

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Edith Ramirez, Chairwoman
Maureen K. Ohlhausen
Terrell McSweeney**

In the Matter of

**WARNER BROS. HOME
ENTERTAINMENT INC.,
a corporation.**

DOCKET NO.

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of a complaint which the Western Region-San Francisco proposed to present to the Commission for its consideration and which, if issued, would charge the respondent with violations of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“consent agreement”), which includes: a statement by respondent that it neither admits nor denies any of the allegations in the draft complaint except as specifically stated in the consent agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the Federal Trade Commission Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of

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DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, “Respondent” means Warner Bros. Home Entertainment Inc., its successors and assigns, and its officers, agents, representatives, and employees.
2. “Clearly and Conspicuously” means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:
 - a. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
 - b. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
 - c. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
 - d. In any communication using an interactive electronic medium, such as the internet or software, the disclosure must be unavoidable.
 - e. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
 - f. The disclosure must comply with these requirements in each medium through

4. “Endorsement” means any advertising message (including but not limited to verbal statements, demonstrations, or depictions of the name, signature, likeness, or other identifying personal characteristics of an individual or the name or seal of an organization) that consumers are likely to believe reflects the opinions, beliefs, findings, or experiences of a party other than the sponsoring advertiser, even if the views expressed by that party are identical to those of the sponsoring advertiser.
5. “Endorser” or “Influencer” means an individual or organization that provides an Endorsement.
6. “Home Entertainment Product or Service” means any video game product or service for any platform, including but not limited to video game consoles, handheld or mobile devices, and personal computers.
7. “Influencer Campaign” means any arrangement whereby, in connection with the advertising, promotion, offering for sale, sale, or distribution of any product or service, an Influencer creates, publishes, or otherwise disseminates an Endorsement for which the Influencer is to receive compensation from either Respondent or anyone else that Respondent engages to conduct such campaign.
8. “Material Connection” means any relationship that materially affects the weight or credibility of any Endorsement and that would not be reasonably expected by consumers.

I.

IT IS ORDERED that Respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any Home Entertainment Product or Service, in or affecting commerce, shall not in any Influencer Campaign misrepresent, in any manner, expressly or by implication, that an Influencer is an independent user or ordinary consumer of the product or service.

II.

IT IS FURTHER ORDERED that Respondent, directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any Home Entertainment Product or Service, in or affecting commerce, by means of an Endorsement of such product or service, shall in any Influencer Campaign Clearly and Conspicuously disclose a Material Connection, if one exists, between the Influencer and Respondent.

III.

IT IS FURTHER ORDERED that Respondent, directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of any Home Entertainment Product or Service, in or affecting commerce, shall: (i) in any Influencer Campaign it conducts directly, take steps

V.

IT IS FURTHER ORDERED that, for five (5) years, Respondent and its successors and assigns shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VI.

IT IS FURTHER ORDERED that Respondent and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which Respondent learns less than thirty (30) days prior to the date such action is to take place, Respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In re Warner Bros. Home Entertainment Inc.

VII.

IT IS FURTHER ORDERED that Respondent and its successors and assigns, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, they shall submit additional true and accurate written reports.

VIII.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the

C. This order if such complaint is filed after the order has terminated pursuant to this