On Android devices, Mobbles sends push notifications by collecting Google Cloud Mobile Device Registration IDs.⁵⁴ On Apple devices, Mobbles sends push notifications by collecting “device tokens.” Device tokens are identifiers of 64 hexadecimal characters unique to each device.⁵⁵ Apple’s programming guide for push notifications describes the device token as an identifier “analogous to a phone number” that allows the Apple Push Notification Service to identify and locate the device that is the intended recipient of a notification.⁵⁶ App developers can view a device token list of all users of an application, tagged with other information, and select specific devices to contact.⁵⁷

Unique identifiers used to send push notifications constitute personal information under COPPA because they are a form of online contact information similar to an email address that permits direct contact with a person online. They are also “persistent identifier[s], such as a customer number held in a cookie or a processor serial number, where such identifier is associated with individually identifiable information.”⁵⁸ Each

⁵³ For example, Urban Airship suggests that developers could send a push notification to “users in California in the past 90 days” or based on user preferences like “a product category they have made a purchase from before.” *Server: Segments API*, Urban Airship Documentation,

<https://docs.urbanairship.com/display/DOCS/Server%3A+Segments+API>.

⁵⁴ *GCM Architectural Overview*, Android Developers, <http://developer.android.com/google/gcm/gcm.html>.

⁵⁵ *Are “UDID” and “Device Token” Synonymous?*, Urban Airship Support Center, <https://support.urbanairship.com/customer/portal/articles/125827-are-%22udid%22-and-%22device-token%22-synonymous->.

⁵⁶ *Apple Local and Push Notification Programming and Guide*, Mac Developer Library, <http://developer.apple.com/library/mac/#documentation/NetworkingInternet/Conceptual/RemoteNotificationsPG/ApplePushService/ApplePushService.html>.

⁵⁷ See the sample device token list in Urban Airship’s developer guide. *Server: iOS Push API, Device Token List*, Urban Airship Documentation, <https://docs.urbanairship.com/display/DOCS/Server%3A+iOS+Push+API#ServeriOSPushAPI-DeviceTokenList>.

⁵⁸ 16 C.F.R. § 312.2.

device token is unique to its device, and is used consistently for that device.⁵⁹ Moreover, application developers may link the device token with other identifying information in a user-profile database to customize messages.⁶⁰ Associating the device token to a username is “analogous to associating a phone number with a person’s name.”⁶¹ The device token is thus a persistent identifier that links users across browsers and is associated with other individually identifiable information.

Mobbles’s collection of these persistent identifiers does not fall under any of the exemptions in the COPPA Rule. It is not covered by the internal operations exception because it does not support “activities necessary to maintain the technical function of the . . . online service.”⁶² Rather, Mobbles’s push notifications encourage children to return to the game. And because Mobbles contacts children even when the game is closed, it is not responding to a one-time request by a child.⁶³ Therefore, Mobbles’s collection of device tokens and GCM Registration IDs is a collection of personal information.

⁵⁹ See *Apple Local and Push Notification Programming and Guide*, *supra* note 57 (“[The] token handed to [APNS] by a device is the same token that it previously provisioned for that particular device—and only for that device.”).

⁶⁰ Michael J. Yuan, *Sending Push Notifications to iOS Devices*, IBM developerWorks (Feb. 14, 2012), <http://www.ibm.com/developerworks/library/mo-ios-push/#N101FE>. In September 2012, a hacker group claimed they obtained 12 million Apple users’ personal information, including the Apple Push Notification Service DevToken and users’ full names, cell numbers, addresses, and zipcodes tied to the IDs. Rebecca Greenfield, *Check If You Own One of the 1 Million Hacked iPhones and iPads*, *The AtlanticWire* (Sept. 4, 2012), <http://www.theatlanticwire.com/technology/2012/09/check-if-you-own-one-1-million-hacked-iphones-and-ipads/56467/>.

⁶¹ Yuan, *supra* note 61 (“Ideally, you associate the token with some information that identifies the user . . . so that your server knows who to send the message to later . . . The server should save the token and its related identification information in a database. In most applications, it's saved in the user-profile database.”).

⁶² 16 C.F.R. § 312.2.

⁶³ See 16 C.F.R. §§ 312.2, 312.5(c)(2)-(3).

