



November 18, 2015

**Comments of The Application Developers Alliance  
In the matter of Jest8 Limited (Trading as Riyo) Application for Parental Consent Method,  
Project No. P-155405**

The Application Developers Alliance (the “Alliance”) submits these comments to urge the Federal Trade Commission (FTC or the Commission) to support and encourage innovative and technologically advanced verifiable parental consent mechanisms (VPCMs).

The Alliance is a global industry association that supports developers as creators and innovators. Many of our 60,000 individual members and nearly 200 corporate members create products for children, their parents and teachers.

Our members who market their products to children strive to comply with the Children’s Online Privacy Protection Act (COPPA). Receiving verifiable parental consent (VPC), one of the key components of COPPA compliance, is challenging for developers when building user-friendly apps for children. Current VPCMs are often inefficient and deprive users of the instant engagement they increasingly require when using new apps.

Even great children’s apps may lack the expected user engagement due to the inefficiencies of current VPCMs. In our increasingly technological world, archaic VPCM options may have the unfortunate result of deterring investment and growth in the children’s app market. This is bad for developers and consumers.

Consider for example, a busy parent seeking an education app for their child to use while they are in a meeting. That parent does not have time to sign a consent form and return it by mail<sup>1</sup>; calling a toll free number<sup>2</sup> similarly requires time a parent may not have. At this point, a parent may find these hurdles too burdensome and forgo using an app altogether. Alternatively, they may seek out a children’s app that is non-compliant and does not require VPC merely because it is more convenient.

It is therefore imperative that the FTC encourages and approves multiple VPCMs that have the potential to streamline the VPC process, promote COPPA compliance and encourage greater children’s app adoption.

While the Alliance is not commenting on the merits of Riyo’s application, we urge the FTC to consider the benefits of using technologically advanced VPCMs, including but not limited to biometric technology. To encourage COPPA compliance and the growth of the children’s app

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<sup>1</sup> 16 C.F.R. § 312.5 (i).

<sup>2</sup> 16 C.F.R. § 312.5 (iii).

market, new streamlined methods are critical to all stakeholders in the app economy, and to consumers.

While, biometrics are not covered by existing VPCMs under the Rule,<sup>3</sup> by their very nature, biometric technologies meet the FTC's requirements for parental consent because these technologies are reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent. A child cannot easily circumvent biometric technologies because biometric data is uniquely associated with an individual, in this case a parent, and cannot be falsified.

Also, the sort of facial recognition technology employed by Riyo may be particularly well suited as a VPCM because it does not pose a risk to consumers' personal information. The transmission of photos, for example, can be implemented in a secure manner, and the photos need only be stored momentarily, while the match occurs. Going forward, the use of the facial recognition data could be limited to VPCM-purposes only.

Additionally, biometrics is a potentially successful VPCM because it is an efficient and increasingly accurate form of authentication. In comparison to current VPCMs that may require hours or days to confirm a parent's identity<sup>4</sup>, facial recognition has the potential to provide authentication in seconds with the snap of a photo.

Developers will likely find efficient and user-friendly facial recognition VPCMs particularly appealing because of the FTC's best practices for facial recognition guidance.<sup>5</sup> The guidance provides developers with a clear roadmap of how to protect biometric information. An FTC roadmap provides a level of certainty that developers and their investors seek when deciding whether to pursue their next great app.

Industry and governmental use of biometric technology such as facial recognition supports this potential method for VPC. As with previous methods of consent that the FTC has approved, identity verification using facial recognition technology is well-established and has been adequately utilized and refined in the marketplace to demonstrate that it is sufficiently reliable to verify that individuals are parents authorized to consent to the collection of children's personal information. Banks and financial institutions, retailers, and other companies use facial recognition and other biometric technologies for purposes such as identity verification, fraud prevention, physical and online security, and customer service. Facial recognition and other biometric technologies have been used by government and law enforcement agencies to protect borders and ports and to identify criminals.

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<sup>3</sup> 16 C.F.R. § 312.5(b)(2) clearly does not currently cover any form of biometric technology as a method of verifiable parental consent.

<sup>4</sup> 16 C.F.R. § 312.5 (ii).

<sup>5</sup> Fed. Trade Comm'n, *Facing Facts: Best Practices for Common Uses of Facial Recognition Technologies* (2012).

App developers have responded to the FTC's calls for novel VPCMs. The Commission should answer by approving, when appropriate, VPCM applications, and by encouraging developers to use the latest technology to achieve VPC. The Alliance urges the Commission to encourage novel and technologically advanced ways to comply with COPPA.

Respectfully submitted,

/s/

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