

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

WILLIAM L. KOVACS
SENIOR VICE PRESIDENT
ENVIRONMENT, TECHNOLOGY &
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April 24, 2013

VIA ELECTRONIC FILING

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580

Re: *Request for Stay of Effective Date of Amended COPPA Rule*

Dear Chairwoman Ramirez:

The U.S. Chamber of Commerce, the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region, and dedicated to promoting, protecting, and defending America's free enterprise system, respectfully requests the Federal Trade Commission ("Commission") to stay the effective date of amendments to its rule implementing the Children's Online Privacy Protection Act ("COPPA Rule" or "Rule"), from July 1, 2013, to January 1, 2014.¹

Chamber members are working in good faith to understand the amended Rule, determine its effect on their business practices and models, and implement changes necessary for compliance. However, the amendments to the final rule—released in December 2012—differed in several important respects from previous versions. For example, entities currently subject to the COPPA Rule as well as new entities previously not covered under COPPA must comply with a revised definition of "personal information" that has been expanded to include new data elements, such as tracking cookies. Therefore, Chamber members have expressed great concern about being able to come into compliance by July 1, 2013, because of the lead time required to make technical and product changes. Given the coordination that must occur between developers, publishers, platforms, marketers, advertising networks, and others, making changes to products already in development or in the marketplace takes time.

Additionally, the amended Rule is vague in several areas. For example, the Rule and the accompanying statement do not clarify what constitutes "actual notice" for a third-party company

¹ *Final Rule Amendments to the Children's Online Privacy Protection Rule*, 78 Fed. Reg. 3972 (Jan. 17, 2013), available at <http://www.ftc.gov/os/fedreg/2013/01/130117coppa.pdf>.

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when the first-party Web site using the third-party embedded service is a child-directed site. To deal with this ambiguity and other issues, the Commission is expected to issue clarifying FAQs in late April or early May. However, assuming that this guidance provides sufficient clarification about compliance with the new Rule, companies only would have approximately two months to prepare for compliance, which would create a considerable, perhaps impossible, burden for many companies.

The Chamber also is concerned that the significant changes to the Rule combined with the liability risk might, without additional time to comply, force some of its members to stop or slow development and implementation of innovative applications, Web site enhancements, and services. Not only would this jeopardize the viability of some companies, but it also would jeopardize the quality of content aimed at kids as companies may choose to avoid this space altogether because of the liability risk.

Thus, for the above reasons, we respectfully request a stay of the amended Rule's effective date until January 1, 2014, and look forward to working with the Commission on this important issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "William L. Kovacs".

William L. Kovacs

cc: Commissioner Julie Brill
Commissioner Maureen K. Ohlhausen
Commissioner Joshua D. Wright
Secretary Donald S. Clark