

**Center for Digital Democracy
1718 Connecticut Ave, NW
Suite 200
Washington, DC 20009
www.democraticmedia.org**

Via Electronic Submission

February 14, 2005

Federal Trade Commission
Office of the Secretary
Room 159-H (Annex Y)
600 Pennsylvania Ave., NW
Washington, DC 20580

Re: Comments on the Proposed Amendment to the Children's Online Privacy Protection Rule ("Sliding Scale 2005, Project No. P054503")

As the two co-founders of the Center for Media Education, the leading organization that worked with the FTC to help establish COPPA, we respectfully submit this Comment.

The Federal Trade Commission does not have sufficient independent information to proceed with any changes to the COPPA safeguards for children and their parents. The current "sliding scale" formulation must be extended until the Commission can review appropriate scholarly and objective market analysis. To do anything less would, in our opinion, harm the privacy rights of children ordered by Congress.

Frankly, we are perplexed as to why the FTC hasn't formally asked the nation's leading scholars in childhood development and technology to provide it with a full range of data for this proceeding. The Commission, in the past, has reached out to the academic community. Just last week, members of the Federal Communications Commission requested that independent academics assist it in better determining how new technological developments could more meaningfully serve that agency's public interest mandate. Clearly, the FTC should also be striving to engage in the kind of comprehensive research analysis that is best suited to a serious outcome in the COPPA review.

The online children's marketplace has undergone significant changes. The rise of broadband, for example, is fundamentally altering the children's digital marketing landscape (with nearly half of all US homes with Internet connections relying on high-

speed connections).¹ Broadband has ushered in new, "rich media" marketing techniques, especially in the children's arena.² The Commission must better understand how the electronic media environment facilitates new forms of relationship building and data collection. For example, in the children's market, there continues to be a rapid evolution of content and marketing integration.³ So-called "advergaming," for example, which foster immersive behavior and relationships, have created powerful new forms of relationship marketing and data collection.⁴ How the new "cross-platform" marketplace, where Internet communications can be seamlessly delivered to other devices, must also be better understood.

More research is also required to better understand the role of "infomediaries." As can be seen from the websites of various infomediaries, their business model is designed to facilitate data collection.⁵ We simply do not know enough, at this point, to make the "sliding scale" permanent. Among the questions that must be explored are how new commercial relationships of various not-for-profit agencies might affect their role in securing the appropriate level of COPPA permission.

We stand ready to help the FTC develop a rigorous academic analysis. Either through voluntary compliance or via the agency's subpoena power, the FTC must obtain the necessary information so it can better understand the dimensions of the digital media marketplace, its relationship to children, and its contemporary data collection practices. Only through such a review can we be assured that the Congressional spirit and intent of COPPA be preserved.

Jeffrey A. Chester
Executive Director
Center for Digital Democracy

Kathryn C. Montgomery, Ph.D.

¹ See, for example, the Federal Communication's Commission annual report on the status of competition. As of June 2004, 47 percent of all U.S. Internet subscribers used broadband. Released Feb. 4, 2004.

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-13A1.pdf,

² See, for example, the use of broadband by Campbell's Soup,

<http://www.imediaconnection.com/content/5010.asp>; <http://www.mysoup.com>, or Yahoo's announcement--alongside Coca Cola--about using rich media tools to reach youth:

<http://docs.yahoo.com/docs/pr/release996.html>. Recently, the nation's largest broadband ISP--Comcast--launched a broadband channel targeting children: <http://www.imediaconnection.com/news/4426.asp>.

³ Over the last several years, the emergence of "rich media," high-speed Internet connections, "pay-for-performance" search and new forms of behavioral marketing technologies have further transformed the commercial Internet space. See, for example, <http://www.clickz.com/features/insight/article.php/3482046>; <http://www.contentoverture.com/d/USm/ays/>; <http://www.claria.com/advertise/audience/>; <http://www.imediaconnection.com/behavioralmarketing/index.asp>.

⁴ The advergaming market has important implications for how children link to marketers. *Advertising Age* has covered this issue. See, for example, "Digital Gamescapes Lure Major Marketers," May 28, 2002.

⁵ See, for example, Privo's website at <http://www.privo.com/overview4.htm>, <http://www.privo.com/privolock.htm> (viewed 2/4/05).