C. Mobbles Fails to Provide Notice that it is Collecting Personal Information

Because Mobbles collects children’s personal information, it must comply with the notice and consent provisions set forth in the COPPA Rule. The COPPA Rule specifies that an online service operator directed at children that collects personal information “must post a link to a notice of its information practices with regard to children on the home page . . . and at each area on the website . . . where personal information is collected from children.”⁶⁴ Mobbles fails to comply with this requirement. It has no link to a privacy policy on the opening page of the application. Nor, as shown in Figures 4 and 5, does Mobbles link to a privacy policy when a player signs up for the newsletter or for a Mobble trading username. Nor does it post a privacy policy on the Mobbles website, www.mobbles.com, or in its listings in the iTunes or Google Play app stores.⁶⁵

There are only two times that Mobbles even arguably provides in-app notification that it is collecting information. First, when a child opens Mobbles for the first time, the standard iPhone opt-out dialog appears. It reads: “‘Mobbles’ Would Like to Send You Push Notifications. Notifications may include alerts, sounds and icon badges. These can be configured in Settings.” Children can then choose from the options “Don’t Allow” and “Okay.” Second, as shown in Figure 9, a dialog box pops up during the tutorial for first-time players when children click on the “Catch a Mobble” feature. It states: “‘Mobbles’

⁶⁴ 16 C.F.R. § 312.4(b).

⁶⁵ The disclosure on Google Play does not satisfy the notice requirement. *See* Appendix E: Mobbles Permissions in Google Play, *infra* p. A-5. When a child downloads Mobbles on an Android device, the list of permissions from the Google Play store appears after she clicks install. She then clicks install again to download Mobbles and accept the permissions list. Not only is the list not located in the appropriate place, but it does not provide a complete description of what information is collected, how it is used and whether it is disclosed to third parties. Moreover, there is no comparable disclosure for the Mobbles App available through Apple.

Would Like to Use Your Current Location. Your location is used to detect if there are Mobbles around you!” While users can choose “Don’t Allow,” the gaming experience is significantly reduced when location services are turned off because it is much harder to collect the pets.



Figure 9
Geolocation Opt-Out Dialog

These disclosures do not satisfy the requirement that notice be clearly and understandably written, complete, contain no unrelated, confusing or contradictory materials, and include “what information [Mobbles] collects from children, how it uses such information, and its disclosure practices for such information.”⁶⁶ Thus, Mobbles fails to comply with the COPPA notice requirements.

⁶⁶ 16 C.F.R. § 312.3-4.

D. Mobbles Fails to Obtain Verifiable Parental Consent Before Collecting Personal Information From a Child

Mobbles also fails to comply with COPPA Rule 312.5, which requires, with a few exceptions, the website operator to “[o]btain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children.” Mobbles makes no attempt to obtain parental consent before collecting personal information from children. Nor does Mobbles’s collection of personal information fall under any of the recognized exceptions.

COPPA Rule 312.5(c)(3) allows an exception to prior parental consent where

the operator collects online contact information from a child to be used to respond directly more than once to a specific request from the child, and where such information is not used for any other purpose. In such cases, the operator must make reasonable efforts, taking into consideration available technology, to ensure that a parent receives notice and has the opportunity to request that the operator make no further use of the information, as described in § 312.4(c), immediately after the initial response and before making any additional response to the child.

However, Mobbles makes no attempt to provide direct notice to parents and offers no opportunity for parents to opt out of further use of their children’s information. As shown in Figure 5, the newsletter sign-up page does not even ask for a parent’s contact information. Similarly, as shown in Figure 4, Mobbles fails to collect a parent’s contact information to provide for notice when a child signs up for a username for trading pets.

Nor does Mobbles’s collection of email addresses of a child’s friends fall under §312.4(b)’s exemption for “contact information from a child for the sole purpose of responding directly on a one-time basis to a specific request from the child, and where

such information is not used to recontact the child.” On its face, this exemption applies only where the email address is used to respond to the child making the request, not where the email address belongs to a different child. Further, the exemption does not comply with the guidance provided in Question 44 of the FTC’s “Frequently Asked Questions” concerning “forward-to-a-friend” features. To take advantage of the one-time exemption, the FTC explains that “your webform may only ask for recipient’s email address (and, if desired, sender and/or recipient’s first name and last initial). Your e-card system must not permit the sender to enter her full name, her email address, or the recipient’s full name. In addition, you may not provide users with the ability to freely type messages in either the subject line of the e-card or in any text fields.”⁶⁷

Mobbles fails to comply with this guidance in several respects. It allows children to invite friends using Facebook, SMS or email. If the child selects email, she will be taken to a blank email with the “subject” line, “Play Mobbles with me!” It automatically inserts the child’s name and address in the “from” line, and when she starts to type in a name, it will pull the email address from her contacts for the “to” line. It also allows the child to write a message of her own choosing.

Thus, Mobbles fails to comply with the COPPA Rule’s requirement to obtain verifiable parental consent prior to collecting personal information from children.

III. Conclusion

Mobbles is a child-directed mobile application that violates COPPA by collecting children’s personal information, including physical addresses and various forms of online

⁶⁷ *Frequently Asked Questions about the Children’s Online Privacy Protection Rule*, <http://www.ftc.gov/privacy/coppafaqs.shtm>.

contact information, without providing parental notice or seeking parental consent. Thus, CDD urges that the FTC promptly initiate an investigation of Mobbles, to bring an enforcement action to stop Mobbles from any further collection of children's personal information, and to seek all other appropriate remedies.

