



**United States of America
Federal Trade Commission**

**Opening Remarks at
FTC Workshop: The Future of the COPPA Rule**

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Washington, DC
October 7, 2019

* The views expressed in these remarks are my own and do not necessarily reflect the views of the Federal Trade Commission or any other Commissioner. Many thanks to my Attorney Advisor, Robin Rosen Spector, for assisting in the preparation of these remarks.

Good morning. Thank you all for coming to participate in today's workshop, The Future of the COPPA Rule. The topic of children's privacy online is an important one, so we appreciate your willingness to attend and share your perspectives with us. My name is Christine Wilson, and I'm honored to serve as a Commissioner at the Federal Trade Commission ("FTC"). But I am also honored to serve other important roles, including those of wife and mother.

My children are now young adults, but I remember vividly the online privacy issues with which my husband and I grappled as our children were growing up. Let our pre-teen play interactive video games with other players around the globe, complete with private chat rooms? Not until you are older, sweetie. Allow our high schooler to join Facebook to access homework assignments? Of course, honey, but be prepared for grandparents to fill your timeline with cute puppy videos. Agree to the request of our teenager to launch a vlog, attract thousands of followers, and become a paid online influencer? No, my love. But to the back-up request to launch a fashion and makeup blog? Yes, dear, with parental oversight.

We had dozens of discussions with our children about these and other issues including parental controls, SnapChat, Instagram, YouTube, the transmission of geolocation data, a variety of apps, and the potential pitfalls of an online presence generally. Although one of my children endured cyber bullying, neither of them dealt with other horrors like being stalked, targeted for grooming, or getting lured into a sex trafficking ring. But my husband and I were ever alert to these very real and dangerous possibilities that occur all too often.

I share this background with you to provide context for my remarks this morning. I understand the struggles that parents face in allowing their children to take advantage of the educational and recreational content on the Internet while still preserving their privacy. And I am honored to serve at an agency that has a rich history of working to preserve children's

privacy. In fact, the Commission’s focus on children’s privacy dates back more than two decades to the FTC’s June 1998 report to Congress regarding consumer privacy.¹ In that Report, the Commission called on Congress to enact legislation that would put parents in control of the online collection and use of personal information from their children.

Congress enacted the Children’s Online Privacy Protection Act (“COPPA Rule” or “Rule”) later that year. In passing this law, Congress made value judgments about the potential harms to children from online activity and erected guardrails to protect children. Specifically, Congress determined that it was important for websites targeted to children to obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children. The FTC was then empowered through rulemaking to outline the mechanics of how websites or online services could get verifiable parental consent. The FTC subsequently issued the COPPA Rule in April 2000.

COPPA Regulatory Review

The FTC endeavors to make certain that the COPPA Rule keeps pace with changes in technology, the development of new business models that involve data collection, and the evolving ways children interact with online services. This imperative prompted amendments to the Rule in 2013. At that time, relevant technological changes included the rise in social media platforms allowing children to upload photos and videos, the explosion of smartphone technology permitting the collection of precise geolocation information, and the use of behavioral advertising to target children. By addressing these changes, the 2013 Rule enabled us to bring many of the enforcement actions we’ve undertaken in the intervening years.

¹ See FTC, Privacy Online: A Report to Congress (June 1998), <https://www.ftc.gov/sites/default/files/documents/reports/privacy-online-report-congress/priv-23a.pdf>.

In a similar vein, the purpose of our current Rule review is to keep pace with technology. Of course, while the purpose is the same, the developments are new. They include the growth of education technologies, the use of voice-activated IoT devices, and the prevalence of platforms that host third-party content.² We are accepting public comments regarding the COPPA Rule on a range of topics, including how the Rule should apply to these new technologies. We also want to make sure that the significant changes we made to the Rule in 2013 have accomplished their goal of protecting children. I would like to emphasize that this Rule review is not an attempt to roll back any of the 2013 changes, but instead to make certain that the Rule continues to serve the goals Congress articulated in 1998. Personally, I look forward to hearing from all stakeholders to ensure that while we are alert to the issues of innovation and competition, those goals are not served at the expense of children's privacy.

Although I was not a Commissioner in 1998 when the FTC unanimously recommended that Congress enact a children's privacy law, I agree wholeheartedly with the goal of putting parents in control of the online collection and use of personal information from their children. At the same time, I would like to underscore how important it is for parents to fully utilize the tools that Congress and the FTC have sought to provide them. I also commend to parents the many helpful materials like "Protecting Kids Online," that are available on the FTC website.³ I read and shared these materials with my children, and I encourage other parents to do the same.

