



Is FTC Action Needed Against Pricey Apps?

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Nobody ever went broke underestimating the apathy of the American parent.

If a parent drops off a child at a candy store, handing the child a credit card and saying nothing more than he'll be back in 15 minutes, should that parent be angry with the candy store owner if the child ends up buying lots and lots of candy? Should the candy store owner have some special legal obligation to limit the price or quantity of candy that someone can purchase because his goods are more enticing than those sold at the neighboring hardware store?

This is a somewhat imperfect analogy to an issue recently raised with the FTC by three members of Congress. In early February, Rep. Edward Markey and Sens. Amy Klobuchar and Mark Pryor wrote to FTC Chairman Jon Leibowitz expressing concern over the ease with which children can rack up real dollars playing games on the Apple iPhone and iPad. The letters were sent after The Washington Post published an article on Apple's in-app purchase system, which offers many apps for free download that subsequently charge for actions within the application. The big charging culprits are children's games, such as Smurf's Village and Tap Zoo. The article provided some fairly egregious examples of children charging hundreds of dollars to their parents' iTunes accounts to decorate their virtual Smurf gardens and homes with not-so-virtual pricey smurfberries and the like.

Leibowitz responded to the letter by noting the FTC's shared concern "that consumers, particularly children, are unlikely to understand the ramifications of these types of



purchases.” He promised that the FTC would look into industry practices for the marketing and delivery of such applications. Leibowitz’s response also referenced the [FTC settlement in the Reverb case](#) .But this reference was not apropos: the case, which involved nondisclosures in product endorsements, had little to do with the issue at hand.

Admittedly, it does raise eyebrows that an app like Smurf’s Village, which clearly caters to young children, would charge exorbitant prices for in-game content. It may seem even more suspicious when the app itself is free to download.

But these red flags don’t mean that FTC action is necessary. Parents are first and foremost responsible for their children’s purchases. If parents dismissively hand their iPhones over to their children, without setting restrictions with the children or on the device, that’s primarily the parents’ problem.

The one major caveat is whether or not parents are aware that games like Smurf’s Village include real dollar purchase options. This is why the kid in the candy store with dad’s charge card is an imperfect analogy. A parent should know that there are monetary consequences to leaving a child with limitless purchasing power alone in a candy store. The same parent may not know that he’s giving that same purchasing power to his child when allowing his child to play a game on his iPhone.

FTC Beat is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

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