



The Federal Trade Commission (FTC) and the Los Angeles County District Attorney on July 9, 2024, announced a [complaint](#) and [proposed stipulated order](#) against NGL Labs, LLC, and two NGL co-founders concerning the “NGL: ask me anything” anonymous messaging app.

The complaint alleges that NGL marketed the app to children and teens despite awareness of cyberbullying risks from the app to these groups, sent fake messages to drive up usage, knowingly collected the data of children without parental consent, made deceptive claims about the app and its use of artificial intelligence (AI) to filter out harmful messages, and failed to disclose recurring subscription fees. Notably, the order resolving the claims requires NGL to bar anyone under age 18 from accessing its service through a neutral age gate, which is the first time the FTC has required a business to block minors from an online service.

Complaint

NGL operates a social media app that allows users to solicit anonymous comments from “their friends and social media contacts” by selecting a prompt and posting a personalized link on other social media platforms. According to the complaint, once a user posted a prompt inviting anonymous messages, they received automated messages that appeared to come from their contacts but actually came from NGL. The complaint also alleges that to induce users to upgrade to NGL Pro, the paid version of the app, the company sent messages like “I know what you did” and “one of your friends is hiding s[o]mething from u” that appeared to come from the user’s contacts with the false promise that they would learn the identity of the sender if they upgraded.

In addition, NGL claimed to use “world class AI content moderation” but failed to filter out harmful content on the NGL app such as messages like “Everyone hates you,” and the app has been used to send threatening and sexually explicit content, as the company was aware due to reports from users, parents, and media.

The complaint alleges the following violations of law:

- **Children’s Online Privacy Protection Act (COPPA).** The complaint alleges that NGL had actual knowledge it was collecting and maintaining personal information from children under age 13 due to complaints from parents and children that explicitly referenced the child’s age. The complaint alleges that NGL violated COPPA because it nonetheless failed to provide notice and obtain parental consent before any collection or use of children’s personal information, retained the data of children indefinitely, and did not delete children’s personal information upon parental request.
- **Restore Online Shoppers’ Confidence Act (ROSCA).** The complaint alleges that NGL violated ROSCA by (1) failing to clearly disclose the recurring charges for the NGL Pro version of the app as well as other material terms, namely, that consumers would not, as represented, be told who had sent them anonymous messages, and (2) failing to obtain express informed consent before charging consumers for an upgrade to the NGL Pro version.
- **Section 5 of the FTC Act and California False Advertising Law—deceptive statements about app features and AI capabilities.** The complaint alleges that NGL misrepresented that (1) users will receive anonymous messages “from their friends or other social media contacts” when some of the messages were automatically sent by NGL and (2) NGL used “world class AI content moderation” to effectively filter out harmful content when explicit content and cyberbullying messages bypass the filters.
- **Section 5 of the FTC Act—unfair marketing of anonymous messaging app to children and teens.** The complaint also alleges that NGL acted unfairly by marketing the NGL app to children and teens “knowing that use of anonymous messaging apps by these groups causes substantial injury” in the form of cyberbullying and exposure to sexually explicit and other harmful content.
- **California Unfair Competition Law (UCL).** The complaint also alleges that NGL violated the UCL by violating Section 5, COPPA, and ROSCA.

Order

Notably, the order bans NGL from offering anonymous messaging apps to users under age 18, which NGL must comply with by:

- **Ceasing all marketing directed to children or teens.** NGL is prohibited from “[e]ngaging in any marketing or advertising activities that are directed to [c]hildren or [t]eens.”
- **Implementing a neutral age screen that bars users under age 18 from using the app.** The order requires NGL to adopt a neutral age screen, which the order defines in part as a process that “ask[s] age in a neutral manner” by “not default[ing] to an age 18 or over” and “avoids encouraging [u]sers to falsify age

information by . . . stating that certain features will not be available” to those under the age of 18. The ordered neutral age screen must restrict access or use to individuals over age 18.

The order also prohibits misrepresentations on a host of subjects, such as that messages that a user will receive through a messaging app are from friends, social media contacts, or other live persons; that consumers will be able to see the identity of those who sent them anonymous messages; that cyberbullying will be completely or mostly filtered out through the use of content moderation or AI; or the capabilities of any AI technology.

Related to the ROSCA claims, the order imposes a variety of provisions—such as prohibiting misrepresentations of any material fact of the transaction, including those related to negative option features—requires clear and conspicuous disclosure of key terms of recurring charges, and mandates a simple cancellation method for recurring charges.

The order further prohibits NGL from violating a variety of COPPA provisions and requires NGL to delete children’s personal information it has knowingly collected without having obtained verifiable parental consent under COPPA.

The defendants must pay \$5 million (\$4.5 million to the FTC and \$500,000 to the State of California).

Takeaways

This case highlights the FTC’s concerns with the risk of cyberbullying and other online harms to teens and children. However, it is unclear whether the unfairness claim alleged here for marketing the service to children and teens or the remedy of an outright ban on letting minors access the service is something the FTC would or could apply in other contexts, or if it was only appropriate here as fencing-in relief given the alleged egregiousness of the conduct. In support of a more limited view, in his concurring statement, [Commissioner Andrew Ferguson](#) observed that the alleged conduct of NGL was “reprehensible” because it was “tailormade to manipulate the vulnerable teenage psyche.” And as both he and [Commissioner Melissa Holyoak](#) explained in their respective concurring statements, not all anonymous messaging services offered to teens and/or children are necessarily unfair. Rather, such services can be beneficial, such as in the context of a mental health app. Commissioner Ferguson also highlighted potential First Amendment issues, arguing that a limitation on the promotion of anonymous messaging platforms to children and teens could “be in serious tension with the recognized First Amendment rights of minors,” such as where teens seek to express a disfavored opinion.

The other commissioners did not respond to the Ferguson and Holyoak concurring statements, and it remains to be seen what circumstances would support an unfairness claim for offering anonymous messaging to teens and children or the remedy of an outright ban on allowing minors to access an online service.

Authors



[Janis Kestenbaum](#)

Partner

JKestenbaum@perkinscoie.com



[Aaron Haberman](#)

Counsel

AHaberman@perkinscoie.com [202.654.6246](tel:202.654.6246)



[Courtney Otto](#)

Associate

COtto@perkinscoie.com

Explore more in

[Privacy & Security](#) [Artificial Intelligence & Machine Learning](#)

Blog series

Perkins on Privacy

Perkins on Privacy keeps you informed about the latest developments in privacy and data security law. Our insights are provided by Perkins Coie's [Privacy & Security practice](#), recognized by Chambers as a leading firm in the field.

[View the blog](#)