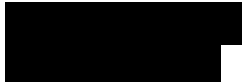




October 30, 2017

VIA EMAIL AND REGULAR MAIL

Thomas N. Dahdouh, Regional Director
Linda K. Badger, Attorney
Western Region
Federal Trade Commission
901 Market Street, Suite 570
San Francisco CA 94103



Thomas B. Pahl, Acting Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave. N.W.
Washington, DC 20580



Re: Warner Bros. Home Entertainment Inc.'s Violation of 2016 FTC Order
FTC Docket No. C-4595

Dear Mr. Dahdouh, Ms. Badger, and Mr. Pahl:

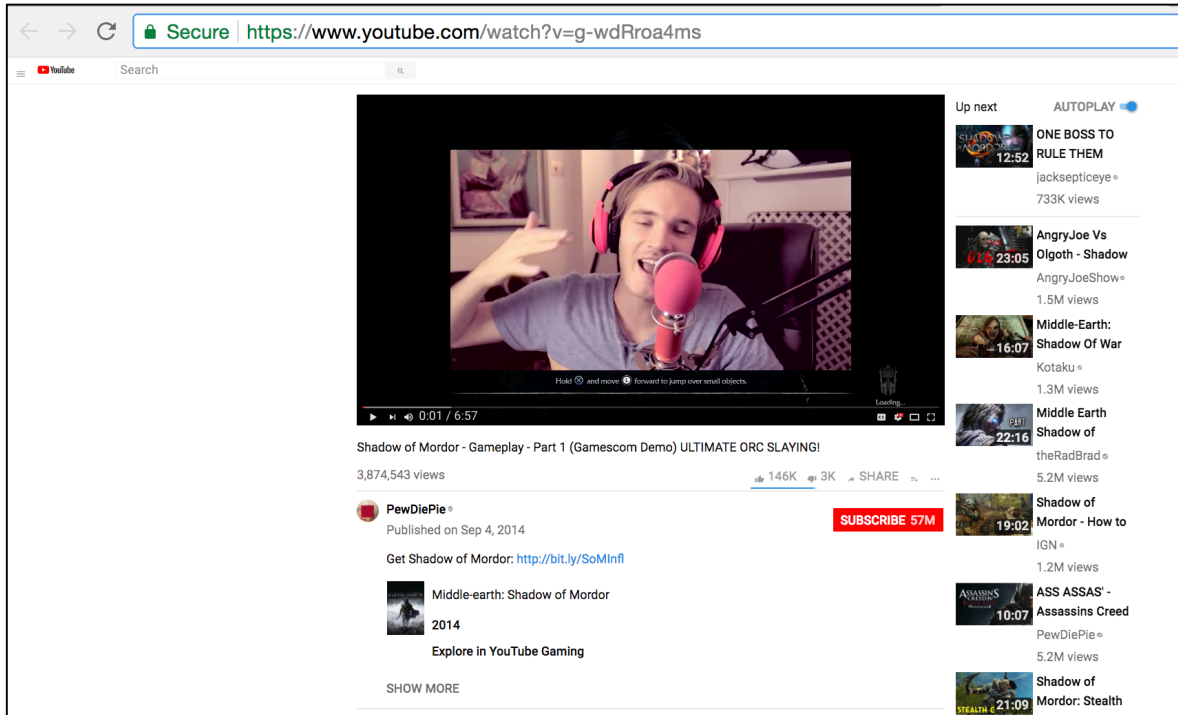
As you know, the Federal Trade Commission brought an action against Warner Bros. Home Entertainment Inc. last year for its use of online “influencers” to promote the video game *Middle Earth: Shadow of Mordor* without adequately disclosing that Warner Bros. paid the influencers.¹ The action resulted in an FTC Order that bars Warner Bros. from misrepresenting that sponsored content, including gameplay videos, are the objective, independent opinions of video game enthusiasts or influencers.² The Order also requires Warner Bros. to clearly and conspicuously disclose the material connection between the company and the influencers, and to ensure that its influencers do the same.

¹ FTC Complaint, https://www.ftc.gov/system/files/documents/cases/161811warner_bros_complaint.pdf.

² FTC Decision and Order, dated November 17, 2016, https://www.ftc.gov/system/files/documents/cases/161811_c-4595_warner_bros_do.pdf.

Unfortunately, Warner Bros. appears to be violating this Order. Specifically, one of the examples included in the FTC’s complaint, the YouTube video called “Shadow of Mordor - Gameplay - Part 1 (Gamescom Demo) ULTIMATE ORC SLAYING!,” created and posted by YouTube’s top influencer “PewDiePie,” continues to lack a clear and conspicuous disclosure as the disclosure is still below the fold and thus not visible until a reader clicked on “Show More.”³

As of today, almost a year after the FTC’s Order was entered, this video has received more than 170,000 additional views *since* the FTC’s action.⁴



Screen shot captured on October 30, 2017

Such blatant disregard of a Commission Order is inexcusable and suggests there may be other violations as well.

For this reason, TINA.org urges the Federal Trade Commission to re-open its investigation into Warner Bros.’s use of influencer marketing – particularly in light of the company’s recent release of numerous other video games, including *Middle-Earth: Shadow of War*

³ Exhibit A-1 to FTC Complaint, https://www.ftc.gov/system/files/documents/cases/161811_warner_bros_complaint_exhibits.pdf.

PewDiePie YouTube video, “Shadow of Mordor – Gameplay – Part 1 (Gamescom Demo) ULTIMATE ORC SLAYING!,” <https://www.youtube.com/watch?v=g-wdRroa4ms>.

⁴ As of October 30, 2017, this YouTube video had 3,874,543 views.

(the sequel to 2014's *Middle-Earth: Shadow of Mordor*) and take appropriate enforcement action if necessary.

Sincerely,



Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.



Bonnie Patten, Esq.
Executive Director
Truth in Advertising, Inc.

Cc: Jacqueline J. Hayes, General Counsel, Warner Bros. Home Entertainment Inc.