

**Questions and Responses for the Record**  
**U.S. Senate Committee on the Judiciary**  
**“Protecting Innocence in a Digital World”**  
**Submitted on July 16, 2019**

**Questions from: Senator Charles E. Grassley**

For Chris McKenna, Founder and CEO of Protect Young Eyes

*Responses provided in italics*

1. Human traffickers know that children use social media and other internet platforms frequently, so they take advantage of apps, websites, and other platforms to exploit them. This is particularly concerning because of the constantly changing digital landscape.
  - a. How can apps, websites, and other online platforms protect children from inappropriate content?

***Response:** although we fully understand that children can be exposed to inappropriate content on any device that connects to the internet, our focus is on portable, smart devices. These include Apple (iPhone, iPod Touch, iPad) and Android smartphones and tablets.*

*Apps accessed on these smart devices can protect children from inappropriate content by:*

- (1) **Improving the information available to parents.** We must ensure parents have the most accurate information about the content and types of interactions that are possible and taking place on apps so that they can determine if their kids are ready to handle the temptations and risks. This would be accomplished by providing app ratings and descriptions that are unified across all app stores, being fully transparent about content and interactive elements, and holding app developers accountable for inaccurate ratings and descriptions. We’ve proposed that an App Ratings Board, similar to the Entertainment Software Ratings Board (ESRB), could be created in order to enforce these principles of unification, independence, and accountability. We’ve included a detailed explanation of how an App Ratings Board could work in our response for the record to Senator Blackburn.*
- (2) **Being held accountable for implementing reasonable care best business practices.** App developers who know that significant numbers of young people are using their platforms must do more to implement reasonable care best business practices on their platforms. For example, Mr. John Clark from the Center for Missing and Exploited Children stated that over 16 million teens use Snapchat. As a result, we believe Snapchat should exercise a greater duty of care to provide certain protections for these young people.*

*This could mean implementing best business practices in order to “earn” Section 230 immunity, as suggested by Chairman Graham. Best business practices could include*

*strong age verification for account creation, default privacy settings based on a user's age (e.g., turning off preference-based ads by default), eliminating interactions with strangers (e.g., eliminating direct messages on Instagram when accounts are set to private or the user is under a certain age), providing greater parental control over content (e.g., allowing parents to toggle off Discover in Snapchat), making it easy to report and block users who sexually harass or bully, providing proactive educational tips on safe use, among others. We fully support the Chairman's best business practice suggestion.*

*Once these best business practices are established, they could be applied to other internet-ready devices, like Amazon Kindles, Chromebooks, and laptops, but creating greater protections on smart devices and tablets must be the priority.*

2. You mentioned in your testimony that we can better monitor the type of content on apps by creating an independent app rating board.
  - a. What lessons can be learned from current rating systems used for movies, video games, TV shows, and music?

**Response:** *Yes, we believe that the ESRB shows us principles that could be applied to app ratings. We've included a detailed explanation of how an App Ratings Board could work in our response for the record to Senator Blackburn. Lessons we've learned from ratings systems for movies, video games, TV shows, and music include:*

- *According to separate surveys, parents are familiar with both the ESRB and MPAA (movies) ratings systems and find both of them useful. <sup>1,2</sup>*
- *Since it's impossible for parents to review all content in every movie that a child might want to watch or to play every video game, both the MPAA and the ESRB ratings systems allow parents to make informed decisions quickly. Today's families are busier than ever. Therefore, the need for a uniform, independent, and accountable ratings system for apps could also be useful for well-intentioned, but busy families.*
- *Accurate ratings allow parental controls that depend on movie or video game ratings to be applied consistently, protecting young people from content that parents might consider harmful. As it pertains to apps, both iOS and Android smartphones come with parental controls (Screen Time and Family Link, respectively) that depend on app ratings.*
- *Parents are still the primary determinant of whether or not a child comes into contact with mature content. Therefore, even if an App Ratings Board is created, we must continue to educate parents about the risks present in the media their children consume so that they can make informed decisions.*
- *Results from undercover FTC attempts to purchase mature games and movies prove that without continuous education of those at the point of sale, then kids will still be able to acquire mature content. <sup>3</sup> As it pertains to apps, this means that both Apple and Google, who account for most app downloads, would need to be held accountable for how they enforce a uniform ratings system created by an App Ratings Board.*
- *According to a 2004 NY Times article, the Harvard School of Public Health found that "ratings creep" over the years has allowed more violent and sexually explicit content*

into films.<sup>4</sup> As it pertains to apps, it would be important for an App Ratings Board to be transparent about how its ratings levels are defined and how it makes ratings decisions, similar to the transparency displayed by the ESRB.<sup>5</sup>

