



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

November 21, 2014

AgeCheq Inc.
Roy R. Smith, II, CEO
146 Pine Grove Circle, First Floor
York, Pennsylvania 17403

Re: AgeCheq Inc.'s Application for Approval of Verifiable Parental Consent Method
(FTC Matter No. P145410)

Dear Mr. Smith,

This letter is to inform you that the Federal Trade Commission has reviewed AgeCheq Inc.'s ("AgeCheq") application for approval of a proposed verifiable parental consent ("VPC") method under the Children's Online Privacy Protection Rule ("COPPA" or "the Rule"). After careful consideration of the application and the public comments that were submitted in this matter, the Commission has determined that AgeCheq's proposed VPC mechanism incorporates methods already enumerated in the Rule, and thus denies AgeCheq's application.

AgeCheq submitted a proposed VPC method for approval on July 25, 2014. The Commission published the application in the Federal Register on August 25, 2014. The public comment period closed on September 30, 2014.¹ In response to the application, the Commission received thirteen comments regarding AgeCheq's application.²

Section 312.12(a) of the Rule allows parties to request Commission approval of parental consent methods not currently enumerated in the Rule.³ This provision seeks to encourage the development of new verification methods that provide businesses more flexibility while ensuring parents are providing consent for their children. COPPA requires an applicant for Commission approval of a parental consent method to provide 1) a detailed description of the proposed parental consent method and 2) an analysis of how the method is reasonably calculated, in light

¹ 79 Fed. Reg. 51514 (August 29, 2014).

² The Comments are available at <http://www.ftc.gov/policy/public-comments/initiative-579>. A few commenters contend that, independent of its proposed VPC method, AgeCheq's product violates the COPPA Rule. *See, e.g.*, Comments of Assert ID, Inc.; Center for Digital Democracy (joined by Campaign for a Commercial-Free Childhood); and Tom Strange. The voluntary Commission approval process for parental consent methods is not the proper venue for the Commission to address these concerns. Therefore, the Commission is making no such determination at this time. Nonetheless, all operators should ensure that their products, and any third-party product they use to facilitate COPPA compliance, are, in fact COPPA-compliant.

³ 16 C.F.R. § 312.12(a).

of available technology, to ensure that the person providing consent is the child’s parent.⁴ Under COPPA, the Commission considers for approval a proposed VPC *method* rather than a party’s specific implementation of a VPC method.

In its application, AgeCheq proposes a real-time common consent mechanism, which conducts identity verification in two ways. The first method of verifying parental identity involves a financial transaction. The second method involves the parent printing, signing, and returning a declaration form to AgeCheq. Both methods are existing methods to obtain verifiable parental consent under the Rule.⁵

AgeCheq acknowledges that its VPC methods are not new, but proposes that the combination of these methods with a common consent mechanism makes its approach a new VPC method. A number of commenters expressed support for common consent mechanisms.⁶ The Commission has previously stated its support for common consent mechanisms generally:

The Commission believes that common consent mechanisms, such as a platform, gaming console, or a COPPA safe harbor program, hold potential for the efficient administration of notice and consent for multiple operators. A well-designed common mechanism could benefit operators (especially smaller ones) and parents alike if it offers a proper means for providing notice and obtaining verifiable parental consent, as well as ongoing controls for parents to manage their children’s accounts. The Commission believes that such methods could greatly simplify operators’ and parents’ abilities to protect children’s privacy.⁷

The Commission emphasizes, however, that the voluntary Commission approval process was designed to provide operators with the opportunity to craft VPC mechanisms that meet the standard outlined in the Rule, but otherwise are not enumerated in 16 C.F.R. § 312.5(b)(2).⁸ Companies are free to develop common consent mechanisms without applying to the Commission for approval. As stated in the 2012 COPPA Statement of Basis and Purpose, “nothing forecloses operators from using a common consent mechanism as long as it meets the Rule’s basic notice and consent requirements.”⁹ Moreover, common consent mechanisms are not new.¹⁰ At least one Commission-approved safe harbor program already offers such a notification and consent system for operators who are members of its program,¹¹ and other

⁴ 16 C.F.R. §§ 312.12(a), 312.12.5(b).

⁵ 15 C.F.R. §312.5(b)(i) - (ii).

⁶ *See, e.g.*, Comments of Kochava, the Application Developers Alliance, and Computer & Communications Industry Association.

⁷ *See* 78 Fed. Reg. 3972, 3989-90 (Jan. 17, 2013), available at <http://www.ftc.gov/policy/federal-register-notices/childrens-online-privacy-protection-rule-final-rule-amendments>.

⁸ *Id.* at 3991.

⁹ *Id.* at 3989-3990.

¹⁰ *See, e.g.*, Comments of AssertID, Inc.; Privacy Vaults Online, Inc. d/b/a PRIVO; and Center for Digital Democracy (joined by Campaign for a Commercial-Free Childhood).

¹¹ Privacy Vaults Online, Inc. d/b/a PRIVO, is a Commission-approved safe harbor that offers such a system. 78 Fed. Reg. at 3989 n.224.

parties that have applied for approval of a new VPC method have also made clear that their own business model involves the use of a common consent mechanism.¹²

The proposed VPC methods used by AgeCheq are already recognized as a valid means of obtaining verifiable parental consent in the Rule, and AgeCheq is free to pursue the development of a common consent mechanism without Commission approval. Accordingly, the Commission denies AgeCheq's application.

By direction of the Commission.

Donald S. Clark
Secretary

¹² See Imperium, LLC's application, available at <http://www.ftc.gov/news-events/press-releases/2013/09/ftc-seeks-public-comment-imperium-llc-proposal-parental>; iVerify, Inc.'s application, available at <http://www.ftc.gov/news-events/press-releases/2013/12/ftc-seeks-public-comment-iverify-inc-proposal-parental>; Comment of AssertID, Inc.