



November 23, 2011

Federal Trade Commission
Office of the Secretary
Room H-113 (Annex E)
600 Pennsylvania Avenue, NW,
Washington, DC 20580

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

Dear Sir or Madam:

This comment letter is submitted by the Consumer Bankers Association (“CBA”)¹ in response to the Federal Trade Commission (FTC) proposed rule that would amend the Children’s Online Privacy Protection Rule (COPPA Rule) to address changes in online technology. The COPPA Rule requires that website operators provide notice to parents and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children under the age of 13. The proposed rule was published in the *Federal Register* on September 27, 2011, and CBA appreciates the opportunity to comment on this proposal.

Our concerns with the proposal center on the definition of “personal information,” which would be expanded under this proposal. This would now include the following:

- a persistent identifier such as an Internet Protocol address, a device serial number, a unique device identifier, or a customer number held in a cookie;
- geolocation data; and
- photographs, videos, and audio files.

The collection of information from children is not a significant activity for banks and, therefore, the expanded definition of “personal information” would not be overly burdensome to the extent it only applies to the COPPA Rule. Our concern here is the extent to which the FTC, or any other agency, may adopt and import this expanded definition into other privacy rules governing consumer privacy, especially since the FTC and others have studied and issued reports signaling the potential for extensive

¹ The Consumer Bankers Association (“CBA”) is the only national financial trade group focused exclusively on retail banking and personal financial services — banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation on retail banking issues. CBA members include most of the nation’s largest bank holding companies as well as regional and super-community banks that collectively hold two-thirds of the industry’s total assets.

changes to those rules. This includes the FTC Preliminary Report on Protecting Consumer Privacy (Report), which was issued on December 1, 2010.

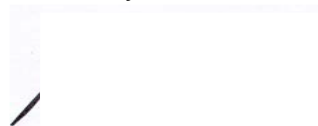
We understand that the collection, use, and disclosure of a child's personal information is subject to stricter scrutiny as opposed to other types of information and certainly understand if this is the rationale for expanding the definition of "personal information" within the context of the COPPA Rule. However, we would strongly oppose importing this expanded definition into other privacy rules. Doing so would impose significant, additional burdens on financial institutions, requiring them to process, track, maintain, and protect an overly broad range of additional information and content covered by the expanded definition. This would be in addition to the burden of changing the annual privacy notices that are required under the Gramm-Leach-Bliley Act.

As we stated in our comment letter to the FTC in response to the Report, we believe the preferable approach with regard to potential changes in the privacy rules that affect financial institutions would be to address those specific concerns, rather than create an entirely new U.S. framework to replace the current system that we believe has worked well for consumers and businesses. Such an approach has been successful as it has continued to permit information-sharing that is appropriate and necessary for business operations, while protecting consumer privacy interests.

Although we understand the heightened scrutiny with regard to the treatment of a child's personal information, it makes little sense to implement this expanded definition of "personal information" beyond the COPPA Rule, absent a compelling need. Accordingly, we believe it is important for the FTC to clarify that the definitions in the COPPA Rule, including the definition of "personal information," are intended and applicable only to the COPPA Rule since, as stated by the FTC, "[T]he Commission remains deeply committed to helping to create a safer, more secure online experience for children..." (emphasis added).² This clarification point could be included in the supplemental and explanatory material that accompanies a final rule, should these changes be adopted.

Thank you for the opportunity to comment on the proposal to amend the COPPA rules. If you have any questions or wish to discuss these issues further, please feel free to contact me at _____ or at _____

Sincerely,



Jeffrey P. Bloch
Senior Regulatory Counsel

² Fed. Reg., Vol. 76, No. 187, p. 59804.