

Donald S. Clark, Secretary
Federal Trade Commission
Washington, DC

July 29, 2011

Re: *Aristotle Application for Safe Harbor, Project No. P-114509*

Dear Mr. Clark,

I am writing in support of Aristotle's application for certification as a Safe Harbor under the Rule implementing the provisions of COPPA. I am a movie and media critic and often write about the challenges of parenting in an era when it is increasingly harder to protect children from material intended for adults. I have written for publications including USA Today, the Chicago Tribune and Chicago Sun-Times, Common Sense Media, my own website and blog at <http://www.moviemom.com> and many others. I have been invited to testify before the FTC regarding the ratings of movies, television, and games and have met with FTC staff on the issue of making movie trailers that are supposed to be seen by adult audiences only available online.

I am familiar with Aristotle but have no commercial relationship or connection to the company or anyone connected with it.

In order to provide the Commission with observations relevant to the specific questions mentioned in its invitation, I will respond to the topics in the order listed.

1. Regarding the provisions in the proposed guidelines, for the most part these mirror the requirements set out by the Commission and reflect its prior comments and subsequent approvals of earlier applications. The range of measures in the proposed guidelines of the Aristotle application is broader and some of the company's verification measures are more stringent than those described in the Safe Harbor systems previously certified.
2. The provisions of the proposed guidelines governing operators' information practices provide "the same or greater protections for children" as those contained in Sections 312.2 - 312.8 of the Rule by means of the complete inclusion by reference of those sections in the Membership Agreement.
3. The mechanisms proposed by Aristotle to assess operators' compliance with the guidelines will be effective. In addition, the safeguards built into the Children's Privacy Compliance Program are designed to prevent any behavior in violation of the guidelines.
4. Regarding the incentives for operators' compliance with the guidelines, I have long advocated in similar contexts for enforcement mechanisms to assure compliance. Effective steps that this application describes include independent third party review,

regular monitoring (a minimum of four per year), periodic unannounced reviews, convenient complaint options for children and parents that trigger immediate action, issuance of suspension warning to noncompliant operators, termination of membership in the Children's Privacy Compliance Program and referral to the Commission.

5. On the question of whether or not the guidelines provide adequate means for resolving consumer complaints, I believe they do. Each stage allows and facilitates complaint. The company's guidelines mandate that "member companies must provide the parent and child with reasonable and effective means to submit complaints that they may have about a member company's information practices. Moreover the company's Children's Privacy Compliance Program requires its members "to institute internal control mechanisms. Specifically, these mechanisms include appointing a representative of the member company that is responsible for handling all questions or complaints received from parents or children that use its website. Such representative must be given the full authority to receive and actively respond to any privacy-related inquiries. If a member company has not adequately responded to a parent's or child's inquiry, the member company must provide a means for the parent or child to appeal to a higher management level. In the event the parent or child remains unsatisfied with the member company's response, the member company is required to refer the parent or child to the Children's Privacy Compliance Program."

An appropriate aspect of the evaluation of a Safe Harbor application, I believe, is its business philosophy and public behavior as a steward of personal information. The Aristotle brand has long been associated with two areas of expertise and advocacy that are directly relevant here:

- 1) data collection and management (mainly for election law compliance and voter contact and identity verification), and
- 2) child protection through online age and identity verification.

Though it says nothing specific about the effectiveness per se of Aristotle's protection mechanisms under COPPA, the company's core competence and business philosophy in data management provide a useful historical perspective on how the company is likely to perform if its Safe Harbor application is approved. Accuracy and security have long been central to the company's survival and emergence as a leader in a highly scrutinized and sensitive sector of the information industry. About as many elected officials and candidates at the local, state and federal levels entrust their data and rely on the verification capabilities of Aristotle than all other firms combined. A software and data enterprise whose brand was built on its ability to keep thousands of political careers and campaigns on the right side of federal and state regulation is an enterprise appropriately sensitized to the importance of accuracy, security and compliance with law. Aristotle went from being one of hundreds to the lead position largely on the strength of its approach to data management and compliance under myriad federal and state laws and regulations. The company's systems are designed to prevent and to respond swiftly and aggressively to any possibility of breach or abuse, capacities deployed in collecting,

verifying and securing data necessary for its system of online parental verification and child safety.

Another important aspect of the Aristotle brand is its record on responding to dangers to young children online. When the House of Representatives in 2007 was considering whether current technologies were effective in screening out children from online gambling sites, Aristotle was asked to testify before the Financial Services and Judiciary committees. The company's representative explained to both committees the effectiveness of robust age and identity systems already deployed across the commercial sector, knocking down the arguments of major industries that oppose age verification as an inconvenience online enterprises need not incur. The testimony was corroborated by Leslie Stahl's report for CBS News' Sixty Minutes program that vividly demonstrated the difference between actual age verification – which a tech-savvy underage boy on camera could not get through and a common deceptive age screen that merely asks for a birth date, verifying nothing and which the child circumvented in seconds.

Aristotle has strongly promoted online child protection despite fierce opposition from vastly larger firms who wish to avoid any responsibility – or liability – for what and who kids are exposed to online. It was the only major data firm to openly challenge MySpace over its indifference to known dangers to children through the rampant presence of Registered Sex Offenders on its site; Aristotle's assessment of that danger turned out to be conservative (over ninety thousand convicted sex offenders were subsequently identified on the site). Even though News Corp. is one of Aristotle's own shareholders, Aristotle's CEO, John Phillips, called on MySpace and its owner, News Corp. to do the right thing and alert the parents of children that had been contacted by the identified sex offenders. MySpace rejected that demand and what happened to that data remains a mystery. There is as yet no law to compel the site to make such notifications, demonstrating how ineffectual child protection policy actually is in the Internet age. COPPA is a weak instrument in this respect. That is why it is so important to make available through the safe harbor designation the protections of technology companies willing to make a public commitment to advance child protection online, including the most effective screening technology available.

Finally, it should be noted that the US Congress has recognized the efficacy of the age verification and child protection methods described in Aristotle's Safe Harbor Application by enacting them into law. In 2009 when legislators looked for the most effective methods available to thwart trafficking in cigarettes and contraband tobacco, they crafted the PACT Act (the Prevent All Cigarette Trafficking Act of 2009), specifying the online child protection system deployed by Aristotle. That July the bill, which had passed the House by an overwhelming bipartisan majority, was adopted by the Senate unanimously and signed into law by President Obama.

This method requires “submission of the full name, birth date, and location of the parent, verified through the use of a commercially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and

authentication;" it is step 10 (x) in the list of fourteen measures used by Aristotle's Integrity System as described in the application for safe harbor certification.

I urge the Commission to approve Aristotle Inc.'s application to be certified as a Safe Harbor under the Rule implementing COPPA. If I can be of any further assistance in providing additional support for the application in person or in writing, please let me know.

Sincerely,

Nell Minow