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Vincent Giullano  
Senior Vice President  
Government & USPS Relations

February 14, 2005

Mr. Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580



Re: Sliding Scale 2005, Project No. P054503 (re: COPPA)

Dear Secretary Clark:

We strongly support the Commission's proposal to extend indefinitely the current sliding scale standard for obtaining verifiable parental consent pursuant to the Commission's regulations (16 C.F.R. Part 312) promulgated under the Children's Online Privacy Protection Act ("COPPA"). The five-year trial period for the sliding scale has demonstrated that this approach is working effectively. Further, we believe that retaining this standard will protect children while encouraging Web site operators to invest more resources in developing children's content on the Internet. The sliding scale approach has proven an effective means for allowing interactivity at Web sites directed at children without unduly burdening Web sites with costly additional parental consent mechanisms that could have the unintended effect of reducing children's content on the Internet. A flexible range of consent mechanisms that depends on the use to which a Web site operator puts the information has proven fully consistent with COPPA's statutory purpose of protecting child safety. The sliding scale allocates precautions in an appropriate way, requiring more effort to ensure parental consent for children's online activities that potentially present greater risks to the children. The fact that less effort is required on the part of Web site operators who only collect personal information from young children for internal purposes additionally provides an incentive for operators not to disclose such information to third parties, thus furthering a public policy goal of COPPA.

We believe that extending indefinitely the sliding scale mechanism for obtaining verifiable parental consent will have no negative implications. To our knowledge, new technologies have not yet been developed and to facilitate verifiable parental consent at a reasonable cost. Consistent with the statutory mandate, which provides that verifiable parental consent must be reasonably calculated "*taking into consideration available technology*," 15 U.S.C. § 6501(9), to ensure that the person providing the consent is the child's parent, the sliding scale approach affords a readily available and viable means of obtaining such consent.

Moreover, many of the Associations' constituent companies with Web sites directed to children have created content whose continued existence is dependent upon the acceptable consent mechanisms under the sliding scale approach. If the sliding scale were to be phased out, these sites may be forced to retool their Web sites, undertaking more difficult and costly parental consent mechanisms. Ironically, the net effect of a sliding scale phase-out could be to eliminate some of the innovative interactive opportunities for children at these Web sites and/or a significant reduction in the amount of children's content available over the Internet.

The parameters of the sliding scale approach are clear, providing Web sites with meaningful guidance on how to structure their activities around a preferred consent mechanism. Adopting the sliding scale permanently would help ensure the continued existence of meaningful children's Web site content, and likely would foster the development of additional such content because it would encourage companies to make the types of investments in children's content that they have been hesitant to make to date given the temporary nature of the sliding scale.

For these reasons, the undersigned associations urge that the Commission extend the sliding scale standard indefinitely. For additional information, please contact Stuart Ingis at DLA Piper Rudnick Gray Cary US LLP, at (202)-861-3900.

Sincerely,

A handwritten signature in black ink that reads "Vincent Giuliano". The signature is written in a cursive, flowing style.

Vince Giuliano