#### End Notes:

1. “ESRB Survey: Parental Awareness and Use.” *Entertainment Software Ratings Board*, <http://www.esrb.org/about/awareness.aspx>.
2. Graves, Joan. “Survey Shows 93% of Parents Find Film Ratings Helpful in Making Movie Choices.” *Motion Picture Association of America*, Motion Picture Association of American, Inc., 30 November, 2015, <https://www.mpa.org/press/cara/>.
3. “Undercover Shoppers Find It Increasingly Difficult for Children to Buy M-Rated Games.” *Federal Trade Commission*, <https://www.ftc.gov/news-events/press-releases/2008/05/undercover-shoppers-find-it-increasingly-difficult-children-buy-m>.
4. Waxman, Sharon. “Study Finds Films Ratings are Growing More Lenient.” *The New York Times*, The New York Times Company, 14 July, 2004, <https://www.nytimes.com/2004/07/14/movies/study-finds-film-ratings-are-growing-more-lenient.html>.
5. “ESRB Ratings.” *Entertainment Software Ratings Board*, <https://www.esrb.org/ratings/>.

## Questions from: Senator Marsha Blackburn

For Chris McKenna, Founder and CEO of Protect Young Eyes

*Responses provided in italics*

Online safeguards to protect children from criminals and predators fail to match physical protections in the real world. In far too many cases, child predators have discovered minor victims on apps like Snapchat and Instagram and coerced these children to send illicit photos and videos of themselves through communications over these platforms. Software developers of these apps can add technological safeguards to prevent minors from accessing these apps, but to date, these apps do not contain adequate safeguards.

1. What safeguards can apps like Snapchat and Instagram embed in their software to protect the privacy and online presence of children?
2. How can app makers provide better disclosures about the content available and risks posed by their platforms?

### **Response:**

1. *Apps like Snapchat and Instagram must begin exercising a duty of care on their platforms when they know that large numbers of young people are using them. This could mean implementing best business practices in order to “earn” Section 230 immunity, as suggested by Chairman Graham. Best business practices could include strong age verification for account creation, default privacy settings based on a user’s age (e.g., turning off preference-based ads by default), eliminating interactions with strangers (e.g., eliminating direct messages on Instagram when accounts are set to private or the user is under a certain age), providing greater parental control over content (e.g., allowing parents to toggle off Discover in Snapchat), making it easy to report and block users who sexually harass or bully, providing proactive educational tips on safe use, among others. We fully support the Chairman’s best business practice suggestion.*
2. *We believe that the creation of a unified, independent, and accountable ratings system would achieve the goal of providing better disclosures about app content and risks. Please see our response to the next question for a more complete explanation related to the creation of an App Ratings Board.*

Age ratings for apps in the Apple App Store and Google Play Store contain insufficient warnings to parents and unsuspecting minors of the material they will encounter. In the absence of fuller disclosures, parents lack the information needed to make an informed decision about whether their children possess the maturity to use such apps. Additionally, the app descriptions fail to warn parents about the risks of their children encountering unacceptable content. At the hearing, you discussed the need for a rating system for smart phone apps similar to the Entertainment Software Rating Board’s rating system for video games. Please describe in greater detail your proposal for a more transparent and effective ratings system that would better inform parents on the content and age-appropriateness of smartphone apps.

**Response:** We believe that the ESRB shows us a path that could be followed in order to improve the current app ratings system. We propose the following steps for creating an app ratings system that is more transparent and effective:

