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ATTORNEY GENERAL OF NEW JERSEY
Division of Law
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FILED

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Division of Consumer Affairs

By: Russell M. Smith, Jr.
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Deputy Attorneys General
(973) 877-1280

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

In the Matter of

MEITU, INC.; and XIAMEN MEITU
TECHNOLOGY CO., LTD.,

Respondents.

Administrative Action

CONSENT ORDER

WHEREAS this matter was opened by the New Jersey Division of Consumer Affairs, Office of Consumer Protection (“Division”), as an investigation to ascertain whether violations of the Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6501-06, the Children's Online Privacy Protection Rule (“COPPA Rule”), 16 C.F.R. Part 312, and the New Jersey Consumer Fraud Act (“CFA”), N.J.S.A. 56:8-1 et seq., have been or are being committed by Meitu, Inc., and Xiamen Meitu Technology Co., Ltd., (collectively, “Meitu” or “Respondents”) (hereinafter referred to as the “Investigation”);

WHEREAS Meitu, with business addresses in Xiamen, China is engaged in the Advertisement, offer for Sale and Sale of mobile application software in New Jersey, including without limitation, AirBrush for Android, AirBrush for iOS, BeautyPlus for Android, BeautyPlus for iOS, BeautyPlusMe for Android, Pomelo for Android, Pomelo for iOS, Meipai for Android,

Meipai for iOS, PosterLabs for Android, PosterLabs for iOS, SelfieCity for Android, SelfieCity for iOS, Meitu for Android, Meitu for iOS (iPad), Meitu for iOS (iPhone), MakeupPlus for Android, MakeupPlus for iOS, BeautyCam for Android, BeautyCam for iOS (iPad) and BeautyCam for iOS (iPhone) (collectively, "Meitu Apps");

WHEREAS the Division alleges that Meitu gained actual knowledge that certain Meitu Apps collected and maintained the Personal Information of Children;

WHEREAS the Division alleges that Meitu failed to provide notice through the Meitu Apps of what Personal Information it collects from Children, how it uses such information and its Disclosure practices for such information;

WHEREAS the Division alleges that Meitu failed to obtain Parents' Verifiable Consent prior to the Collection, use and Disclosure of Children's Personal Information;

WHEREAS the Division alleges that Meitu failed to provide reasonable means for Parents to review the Personal Information Collected from their Children and failed to enable Parents to refuse to permit the further use or maintenance of their Children's Personal Information;

WHEREAS the Division alleges that prior to August 1, 2016, Meitu failed to maintain any privacy policy for Meitu Apps offered for Sale in New Jersey;

WHEREAS the Division alleges that prior to February 10, 2017, Meitu failed to Clearly and Conspicuously post its privacy policy on www.meitu.com or www.meipai.com ("Meitu Websites") or the Meitu Apps;

WHEREAS Meitu represents and warrants that it has taken steps to improve its data collection practices and has made changes to the account creation and profile settings in the Meitu Apps to block Children who identify themselves as under 13 in the United States from providing Personal Information to the Meitu Apps unless Meitu obtains Verifiable Parental Consent; and

WHEREAS the Division and Meitu (collectively, "Parties") have reached an amicable

agreement resolving the issues in controversy and concluding the Investigation without the need for further action, and Respondents have voluntarily cooperated with the Investigation and consented to the entry of the within order ("Consent Order") without having admitted any fact or violation of law, and for good cause shown:

IT IS ORDERED AND AGREED as follows:

1. EFFECTIVE DATE

1.1 This Consent Order is effective on the date that it is filed with the Division ("Effective Date").

2. DEFINITIONS

As used in this Consent Order, the following words or terms shall have the following meanings, which meanings shall apply wherever the words and terms appear in this Consent Order:

2.1 The terms "Child," "Collect," "Disclosure," "Parent," "Personal Information," "Verifiable Consent" and "Website or Online Service," shall have the same meaning as those terms are defined in 16 C.F.R. § 312.2.

2.2 "Advertisement" shall be defined in accordance with N.J.S.A. 56:8-1(c). This definition applies to other forms of the word "Advertisement" including, without limitation "Advertise."

2.3 "Attorney General" shall refer to the Attorney General of the State of New Jersey and the Office of the Attorney General of the State of New Jersey.

