

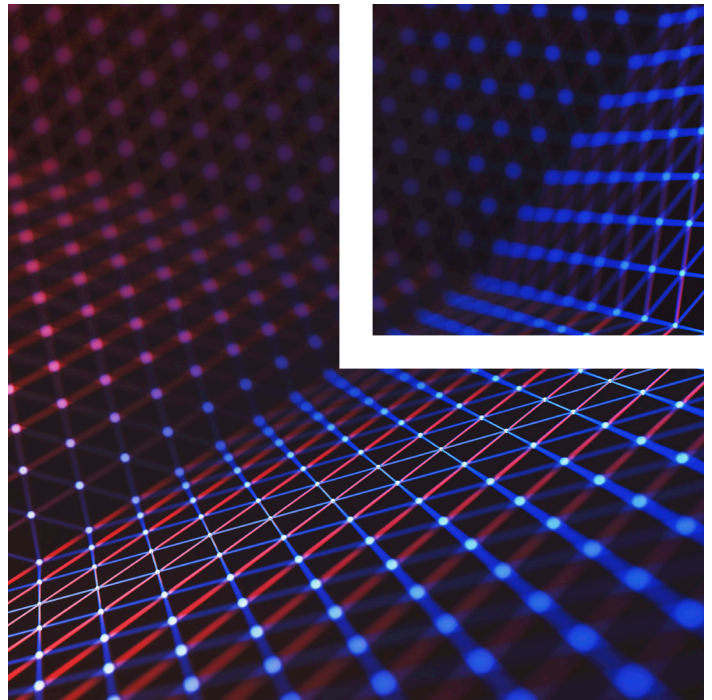
Advertising Watchdog Urges FTC to Investigate Roblox

Advertising watchdog Truth in Advertising (TINA) filed a Federal Trade Commission (FTC) complaint urging the commission to investigate and pursue enforcement action against the allegedly deceptive marketing and advertising practices on Roblox, a popular gaming platform.

TINA's complaint alleges that Roblox failed to abide by (and establish guardrails to enforce) truth-in-advertising laws, specifically highlighting the platform's lack of advertising and marketing disclosures on content intended for children. While the complaint is mainly directed at Roblox, TINA also calls out the conduct of some of the platform's most popular and problematic advertisers.

Roblox is a closed gaming metaverse platform that allows users to build immersive multiplayer games (referred to as "experiences"). Experiences range from video games, play dates and virtual concerts to virtual fashion shows and restaurants. And increasingly, these experiences are being built and developed by corporations in an effort to market a product or service. Roblox users can also purchase the platform's digital currency, Robux, to accessorize or personalize an avatar, get special abilities in games, or access premium subscriptions. Robux are not built on blockchain technology, and items purchased with the platform's digital currency are not non-fungible tokens (NFTs). Robux are not actually cryptocurrency, which means that if a Roblox user loses access to their account or their account is hacked, they lose any virtual assets in their account and have little recourse for recovering them—a complaint that many users have previously lodged with the FTC.

At the heart of the complaint is the charge that Roblox blurs the line between marketing and entertainment such that a reasonable consumer—and specifically children—cannot distinguish organic Roblox content from advertising or promotional content. For example,



the platform permits users to create "advergames," which combine advertisements with gaming experiences; however, the complaint alleges that it is almost impossible for an adult (much less a child) to distinguish between games that are created or sponsored by advertisers and those that are just created by individual users (without any promotional content). Users are also able to host events on the platform that usually coincide with an event in the real world, except the Roblox version does not often disclose that the event is sponsored or created by an advertiser. There is no conspicuous "sponsored" or "ad" tag or label accompanying these events or advergames, like those that users are accustomed to seeing on other social media platforms. According to TINA, the lack of clear and conspicuous disclosures on these "immersive advertisements" is deceptive (potentially violating Section 5 of the FTC Act prohibiting unfair or deceptive acts or practices). Related to this concern is the fact that creators and developers are also able to promote, for a fee, their organic content or advergames in search results. Those promoted games are labeled as a "Sponsored Ad," but TINA claims even this label is unclear to users. TINA's complaint cites not only issues with Roblox's undisclosed brand content, but also the fact that companies can

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create and deploy brand avatar influencers, effectively digital brand ambassadors, that are also not sufficiently disclosed to users. These avatar influencers are often AI-created bots that can interact with users, allowing the bot to promote and sell products. TINA asserts that users in the Roblox metaverse have a “right to know” that they are interacting with an AI-controlled bot or brand avatar, and the watchdog is calling on the FTC to recognize that these bots are a form of brand endorsement, requiring disclosure to users (similar to other truth in advertising principles as well as California law, which requires disclosures to consumers that they may be interacting with a bot or automated online account). Sometimes these avatars are of real-life people (like celebrities and athletes), but often the person the avatar is based on is not in charge of the avatar; a brand or advertiser is controlling it, oftentimes deploying the avatar to promote products or other branded content.

The complaint also alleges that Roblox enables brands and developers to artificially inflate their “likes” on the platform, which makes content seem more popular and therefore more prominently featured by the platform’s algorithm. Brands appear to tease offers, like “New Code for 35,000 Likes,” which persuade users to “like” or interact with that content. Though Roblox’s Community Standards appear to prohibit “deceptive schemes” (explicitly mentioning “artificially inflating the number of likes or visits to an experience”), TINA asserts that by failing to enforce these rules or even appropriately monitor its marketplace, Roblox is violating Section 5 of the FTC Act for allowing such “misleading indicators of success.”

The TINA complaint is significant because it includes insight into important consumer protection issues that advertisers and users are likely to encounter as Web3 and the metaverse continue to develop. The complaint is also part of a growing chorus of voices, including members of Congress, pressuring the FTC to take a more active role in policing the metaverse. Advertisers should keep a close eye on how the FTC responds to this complaint; should the FTC find merit in the TINA complaint, enforcement activity could impact not only advertisers but also other parties in the metaverse ecosystem—including influencers and corporate entities.

Advertisers should review their advertising practices in light of previous FTC guidance and rules, specifically with respect to children’s advertising. Although the TINA complaint does not specifically mention the Children’s Online Privacy Protection Act (COPPA), it highlights a number of potential children’s advertising issues. Advertisers also should be mindful of Children’s Advertising Review Unit (CARU) guidelines, which detail how advertisers can appropriately disclose and label advertising content to children. Even if platforms do not provide easy-to-use tools to help advertisers fulfill these obligations, advertisers should review their advertising content and balance creativity and caution in order to follow the spirit of those rules.

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