

COPPA Rule Review, 16 CFR Part 312, Project No. P104503

The proposed amendments to the Children's Online Privacy Protection Rule presented by the commission do a sufficiently inclusive job of responding to and covering changes in online technology, including the mobile marketplace. The modifications presented do a good job of maintaining important parental control over children's collected information given technology's rapid evolution. It is evident that over that past 11 years since COPPA became effective that access to and navigation of the online space has transformed dramatically. Overall, the proposed modifications and new paragraphs are extremely necessary for the protection of children on the Internet. The remainder of this comment will address general questions 2, 8, and 9 (Section X: 59828).

In response to general question 2, which reads, "*Do the changes to the definition of 'collects or collection' sufficiently encompass all the ways in which information can be collected online from children*"; I believe that it does. By changing paragraph (a) of section 312.2 to include the language "prompting or encouraging" in addition to an operator "requesting" a child's personal information, is a much more comprehensive approach to how operator are currently behaving. There are many ways that operators can deceptively encourage a child to enter personal information to say win a prize, or get to the next level of a computer game that are not explicitly requesting that personal information. The amendment to this language protects children from this deception, and the three verbs encompass any way an operator could approach information collection.

In response to general question 8, which reads, "*Proposed amendment 312.2 would define personal information to include 'photograph, video, or audio file where such file contains a child's image or voice' and no longer requires that photographs (or similar items) be combined with 'other information such that the combination permits physical or online contacting.' What would be the impact of expanding the definition of personal information in this regard?*" the impact would be immense. By expanding this definition, children are now protected from technology that can collect their information without a child providing it, or knowing it exists on the Internet, let alone receiving parental consent. This amendment is extremely necessary given new technologies that are presently in use. Facial recognition software, like the Pitt Patt technologies that have been acquired by Google, uses algorithms to recognize and identify human faces in both pictures and video on the Internet without any other personal information about the image that would enable contact. By amending the definition of personal information to define this above-mentioned behavior, the COPPA rule is efficiently extending parental control and protecting child information against these uninhibited technologies. As these technologies become more commonly used and integrated into our many internet-accessible devices, the impact and need of this amendment's inclusion will continue to grow.

In response to question 9, which reads, "*Are there any identifiers that the Commission should consider adding to 312.2's definition of 'personal information'?*", no there are

not any other *individual* identifiers. It does not appear that it is necessary for the Commission to include any other individual identifiers right now given the broad clause in paragraph (F) of section 312.2. Since paragraph (F) essentially gives the Commission the right to include any other identifier “that permits the physical or online contacting of an individual” at their discretion, any other potential identifier is effectively included in this broad clause. In response to sub-question 9a., there are no other forms of government issued identification in addition to a Social Security Number that should be included, once again because of the clause in paragraph (F). In response to sub-question 9b., the combination of date of birth, gender, and ZIP code do provide sufficient information to permit the contacting of a specific individual and should therefore be collectively included as an item of personal information. The combination of these three data markers could effectively target a specific individual approximately 87.9% of the time, evidenced through examining the statistics. The population of the US is slightly above 300 million people. Given that there are just over 42,000 zip codes, this leaves approximately 7,200 people within each zip code on average. Given that 88% of the population is younger than 65, this leaves a segment of 6,300 people between the ages of 0 and 65 in an average zip code. This segment is easier to analyze since it demonstrates a nearly uniform distribution by age. Given this uniform distribution, approximately 96 people will have been born in any given year on average from within this specified group. Populations could be skewed younger or older depending upon specific features of a given region, for example average age varies significantly across different states. There then are 48 people with the same gender born in the same year from our segment in an average zip code given that there is a near 50/50 split between the genders through this age range. This provides an 87.9% chance a selected individual does not share the same date of birth and sex with another individual within an average zip code over the examined age range. Thus it is statistically highly probable that those 3 data markers will identify a specific individual. Given this high chance of specific identification, this information should be included collectively as an item of personal information because operators and marketers would most likely be willing to exert the effort with such a high chance of reaching their target consumer.