COPPA Enforcement

The FTC has a rigorous enforcement program to protect children's privacy. To date, the FTC has brought more than 30 COPPA cases against a variety of entities, including app

² See Press Release, FTC Seeks Comments on Children's Online Privacy Protection Act Rule (July 25, 2019), <https://www.ftc.gov/news-events/press-releases/2019/07/ftc-seeks-comments-childrens-online-privacy-protection-act-rule>.

³ FTC, PROTECTING KIDS ONLINE, <https://www.consumer.ftc.gov/topics/protecting-kids-online>

developers, online review sites, retailers, and network advertisers.⁴ Each of these cases sends an important message to industry and clearly demonstrates the current Commission's commitment to continuing strong COPPA enforcement. With your indulgence, I will take a few moments to highlight a few recent cases.

The Commission's recent case against YouTube (and its parent company Google) puts online platform operators on notice regarding their obligations under COPPA. Specifically, if those operators gain knowledge that user-generated content on their platforms is directed at children, they must comply with COPPA if they collect personal information from viewers of that content.⁵ Our complaint alleged that YouTube had actual knowledge that it was collecting personal information – in the form of persistent identifiers used for targeted advertising – from viewers of child-directed videos on its platform.

The settlement requires YouTube and Google to pay a record \$170 million in monetary penalties. The settlement also requires YouTube to develop a system for third-party content creators to self-designate child-directed content they upload to the platform. This settlement puts content creators on notice that if their content is directed to children and they therefore couldn't engage in behavioral advertising on their own website or app without getting parental consent, they can't do it on a third party platform either. The Commission plans to conduct a sweep of YouTube channels to determine whether there are any other violations of the COPPA Rule.

Another recent Commission matter against Musical.ly (now TikTok) made clear that the Commission considers a number of factors in determining whether a website or service meets the

⁴ See FTC, Business Center: Children's Privacy, https://www.ftc.gov/tips-advice/business-center/legal-resources?type=case&field_consumer_protection_topics_tid=246.

⁵ See Press Release, Google and YouTube Will Pay Record \$170 Million for Alleged Violations of Children's Privacy Law (Sept. 4, 2019), <https://www.ftc.gov/news-events/press-releases/2019/09/google-youtube-will-pay-record-170-million-alleged-violations>.

test for being “directed to children,” even if the operator does not view its target demographic as children under 13.⁶ In this case, the Commission alleged that large numbers of children had TikTok accounts that – in direct violation of COPPA – allowed strangers to directly message them, without providing notice or obtaining parental consent. The complaint explains that TikTok knew children were using the app – it provided parents guidance about their children’s use of the app, received complaints from parents that their children created accounts without their knowledge, and sent emails to parents asking them to edit their children’s profile descriptions to indicate that those accounts were being run by a parent or adult talent manager. In addition to a \$5.7 million civil penalty, the operators of TikTok are required to comply with COPPA going forward and to take offline all videos made by children under the age of 13.

Given our scarce prosecutorial resources, it is reassuring to remember that the impact of these cases extends far beyond the companies at issue. For example, following the TikTok settlement, I spoke with a company that offers third-party age verification services. In the weeks following the TikTok announcement, this company received a substantial increase in requests for their services. Both U.S and foreign companies contacted this company as part of their efforts to ensure compliance with COPPA and to avoid FTC enforcement action. The company directly attributes the rapid growth in demand for its services to FTC enforcement and consumer demand for data privacy.⁷ The lesson? FTC enforcement actions draw attention to the legal obligations of companies and trigger a renewed focus on compliance throughout the industry.

⁶ See Musical.ly, Inc., No. 172-3004 (Feb. 27, 2019), <https://www.ftc.gov/enforcement/cases-proceedings/172-3004/musically-inc>.

⁷ See Statement of Chairman Joe Simons and Commissioner Wilson Regarding YouTube (Sept. 4, 2019), https://www.ftc.gov/system/files/documents/public_statements/1542922/simons_wilson_google_youtube_statement.pdf (footnote 5 and Attachment A).

