

On 21 October 1998 Congress enacted the Children's Online Privacy Act (COPPA) to prohibit unsafe or deceptive practices in the collection or use of personally identifiable data about children under the age of thirteen (Children's online, 2010, p. 2). COPPA stipulates that the Federal Trade Commission (FTC) may approve self-regulatory guidelines that serve as a safe harbor against enforcement actions for violations of FTC rules promulgated in accordance with COPPA (Children's online, 2010, p. 2). As of September 2008, the FTC approved four self-regulatory safe harbors (Children's online, 2010, p. 2). Proposed FTC rule, FTC-2010-0008-000, is the application by i-SAFE, a non-profit group that promotes safe use the online resources by children, for i-SAFE's self-regulatory guidelines to become the fifth safe harbor under COPPA(Children's online, 2010, p. 2).

i-SAFE is a non-profit organization dedicated to educating youth on how to avoid dangerous and inappropriate online behavior (About i-SAFE, n.d., ¶ 1). Congress first funded i-SAFE in 2002 and since that time, i-SAFE has provided internet safety training to over 6.5 million U.S. students (Children's, 2010, p 1). Under i-SAFE's proposed self-regulatory guidelines, called i-SAFE Harbor, applicant's must complete a self-assessment checklist prior to an audit by i-SAFE that confirms that the applicant's website meets the i-SAFE Harbor Guideline Requirements (Children's online, 2010, p. 3). Once the applicant passes the audit, the applicant must sign a Participant License Agreement (PLA) that will obligate the applicant to follow all seven guidelines of the i-SAFE Harbor program, to post the i-SAFE Harbor Emblem on the applicant's website, and subject the applicant to periodic monitoring (Children's online, 2010, p. 4). Furthermore, if there are complaints between a user of the website and the operators of the website that cannot be

resolved without arbitration, the operators of the website are contractually obligated, through the PLA, to use i-SAFE Harbor's third party dispute mechanism (Children's online, 2010, p. 6).

The reputation of i-SAFE, the strict validation requirements required in order to become a i-SAFE Harbor member, the periodic monitoring done by i-SAFE, and dispute resolution process make me think that extending FTC approval to i-SAFE's self-regulatory guidelines is a worthwhile action that will only increase online safety for children. My main concerns involve verifying that i-SAFE harbor members are meeting the self-regulatory guidelines imposed by i-SAFE. i-SAFE's reputation, along with the proposed continual monitoring of websites that are enrolled in the i-SAFE Harbor program make me believe that participant websites will meet the guidelines or be dropped from the program. Enforcement is the key and lack of enforcement can lead to failures in the self-regulatory process. One failure of the self-regulatory process is the failure of the U.S. safe harbor program concerning the European Union (E.U.) Directive of Data Protection.

The U.S Department of Commerce developed a voluntary safe harbor program so that U.S. companies would have guidelines for becoming compliant with the European Union (E.U.) Directive of Data Protection [henceforth referred to as "the Directive"] standards (Donovan, 2001, ¶ 1-2). Under the Directive, E.U. member states must pass laws guaranteeing that personal data collected by organizations is accurate, relevant, up-to-date, and used only for the purpose it is collected for (Halbert and Inglli, 2009, p 89). Furthermore, E.U. member states must pass laws that restrict the personally identifiable data flow from the E.U. to organizations that do not have "adequate" privacy protections

(Donovan, 2001, ¶ 2). The European Commission deemed the safe harbor framework developed by the FTC adequate on July 20, 2000 and the framework went into effect on November 1, 2000.

Safe Harbor is a voluntary program; no U.S. company is required by law to join and any U.S. company may leave at any time (Donovan, 2001, ¶ 12). However, there are allegations that U.S. companies are claiming to be members of the U.S. safe harbor program but not following the program's rules. A 2008 Galexia report found that 206 organizations claimed to be part of the U.S. safe harbor program that were not members and that even more organizations that are part of the safe harbor program were not following all of its rules (Connolly, 2008, p. 8). These problems are most probably attributable to companies shirking their responsibilities under the U.S. safe harbor program due to a lack of verification and enforcement. As long as the i-SAFE Harbor program is verified and enforced, it should not have the problems that the U.S. Department of Commerce's safe harbor program for U.S. businesses trying to comply with the E.U. directive has with verification and enforcement.

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