



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: Comments to be Placed on the Public Record

On November 2, 2012, Commissioner J. Thomas Rosch met with Stu Ingis, counsel to the Direct Marketing Association (DMA) and the Association of National Advertisers (ANA); Emilio Cividanes, Partner at Venable LLP; Julia Tama, Associate at Venable LLP; Gerald Cerasale, Senior Vice President of Government Affairs at DMA; and Dan Jaffe, Executive Vice President of Government Relations at ANA. Other FTC participants in the meeting included Beth Delaney, Richard Quaresima, Marianne Watts, and Kelsey Buntjer. The purpose of the meeting was to discuss proposed changes to the FTC's COPPA Rule.

Mr. Ingis noted that the points raised in the meeting were fully articulated in the public comment to the Commission filed by the ANA and the DMA on September 24, 2012.

Mr. Ingis noted that Staff has been receptive to industry's concerns about the proposed changes to the Rule. However, he said that he remains concerned that the proposed changes are expanding the Rule beyond what Congress intended. For example, he asserted that although clarification is needed on what constitutes "personal information" for purposes of the Rule, such clarification does not necessarily require a change to the language of the Rule.

In addition, Mr. Ingis and his colleagues asserted that the expansion from "actual knowledge" to "reason to know" raised some concerns with industry members. Mr. Ingis pointed out that expanding liability in this fashion basically would change the way the Internet operates. Mr. Ingis discussed the issue of whether first party websites should be liable for collection of information by third parties, and vice versa. Julie Tamas further explained that first parties may have to collect more data to comply with this requirement.

Another concern that Mr. Ingis discussed was subsection C of the newly proposed definition of "website or online service directed to children." He believes companies may end up limiting children's offerings or collecting more personal information in attempts to screen every visitor to determine if the site is predominately visited by children.