

FEDERAL TRADE COMMISSION

16 CFR Part 312

RIN 3084-AB58

**Children’s Online Privacy Protection Rule Proposed Parental Consent Method;
Application of the ESRB Group for Approval of Parental Consent Method**

AGENCY: Federal Trade Commission.

ACTION: Request for public comment.

SUMMARY: The Federal Trade Commission (FTC or Commission) requests public comment concerning the proposed parental consent method submitted by the Entertainment Software Rating Board, Yoti Ltd. and Yoti (USA) Inc., and SuperAwesome Ltd. (“the ESRB group”), under the Voluntary Commission Approval Processes provision of the Children’s Online Privacy Protection Rule.

DATES: Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Invitation to Comment portion of the SUPPLEMENTARY INFORMATION section below. Write “Application for Parental Consent Method, Project No. P235402” on your comment and file your comment online through <https://regulations.gov>.

If you prefer to file a comment in hard copy, please write “Application for Parental Consent Method, Project No. P235402” on your comment and on the envelope and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex P), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Peder Magee, Attorney, (202-326-3538), or James Trilling, Attorney, (202-326-3497), Division of Privacy and Identity Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

On October 20, 1999, the Commission issued its final Rule¹ pursuant to the Children’s Online Privacy Protection Act, 15 U.S.C. 6501 *et seq*, which became effective on April 21, 2000.² On December 19, 2012, the Commission amended the Rule, and these amendments became effective on July 1, 2013.³ The Rule requires certain website operators, among other things, to post privacy policies, provide notice, and obtain verifiable parental consent, prior to collecting, using, or disclosing personal information from children under the age of 13. The Rule enumerates methods for obtaining verifiable parental consent, while also allowing interested parties to file a written request for Commission approval of parental consent methods not currently enumerated.⁴ To be considered, parties must submit a detailed description of the proposed parental consent method, together with an analysis of how the method meets the requirements for parental consent described in 16 CFR 312.5(b)(1).

Pursuant to 16 CFR 312.12(a), the ESRB group has submitted a proposed parental consent method to the Commission for approval. The ESRB group proposes a consent mechanism that uses facial age estimation technology, which analyzes the geometry of the consenting person’s face to confirm the person is an adult. The full text of its application is

¹ 64 FR 59888 (1999).

² 16 CFR Part 312.

³ 78 FR 3972 (2013).

⁴ 16 CFR 312.12(a); 78 FR at 3991-3992, 4013.

available on the Commission's website at www.ftc.gov and on the docket for this project at www.regulations.gov.

Section B. Questions on the Parental Consent Method

The Commission is seeking comment on the proposed parental consent method and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the Commission's consideration of the application and should not be construed as a limitation on the issues on which public comment may be submitted. Responses to these questions should cite the number of the question being answered. For all comments submitted, please provide any data, statistics, or any other evidence, upon which those comments are based.

1. Is this method already covered by existing methods enumerated in 16 CFR 312.5(b)(2)?
2. If this is a new method, provide comments on whether the proposed parental consent method meets the requirements for parental consent laid out in 16 CFR 312.5(b)(1). Specifically, the Commission is looking for comments on whether the proposed parental consent method is reasonably calculated, considering available technology, to ensure that the person providing consent is the child's parent.
3. Does this proposed method pose a risk to consumers' personal information, including consumers' biometric information? If so, is that risk outweighed by the benefit to consumers and businesses of using this method?
4. Does this proposed method pose a risk of disproportionate error rates or other outcomes for particular demographic groups? If so, is that risk outweighed by the benefit to consumers and businesses of using this method?

Section C. Invitation to Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Write “Application for Parental Consent Method, Project No. P235402” on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Because of the agency’s heightened security screening, postal mail addressed to the Commission is subject to delay. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website. To make sure the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write “Application for Parental Consent Method, Project No. P235402” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex P), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, including medical records or other individually identifiable health information. In addition, your comment should not include any “[t]rade secret or any commercial

or financial information which is . . . privileged or confidential” —as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov*, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this publication and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

By direction of the Commission.

April J. Tabor,

Secretary.