



Commissioner J. Thomas Rosch

United States of America
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580

November 2, 2012

TO: Donald S. Clark, Secretary

FROM: Kelsey A. Buntjer

SUBJECT: COPPA Rule: Meeting Notes to be Placed on the Public Record

On November 2, 2012, Commissioner J. Thomas Rosch met with Steve DelBianco, the Executive Director of NetChoice, and Carl Szabo, Policy Counsel for NetChoice.¹ The purpose of the meeting was to discuss proposed changes to the FTC's COPPA Rule. Mr. DelBianco stated that NetChoice's main concerns with the proposed changes are set forth in its public comment dated September 24, 2012.

Mr. DelBianco noted that he appreciates the effort that staff has made with respect to reviewing the COPPA Rule. However, he said that he continues to have concerns about expanding the breadth of the Rule's coverage. In particular, Mr. DelBianco expressed concerns about the proposed definitions for "website directed to children" and "personal information."

Mr. Szabo asserted he is not confident "reason to know" language in the "website directed to children" definition will work. For example, he referred to NetChoice's public comment in the COPPA rulemaking and cited the example of the Pinewood Derby website that is targeted to Cub Scouts age 13 and under and publishes YouTube videos on its site. Under the proposed language, Mr. Szabo wondered whether this placed legal liability on Google, even though Google does not necessarily know that its videos are on Pinewood Derby's site.

Mr. DelBianco pointed out that an expanded requirement to obtain parental consent could be a barrier to entry for many start-up companies and could quash innovation. He explained his concerns that parents will not give consent to a site that is not well-known, or managed by a trusted brand name.

Mr. DelBianco also said that he thought more clarity with respect to contextual advertising was necessary.

Mr. DelBianco questioned whether the proposed changes were exceeding the statutory authority of COPPA. He added that he believed that industry would appreciate another round of comments.

¹ FTC participants in the meeting included Beth Delaney, Attorney Advisor for Commissioner Rosch, Richard Quaresima, Assistant Director in the Division of Advertising Practices, and Kelsey Buntjer, Honors Paralegal in the Office of Commissioner Rosch.