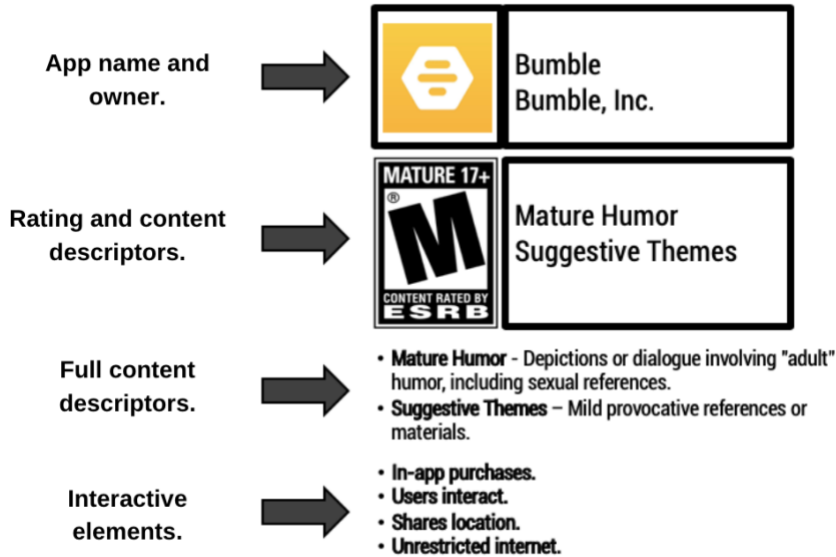
1. Congress should call on technology and app companies to establish a third-party organization (the Organization), comprised of technology leaders, and child development, child protection, parent and educator groups, and Internet safety subject matter experts.
2. The Organization would be organized as a non-profit that could be funded from a small administrative fee that all apps must pay when completing the self-rating described in #4 below and fines that might be paid for non-compliance.
3. The Organization would create a ratings framework that includes age-based ratings levels, descriptors, and interactive elements. The ESRB already uses similar elements to describe boxed video games. <sup>1</sup>
4. Due to the large quantity of apps released every month, most apps would self-rate using this new ratings framework. **See the example in exhibit 1 below.**
5. Apple and Google would review and approve the self-ratings for compliance with the new framework.
6. Annually, The Organization could select random samples of Apple and Google self-ratings approvals to ensure compliance with the framework.
7. Complaints from parents and others about inaccurate ratings would go directly to the Organization for further investigation, and, if necessary, the Organization would impose sanctions.
8. Due to their powerful impact on society, top apps\* would be independently reviewed by the Organization for compliance with the new app ratings framework. This in-depth, independent review could include an assessment of additional “best business practice” elements, including in-app safety features, privacy and data security, the effectiveness of content moderation, and political neutrality, among others. **See the example in Exhibit 2 below.**
9. The Organization is vested with the power to impose sanctions for non-compliance with their ratings framework, similar to what the Entertainment Software Ratings Board (ESRB) does for video games. <sup>2</sup>

\*The definition of “top apps” would need to be determined. Possible criteria could be a minimum number of downloads or minimum number of users. The number of “top apps” that would be reviewed by the Organization would also have to be determined. We have proposed an assessment of the top 25 apps, which is far fewer than the total number of video games the ESRB reviews annually.


#### **End Notes:**

1. “ESRB Ratings.” Entertainment Software Ratings Board, <https://www.esrb.org/ratings/>.
2. “Enforcement.” Entertainment Software Ratings Board, <https://www.esrb.org/ratings/enforcement.aspx>.


**Exhibit 1 – an example description for a self-rated app:**



**Exhibit 2 – an example full assessment of a “top” app, performed by the Organization:**



**Snapchat**  
Snap, Inc.



**Strong Language**  
**Strong Sexual Content**

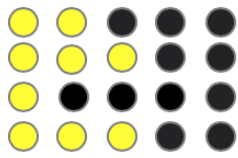
**In-app Safety Features**

**Privacy and Data Security**

**Effective Content Moderation**

**Political Neutrality**

Best business practices could be listed here. These are examples.



Snapchat is a social platform where users send photos and videos to each other that disappear after a designated period of time. Photos and videos can be shared in a Story which lasts for 24 hours. **Due to the disappearing nature of content, the risk of inappropriate behavior in Snapchat is higher than other social apps.** Face filters and other elements can be added to photos. **The Discover news section includes articles with content that can contain strong sexual content, references to drugs, alcohol, and tobacco, mature humor, and use strong language.** "Premium Snapchat" accounts are used by those who sell sexualized content. Snap Map is a location-sharing feature that when opened for the first time, has four settings (default setting shares location with friends). The Snapstreak is a feature that tracks how many days users send and receive Snaps with each other and has been tied to addictive behavior in teens.

**The latest compliance report from Snapchat for the year 2019 can be accessed here.**