Respectfully submitted,

Of Counsel:

Jessica Wang
Georgetown Law Student

Angela J. Campbell
Laura M. Moy
Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, DC 20001
(202) 662-9535
Counsel for Center for Digital Democracy

December 11, 2012

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Appendix A: Mobbles Page in the iTunes Store



Appendix B: Mobbles Page in the Google Play Store

Mobbles
Mobbles Corp.



★★★★★ (3,463)

INSTALL



OVERVIEW
USER REVIEWS
WHAT'S NEW
PERMISSIONS

Users who viewed this also viewed



Aqua Pets
BIONIC PANDA GAMES, INC.

★★★★★ (41,148)

Free



Tiny Zoo Friends
TINYCO

★★★★★ (13,867)

Free



Grow
EPIC PIXEL, LLC

★★★★★ (3,358)

\$ 1.99



Pets LIVE™
STORM 8 GAMES

★★★★★ (20,140)

Free

Users who installed this also installed



Chuash 'em
FELIPE ZULETA

★★★★★ (120)

Free

Description

Catch and collect funny little creatures in your smartphone !
Mobbles are small and fun creatures living around us !
Catch them in your smartphone and raise them !

Discover which Mobbles are around you with your Mobbles radar, and catch them if you're close enough !

Grow their affection by taking care of them like real pets when they need you !
There are more than 60+ creatures available, can you capture and keep them all ?
Buy fun clothes for your little creatures and put them in cool rooms !

MORE

[Visit Developer's Website](#) | [Email Developer](#)

App Screenshots






 +1
443

[Tweet](#)

ABOUT THIS APP

RATING:
★★★★★ (3,463)

UPDATED:
August 29, 2012

CURRENT VERSION:
1.4

REQUIRES ANDROID:
1.6 and up

CATEGORY:
Casual

INSTALLS:
10,000 - 50,000



last 30 days

SIZE:
13M

PRICE:
Free

CONTENT RATING:
Low Maturity

Appendix C: A Child's Mobbles "Wish List"

urge2splurge's wishlist - Opera
www.mobbl collectors.com/t1020-urge2splurge-s-wishlist

Go to page : 1, 2, 3, 4

Author	Message
Urge2splurge Wild  Posts: 77 Join date: 2012-10-21 Age: 12 Location: Illinois	<p>Subject: urge2splurge's wishlist Mon 29 Oct 2012 - 2:31</p> <p>Hey guys this is my wishlist</p> <ul style="list-style-type: none">-Scratchy-Doog 😊 Thx to jparker-Rahz 😊 Thx to jparker-Cuby 😊 Thx to jparker-Hanzel 😊 Thx to jparker-Nox 😊 Thx to jparker-Plum 😊 Thx to SzarkaG-Kahoni 😊 Thx to jparker-Tapyr 😊 Thx to jparker-Skuller 😊 Thx to jparker-Sapo-Lunam 😊-Grunk 😊 Thx to jparker-Faoly 😊 Thx to jparker-Hooper 😊 Thx to jparker-Steek-Karby 😊 Thx to onebunny-Kalt-Meeko 😊 Thx to onebunny-Droop 😊 Thx to onebunny-Fungy-Zaap-Boolga-Skwid 😊 Thx to onebunny-Kobalt 😊 Thx to onebunny-Lafoo 😊 Thx to onebunny-Poktus 😊 SzarkaG <p>Special thanks to WolfRampage,ThePunisher,GAMBL3R-SK,kaylee.hall.509,Kitty38135,egusmao,SzarkaG,and Un4s33n Many Many thanks to jparker the best person on here by far. 😊</p> <p>ID:urge2splurge</p>

Appendix D: Sample Mobbles Coupon

Opera

Free Coupon! (August ... x

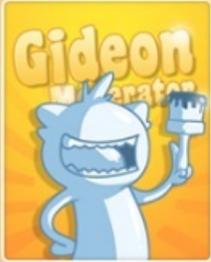
Web www.mobblecollectors.com/t505-free-coupon-august-31-2012-event-ended

Search with Google

Author Message

Gideon
Moderator

Subject: Free Coupon! (August 31, 2012) (EVENT ENDED) Fri 31 Aug 2012 - 18:52



Posts: 666
Join date: 2012-06-22
Age: 21

**Summer is ending, so get this exclusive room to keep your Mobbles in a nice summer vibe!
Only the 250 first users to redeem this coupon will get the room, be quick!**

To redeem it :

- Go to the Mobbles shop section
- Tap on "Scan a coupon"
- Point your phone to the above coupon
- Enjoy your new exclusive Room! 😊

(If you have troubles scanning the QR Code, just enter the word "summer2012" in the coupon field)



Sorry, I had to scale it down. - Klump 😊

Source: <https://www.facebook.com/mobbles>

Appendix E: Mobbles Permissions in Google Play

12/9/12

Mobbles - Android Apps on Google Play

+Jessica Search Images Maps Play YouTube News Gmail More -

Jessica Wang 0 Share...