2.4 "Clearly and Conspicuously" shall mean a statement that, regardless of the medium in which it is made, is presented in such type, size, color, contrast, duration, location and audibility, compared to the other information with which it is presented, that it is readily apparent and understandable and in language and terms used in accordance with their common or ordinary

usage and meaning. If such statement modifies, explains or clarifies other information with which it is presented, it must be presented in proximity to the information it modifies, explains or clarifies and in a manner that is readily apparent and understandable.

2.5 “Consumer” shall refer to any Person, defined in accordance with N.J.S.A. 56:8-1(d), who is offered Merchandise, defined in accordance with N.J.S.A. 56:8-1(c), for Sale, defined in accordance with N.J.S.A. 56:8-1(e).

2.6 “Protected Consumer Information” shall refer to information collected about an individual Consumer, including an individual’s first and last name, a physical street address, an email address, geo-location information, telephone number, Social Security number, photo or any other information that permits a specific individual to be contacted physically or online. The term extends to details such as a person’s birthday, height, weight, hair color when combined with other information that identifies a specific individual.

2.7 “State” or “New Jersey” shall refer to the State of New Jersey.

3. REQUIRED AND PROHIBITED PRACTICES

3.1 Respondents shall not engage in any unfair or deceptive acts or practices in the conduct of their businesses in the State and shall comply with all applicable State and/or federal laws, rules and regulations as now constituted or as may hereafter be amended including, but not limited to, COPPA, the COPPA Rule and the CFA.

3.2 With respect to any Website or Online Service operated by Respondents that is directed to Children or through which Respondents, with actual knowledge, collect, use, and/or disclose Personal Information from Children, Respondents shall:

A. Provide notice of what information they Collect from Children, how they use such information and their Disclosure practices for such information in accordance with the COPPA Rule, specifically 16 C.F.R. § 312.3(a) and §312.4(b);

B. Obtain Parents' Verifiable Consent prior to the Collection, use or Disclosure of Personal Information of Children in accordance with the COPPA Rule, specifically 16 C.F.R. § 312.3(b) and § 312.5; and

C. Provide reasonable means for a Parent to review the Personal Information collected from a Child and to refuse to permit its further use or maintenance in accordance with the COPPA Rule, specifically 16 C.F.R. § 312.3(c) and § 312.6.

3.3 Respondents shall Clearly and Conspicuously post a privacy policy that, among other things, discloses how the Meitu Websites and Meitu Apps collect, use or disclose Protected Consumer Information, in accordance with N.J.S.A. 56:8-2.

4. SETTLEMENT PAYMENT

4.1 The Parties have agreed to a settlement of the Investigation in the amount of One Hundred Thousand and 00/100 Dollars (\$100,000.00) ("Settlement Payment"), which consists of a civil penalty pursuant to N.J.S.A. 56:8-13.

4.2 Respondents shall make the Settlement Payment within fourteen (14) days of the Effective Date.

4.3 The Settlement Payment referenced in Section 4.2 shall be made by certified check, cashier's check, money order, credit card or wire transfer payable to the "New Jersey Division of Consumer Affairs" and forwarded to:

Case Management Tracking
New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, New Jersey 07101
Attention: Van Mallett, Lead Investigator

4.4 Upon making the Settlement Payment referenced in Section 4.2, Respondents shall immediately be fully divested of any interest in, or ownership of, the moneys paid. All interest in

the moneys, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Division pursuant to the terms herein.

5. GENERAL PROVISIONS

5.1 This Consent Order is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Order.

5.2 This Consent Order shall be governed by, and construed and enforced in accordance with the laws of the State.

5.3 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order, and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Order.

5.4 This Consent Order contains the entire agreement between the Parties. Except as otherwise provided, this Consent Order shall be modified only by a written instrument signed by or on behalf of the Parties.

5.5 Except as otherwise explicitly provided in this Consent Order, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

5.6 If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

5.7 This Consent Order shall be binding upon Respondents as well as their owners, officers, directors, managers, agents, employees, representatives, subsidiaries, affiliates, successors and assigns, and any Person through which they may now or hereafter act, as well as any Persons who have authority to control or who, in fact, control and direct their business.

5.8 This Consent Order shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Order avoid compliance with this Consent Order.

5.9 This Consent Order is entered into by the Parties for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Order shall be construed as an approval, sanction or authorization by the Division or any other governmental unit of New Jersey or any act or practice of Respondents. Neither the existence of, nor the terms of this Consent Order shall be deemed to constitute evidence or precedent of any kind except in: (a) an action or proceeding by one of the Parties to enforce, rescind or otherwise implement any or all of the terms herein; or (b) an action or proceeding involving a Released Claim to support a defense of res judicata, collateral estoppel, release or other theory of claim preclusion, issue preclusion or similar defense.

