



Commissioner J. Thomas Rosch

United States of America  
FEDERAL TRADE COMMISSION  
WASHINGTON, DC 20580

October 24, 2012

TO: Donald S. Clark, Secretary

FROM: Kelsey A. Buntjer

SUBJECT: COPPA Rule: Comments to be Placed on the Public Record

October 23, 2012, Commissioner J. Thomas Rosch met with Jeff Chester, the Executive Director of the Center for Digital Democracy, and other advocates of children's privacy.<sup>1</sup> The purpose of the meeting was to discuss proposed changes to the FTC's COPPA Rule.

Although noting that the proposals overall would be effective for protecting children, Mr. Chester and his colleagues expressed their concern that parental consent, as the key function of COPPA, may be thwarted by a company's ability to reclassify their child-directed sites as family-oriented or family-friendly sites. Mr. Chester asserted that, in the proposed language, the definitions between "child-directed" and "family-oriented" sites are very similar, and may give sites that have a primary audience of children the option to default to the family-oriented category, removing the protections of COPPA.

Mr. Chester cited the example of The Walt Disney Company that has recently argued that all of its sites (with the exception of Club Penguin) are family-oriented sites, even though he asserted that the sites are clearly intended for children. According to Mr. Chester, companies should not be allowed to reclassify children's sites.

Mr. Chester would prefer the definition of a child-directed site take into account how companies advertise the site versus how many of the visitors are children, but overall he is happy with the existing totality of circumstances approach, coupled with prosecutorial discretion. Georgetown Law Professor Angela Campbell suggested the FTC's Food Marketing metrics be employed in this space.

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<sup>1</sup> Other attendees included: Alan Simpson, Vice President of Policy at Commonsense Media; Angela Campbell, Professor of Law at Georgetown Law; Laura Moy, Staff Attorney/Teaching Fellow at Georgetown Law; Joy Spencer, Project Director of the Digital Food Marketing and Youth Initiative at Center for Digital Democracy; Jessica Wang, Law Student Intern from Georgetown Law; and Jordan Blumenthal, Law Student Intern from Georgetown Law. FTC participants in the meeting included David Koehler and Kelsey Buntjer.