Search

SHOP MY MUSIC MY BOOKS MY MAGAZINES MY MOVIES & TV MY ANDROID APPS



Mobbles
Mobbles Corp.
(3,500)
INSTALL

OVERVIEW USER REVIEWS WHAT'S NEW PERMISSIONS

You don't have any devices.

Users who viewed this also viewed

- Aqua Pets**
BIONIC PANDA GAMES, INC.
(41,150)
Free
- Tiny Zoo Friends**
TINYCO
(13,890)
Free
- Grow**
EPIC PIXEL, LLC
(3,359)
\$1.99
- Pets LIVE™**
STORM8 GAMES
(20,175)
Free

Users who installed this also installed

- Chuash 'em**
FELIPE ZULETA
(121)
Free
- Board Games Online**
RESONOS
(21)
\$2.49
- Tomten**
SANNEBLAD
(44)
Free
- MY DOBAGON** Free

Permissions

THIS APPLICATION HAS ACCESS TO THE FOLLOWING:

YOUR LOCATION

APPROXIMATE LOCATION (NETWORK-BASED)

Allows the app to get your approximate location. This location is derived by location services using network location sources such as cell towers and Wi-Fi. These location services must be turned on and available to your device for the app to use them. Apps may use this to determine approximately where you are.

PRECISE LOCATION (GPS AND NETWORK-BASED)

Allows the app to get your precise location using the Global Positioning System (GPS) or network location sources such as cell towers and Wi-Fi. These location services must be turned on and available to your device for the app to use them. Apps may use this to determine where you are, and may consume additional battery power.

NETWORK COMMUNICATION

FULL NETWORK ACCESS

Allows the app to create network sockets and use custom network protocols. The browser and other applications provide means to send data to the internet, so this permission is not required to send data to the internet.

YOUR PERSONAL INFORMATION

READ YOUR CONTACTS

Allows the app to read data about your contacts stored on your tablet, including the frequency with which you've called, emailed, or communicated in other ways with specific individuals. This permission allows apps to save your contact data, and malicious apps may share contact data without your knowledge. Allows the app to read data about your contacts stored on your phone, including the frequency with which you've called, emailed, or communicated in other ways with specific individuals. This permission allows apps to save your contact data, and malicious apps may share contact data without your knowledge.

PHONE CALLS

READ PHONE STATUS AND IDENTITY

Allows the app to access the phone features of the device. This permission allows the app to determine the phone number and device IDs, whether a call is active, and the remote number connected by a call.

STORAGE

MODIFY OR DELETE THE CONTENTS OF YOUR USB STORAGE MODIFY OR DELETE THE CONTENTS OF YOUR SD CARD

Allows the app to write to the USB storage. Allows the app to write to the SD card.

SYSTEM TOOLS

https://play.google.com/store/apps/details?id=com.mobblesgames.mobbles&feature=search_result#?t=...

1/2



YANISOFT

(386)

Free

Appendix E: Mobbles Permissions in Google Play

Mobbles - Android Apps on Google Play

PREVENT TABLET FROM SLEEPING PREVENT PHONE FROM SLEEPING

Allows the app to prevent the tablet from going to sleep. Allows the app to prevent the phone from going to sleep.

Hide

YOUR ACCOUNTS

FIND ACCOUNTS ON THE DEVICE

Allows the app to get the list of accounts known by the tablet. This may include any accounts created by applications you have installed. Allows the app to get the list of accounts known by the phone. This may include any accounts created by applications you have installed.

HARDWARE CONTROLS

CONTROL VIBRATION

Allows the app to control the vibrator.

NETWORK COMMUNICATION

VIEW NETWORK CONNECTIONS

Allows the app to view information about network connections such as which networks exist and are connected.

RECEIVE DATA FROM INTERNET

Allows apps to accept cloud to device messages sent by the app's service. Using this service will incur data usage. Malicious apps could cause excess data usage.

DEFAULT

TEST ACCESS TO PROTECTED STORAGE TEST ACCESS TO PROTECTED STORAGE

Allows the app to test a permission for USB storage that will be available on future devices. Allows the app to test a permission for the SD card that will be available on future devices.

READ CALL LOG

Allows the app to read your tablet's call log, including data about incoming and outgoing calls. This permission allows apps to save your call log data, and malicious apps may share call log data without your knowledge. Allows the app to read your phone's call log, including data about incoming and outgoing calls. This permission allows apps to save your call log data, and malicious apps may share call log data without your knowledge.

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| English (United States)



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