5.10 Unless otherwise prohibited by law, any signatures by the Parties required for filing of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Order.

5.11 The Parties represent and warrant that their signatories to this Consent Order have authority to act for and bind the respective Parties.

5.12 This Consent Order is a public document subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

5.13 Nothing contained herein shall be taken or construed to be an admission of liability on the part of Meitu, including any facts or violations of law alleged.

6. RELEASE

6.1 In consideration of the payments, undertakings, mutual promises and obligations provided for in this Consent Order, the Division hereby releases Respondents from any and all

civil claims or Consumer-related administrative claims, to the extent permitted by New Jersey law, which the Division could have brought prior to the Effective Date against Respondents, any of them for violations of the COPPA, the COPPA Rule or the CFA arising out of the Investigation, as well as the matters addressed in this Consent Order ("Released Claims").

6.2 Notwithstanding any term of this Consent Order, the following do not comprise Released Claims: (a) private rights of action; (b) actions to enforce this Consent Order; and (c) any other claims against Respondents by any other agency or subdivision of New Jersey.

7. PENALTIES FOR FAILURE TO COMPLY

7.1 The Attorney General (or designated representative) shall have authority to enforce the provisions of this Consent Order or to seek sanctions for violations hereof or both.

7.2 The Parties agree that any future violations of the provisions of this Consent Order and the CFA shall constitute a second or succeeding violation under N.J.S.A. 56:8-13 and that Respondents may be liable for enhanced civil penalties, as provided therein.

8. COMPLIANCE WITH ALL LAWS

8.1 Except as provided in this Consent Order, no provision herein shall be construed as:

- a. Relieving Respondents of their obligation to comply with all New Jersey and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or
- b. Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from Respondents pursuant to any New Jersey or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right Respondents may otherwise have pursuant to any New Jersey or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

9. NOTICES UNDER THIS CONSENT ORDER

9.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Division or the Respondents pursuant to this Consent Order shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Division:

Russell M. Smith, Jr.
Carla S. Pereira
Deputy Attorneys General
State of New Jersey, Office of the Attorney General
Division of Law, Consumer Fraud Prosecution
124 Halsey Street, 5th Floor
Newark, New Jersey 07101

For the Respondents:

Tyler G. Newby, Esq.
Fenwick & West LLP
555 California Street, 12th Floor
San Francisco, California 94104

IT IS ON THE 17th DAY OF April, 2018 SO ORDERED.

GURBIR GREWAL
ATTORNEY GENERAL OF NEW JERSEY

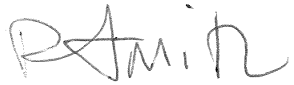
By: 

KEVIN JESPERSEN, ACTING DIRECTOR
DIVISION OF CONSUMER AFFAIRS

THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS
CONSENT ORDER ON THE DATES BESIDE THEIR RESPECTIVE SIGNATURES.

FOR DIVISION:

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY


By: 

Dated: 4/16, 2018

Russell M. Smith, Jr.
Carla S. Pereira
Deputy Attorneys General
State of New Jersey, Office of the Attorney General
Division of Law, Consumer Fraud Prosecution
124 Halsey Street, 5th Floor
Newark, New Jersey 07101
Telephone: (973) 877-1280

FOR THE RESPONDENTS:

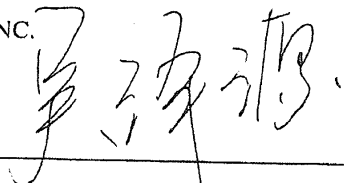
FENWICK & WEST LLP

By: 

Dated: April 16, 2018

Tyler G. Newby, Esq.
555 California Street, 12th Floor
San Francisco, California 94104
Telephone: (415) 875-2300

MEITU, INC.

By: 

Dated: 12 April, 2018

Print Name: Zeyuan WU

Print Title: Executive Director & Chief Executive Officer

Print Address: c/o Room 8106B, Level 81, International Commerce Centre,
1 Austin Road West, Kowloon, Hong Kong

Print Telephone: (+ 852) 23216029

XIAMEN MEITU TECHNOLOGY CO., LTD

By: _____

Dated: 12 April, 2018

Print Name: Zeyuan WU

Print Title: Legal Representative

Print Address: c/o Room 8106B, Level 81, International Commerce Centre,
1 Austin Road West, Kowloon, Hong Kong

Print Telephone: (+ 852) 23216029