The Commission also recently announced a case against i-Dressup that addresses a different aspect of COPPA – the Rule’s data security component.⁸ COPPA requires that companies have reasonable data security to protect information collected from children. The i-Dressup complaint alleges that the company and its operators failed to perform vulnerability testing of i-Dressup’s computer network, implement an intrusion detection and prevention system, and monitor for potential security incidents. The inadequate security led to a breach in which a hacker accessed the information of approximately 2.1 million users – including approximately 245,000 users who indicated they were under 13. The order includes \$35,000 in civil penalties, a prohibition against violating COPPA, a ban that precludes the defendants from selling, sharing, or collecting any personal information until they implement a comprehensive data security program, and an obligation to obtain independent biennial assessments of this program.

Other COPPA Activities

As evidenced by the cases I have just described, it should be clear that the Commission rightly takes its COPPA enforcement mission seriously. In keeping with the FTC’s laudable history of educating the business community, we also help companies comply with COPPA on the front end. FTC staff speaks at numerous conferences, workshops, and other public events about how the Rule operates. Our dedicated staff also has responded to thousands of substantive questions submitted through the so-called “*COPPA Hotline*.”⁹ In the past year, the Commission’s COPPA FAQs page has received over 125,000 views, and its page describing how to build a step-by-step compliance plan page has received over 48,000 views.

⁸ See Unixiz, Inc. doing business as i-Dressup.com, No. 172-3002 (Apr. 24, 2019), <https://www.ftc.gov/enforcement/cases-proceedings/172-3002/unixiz-inc-doing-business-i-dressupcom>.

⁹ See CoppaHotLine@ftc.gov.

Today's Workshop

But today is about hearing from you. Today's workshop will feature four moderated panel discussions with participation from a variety of stakeholders and perspectives – consumer groups, company representatives, academics, practitioners, and a government office from the United Kingdom.

The first panel will explore the state of the world in children's privacy, including the CCPA, GDPR, and the UK's Age Appropriate Design Code. The second panel will examine the scope of the COPPA Rule. Among other things, the panelists will consider what it means to be a mixed-audience site that appeals to both children and teens. We will also look at the implications of platforms hosting user-generated, third-party child-directed content. Our third panel will discuss whether we need to revise any definitions in the Rule, including the definition of personal information. It will also examine the current, and potentially new, exceptions to parental consent under the Rule, including for internal operations, educational technology, and audio files containing a child's voice that website operators collect, and then promptly delete. The final panel of the day will address persistent identifiers, and the exception for collection of persistent identifiers for support for the internal operations of the site.

The workshop will also include presentations from Dr. Jenny Radesky of the University of Michigan Medical School, Morgan Reed of the App Association, and Jonathan Mayer of Princeton University. And my colleague Commissioner Noah Phillips will give remarks prior to the second panel.

Privacy Legislation

Before concluding, I want to say a few words about privacy legislation. I support federal privacy legislation and, along with my fellow Commissioners, have urged Congress to enact federal privacy legislation that would be enforced by the FTC. I believe the Children's Online Privacy Protection Act is a good model for Congress to consider as it drafts comprehensive privacy legislation. As I noted previously, Congress appropriately made value judgments about the potential harm to children from online activity and determined it was important for websites targeted to children to obtain verifiable parental consent prior to any collection, use, and/or disclosure of personal information from children. Congress then empowered the FTC through Administrative Procedure Act (APA) rulemaking to outline the mechanics of how websites or online services could obtain verifiable parental consent. This division of labor – Congress weighs societal values, makes value judgments, and identifies the harms to be addressed, while the FTC exercises narrow APA rulemaking authority to implement the statute – is an effective allocation that appropriately cabins the FTC's role.

Two tools that Congress granted to the FTC pursuant to COPPA should also be included in any forthcoming federal privacy legislation. First, APA rulemaking authority provided the Commission with an effective and efficient process for enacting the COPPA Rule in 2000 and amending the Rule in 2013. This same authority positions the Commission to make additional amendments if marketplace changes warrant them. Second, the Commission received civil penalty authority pursuant to COPPA that it has employed in dozens of enforcement actions.

This civil penalty authority has a beneficial deterrent effect and should be included in comprehensive federal privacy legislation.¹⁰

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In closing, I'd like to emphasize my deep concern for protecting children's privacy online. I look forward to working with my colleagues and the agency's stakeholders to continue preserving children's privacy as technologies continue to evolve, and as new generations of parents grapple with ever-more complex issues. I thank you all once again for joining us today – whether here in person or watching the workshop online – and I will now turn it over to Dr. Radesky.

¹⁰ Comprehensive legislation also should repeal the common carrier and non-profit exemptions to the FTC Act.