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December 22, 2010

Jennifer Adams Draffen  
Senior Counsel  
Apple  
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Cupertino, CA 95014

**RE: *Smurfs' Village Application***

Dear Ms. Draffen:

A couple of years ago, you and I corresponded regarding an issue relating to iTunes' possible violation of Washington's gift card statute. I am writing you now to discuss a different issue with the hope that we can likewise resolve it amicably.

Our office has become aware of a problem that arises when children make in-application charges on iTunes accounts through so-called free applications largely used by children. Parents are unaware of the potential for these charges and are surprised to find them on their bills. The most recent example of this has been the Smurfs' Village application, which is advertised as a "free" application, but does, in fact, have the option of in-application purchases that can amount to hundreds of dollars. Other examples of "free" applications with the potential for in-application purchases include "Tap Zoo" and "Bakery Story."

With regard to the Smurfs' Village application, apparently the user may purchase "Smurfberries" for as much as \$99.99 to help them play the application. A recent news story indicates that Capcom Entertainment Inc., the publisher of Smurfs' Village, updated the application to attempt to address the charges made by children. Now, when the application starts up for the first time, a pop-up warns about the option to purchase "Smurfberries" and the fact that charges come out of owners' iTunes accounts. [news.yahoo.com](http://news.yahoo.com), December 20, 2010.

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While Capcom's effort is somewhat helpful, it does not go far enough to solve the big picture problem—the fact that Apple devices do not sufficiently warn users when *any* new child-friendly application is purchased, that in-application purchases are available, and that children can make purchases freely for the 15-minute period following entry of the user's password. Apple does not currently afford the user the ability to easily prevent the charges for the particular child-friendly application purchased.

I understand that an Apple device user can select a *universal* option of disallowing in-application purchases in *all* applications. That option, however, does not adequately address the issue of the user who actually may want to make in-application purchases in some applications, but disallow them in others. For example, a parent may want to disallow the purchase of "Smurfberries" for his child, but permit his own purchase of some other service in a different application. Currently, that option is not available. Also, the option to disallow in-application purchases is not given at a relevant time or in a relevant manner, so that the user can choose it when it makes the most sense—at the time the application is downloaded.

Apple has employed a practice in certain applications that may be useful in the current scenario—the purchase of applications that include adult content. When a user chooses an application that may include adult content, a warning pops up on the user's screen informing him or her that the content in the application is suitable for those over a certain age and gives the user the option to cancel or continue installation. This application-specific warning may have some use in the context of child-friendly applications where in-application purchases are possible.

We suggest that Apple include a pop-up at the time of installation of the application, much in the nature of its current warning regarding adult content, that states the following: "WARNING: Smurfs' Village (or other named child-friendly application) contains the option of making in-application purchases that will be charged to your iTunes account. If you want to disable this option, press HERE." (Note—by pressing "HERE" the ability to make in-application purchases would be disabled.) This warning would be followed by two options, much like your current warning for adult content applications, which would state "OK—Install Application" and "Cancel Installation." If the Apple device is not configured to disable an in-application purchase using this method, then an alternative might be to direct the user to the restrictions settings from the warning pop-up, where the option to disable in-application purchases for the particular application can be chosen.

I would appreciate a prompt response to this letter. Based on the complaints we have received and the potential for consumer harm, we believe this is an area that needs immediate action. While we would rather not resort to enforcement action, we believe that it may be merited under the circumstances. We hope that Apple will voluntarily address the issues outlined herein.

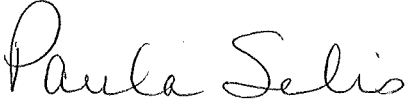
I am looking forward to hearing from you soon. If you have any questions, you may feel free to contact me at the number below.

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Thank you for your cooperation.

Very Truly Yours,

A handwritten signature in cursive script that reads "Paula Selis".

PAULA SELIS  
Senior Counsel  
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cc: Rebecca Henderson, HTU Computer Investigative Specialist  
Rob Costello, Deputy Attorney General  
Doug Walsh, Sr. Assistant Attorney General  
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