



May 24, 2017

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW., Suite CC– 5610 (Annex E)
Washington, DC 20580

RE: Comments on the TRUSTe Application for Modifications to Safe Harbor Program Requirements, Project No. P024526

The Toy Association is pleased to have this opportunity to submit comments on the above-referenced notice regarding updating the TRUSTe Safe Harbor Program under the Children’s Online Privacy Protection Act (COPPA). By way of background, The Toy Association is the not-for-profit trade association that represents more than 1,000 businesses – toy manufacturers, importers and retailers, as well as toy inventors, designers and testing labs – who are all involved in bringing safe and fun toys and games for children to market. Toy safety is the top priority for the industry, and The Toy Association and its members have long been leaders in toy safety, dating back to 1930s. Our efforts include leading the development of the first comprehensive toy safety standard, later adopted as ASTM F963, which in 2008 became a mandatory consumer product safety rule under the Consumer Product Safety Improvement Act of 2008 (CPSIA). The industry continues to provide technical input and actively participate in the ongoing review of this "living" standard today, to keep pace with innovation and potential emerging issues. The Toy Association and its members work with government officials, consumer groups, and industry leaders on ongoing programs to ensure safe play.

Our industry’s safety mission extends to our strong support for protecting the privacy and security of children’s online information. The Toy Association was actively engaged in offering input to the Federal Trade Commission (FTC) in response to the proposed updated to the COPPA rule, which went into effect in 2013. The Toy Association has developed tools for our members to help them understand and follow all the COPPA requirements. The tools we have created include a checklist to review when developing mobile apps and COPPA compliance do’s and don’ts. We are also currently working on resources geared to understanding privacy and security obligations when making connected toys. These tools are only a few things toy manufacturers can use, in addition to the many resources are available through the FTC and others.

The FTC COPPA Safe Harbor program offers businesses who collect personal information from children the opportunity to work with a third party to evaluate their COPPA compliance measures. As an industry that is specifically focused on children’s safety, we believe that strong safe harbor programs should remain available to those who wish to use them.

The TRUSTe amendment appears to have been prompted by the recent action against it by the New York State Attorney General,¹ which requires TRUSTe to initiate scans of participants to identify third party technologies

¹ <https://ag.ny.gov/press-release/ag-schneiderman-announces-100000-settlement-truste-over-flawed-privacy-certification>

that may be present on the participant's site. Because website operators face strict liability for all data collection that occurs at its site or service, incorporating a scanning element will be immensely helpful to those participants in the TRUSTe program. We feel this requirement is useful and could be incorporated into other safe harbor agreements as well. Safe harbor participants are already required to once a year do a comprehensive review of policies and practices of the websites they administer. Requiring scans of third party operators is not required in COPPA, but in light of the strict liability implications, conducting such a scan is a sensible exercise of due diligence.

As technology continues to evolve, we commend the FTC for reviewing the TRUSTe safe harbor program. To the extent other safe harbor organizations do not conduct such scans, the agency might consider incorporating similar scanning requirements into other COPPA safe harbor programs. Children's privacy when they play online or with a connected toy, is of paramount importance to the toy industry. We support efforts to increase the safety of children while at play, whether it's with a physical toy needing to meet strict federal U.S. Consumer Product Safety Commission (CPSC) requirements, or when they interface with a child-directed website or online service. Play is essential to a child's cognitive and emotional growth and we support safe play in all areas of kids' lives.

Thank you again for the opportunity to provide comments. If you have any additional questions, comments or concerns, please contact me or Autumn Moore in our Washington office at amoore@toyassociation.org or 202-459-0350.

Sincerely,


Steve Pasierb
President & CEO
The Toy Association, Inc.