OVERVIEW OF THE FTC’S CHANGES TO ITS COPPA RULE

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All website operators whose web sites are directed to children under the age of 13 or have actual knowledge they are collecting personal information from children under the age of 13 must:

- Post a privacy policy
- Obtain “verifiable parental consent”
- Advise parent/legal guardian that they can review the child’s personal information
- Establish and maintain reasonable security procedures
COPPA BACKGROUND

» FTC has aggressively enforced its COPPA Rule
  - Xanga: $1 million
  - Playdom: $3 million
  - W3 Innovations (First FTC action involving mobile apps): $50,000
Overview of the FTC’s Changes to its COPPA Rule

COPPA BACKGROUND

» In 2012, the FTC released two Mobile Apps for Kids Reports (“Current Privacy Disclosures are Disappointing” and “Disclosures Still Not Making the Grade”) which found that many apps directed to children collect personal information without making any disclosures to children or parents

» On December 19, 2012, FTC announced its amendments to the COPPA Rule

» On May 15, 2013, FTC sent educational letters to mobile apps in the United States and abroad collecting images or sounds of children or persistent identifiers from children
JULY 1ST – COPPA EFFECTIVE DATE
In announcing the COPPA amendments, FTC Chairman Jon Leibowitz stated:

“At the Federal Trade Commission, we take seriously our mission to protect the privacy of all consumers, but we take special care discharging our duty to safeguard the privacy of the most vulnerable members of our society – first and foremost among them, our nation’s children.”
COPPA AMENDMENTS

» FTC modified key definitions
  - Operator
  - Website or online service directed to children
  - Personal information
  - Support for internal operations
DEFINITION OF “OPERATOR”

» Personal information “is collected or maintained on behalf of an operator where it is collected in the interest of, as a representative of, or for the benefit of, the operator”

- Covers third party services, such as plug-ins and advertising networks, if they have *actual knowledge* collecting from a child-directed site
- Does not cover platforms, e.g., Google Play or the App Store, offering child-directed apps
When would a plug-in or ad network have actual knowledge?

- Site directly communicates the child-directed nature of the content
- Representative recognizes child-directed nature of the content
  - No duty to investigate receipt of a list of purportedly child-directed web sites
  - Screenshots or other forms of concrete information?
DEFINITION OF “OPERATOR”

Child-directed sites will be strictly liable for personal information collected via third parties through its site (even if it does not own, control or have access to this personal information)

- Site is in the best position to know what plug-ins are integrated into site and to obtain notice and consent
- No safe harbor for exercising “due diligence” (but FTC may consider it when bringing cases)
DETERMINING WHETHER A “WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN”

» FTC considers:
  - Subject matter
  - Visual content (the Kitten rule)
  - Use of animated characters
  - Child-oriented activities and incentives
  - Music or other audio content
  - Age of models
DETERMINING WHETHER A “WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN”

- Celebrities/celebrities who appeal to children
- Language or other characteristics
- Whether advertising is directed to children
- Competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience
DEFINITION OF “WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN”

» Child-directed sites whose primary target audience is children must presume all users are children and provide COPPA protections

» However, child-directed sites that target children as a secondary audience (e.g., mixed audience sites) may differentiate amongst users via an age gate and will be required to provide notice and obtain consent only for those who identify themselves as under 13
DEFINITION OF “PERSONAL INFORMATION”

» Geolocation information

» Photos, video and audio files containing a child’s image or voice

» Screen or usernames will be considered personal information when they function in the same manner as online contact information
DEFINITION OF “PERSONAL INFORMATION”

- Persistent identifiers will be considered personal information when they can be used to recognize a user over time and across different sites or services
  - For behavioral advertising/tracking/profiling
  - For purposes other than support for internal operations
DEFINITION OF “SUPPORT FOR INTERNAL OPERATIONS”

» Notice and consent are not required if using persistent identifiers *support for internal operations*:
  - Site analysis and maintenance
  - Authenticate users/personalize content
  - Contextual advertisements and capping frequency of advertisements
  - Protect security and integrity of user/site
  - Legal and regulatory compliance
  - Network communications
PARENTAL CONSENT MECHANISMS

» Electronic scans of signed parental consent forms
» Video-conferencing
» Use of government issued identification, checked against database
» Alternative payments systems
» Retained “email plus” for internal use
  - Allows an operator to obtain parental consent via email, provided that the operator sends additional confirmation to the parent
Standardized direct notice requirement to provide just-in-time message and sets forth precise items of information that must be disclosed:

- Items of personal information already obtained from the child
- Purpose of notification
- Action required by parent
- How the operator will use the child’s personal information
- Must include hyperlink to the operator’s privacy policy
Operators must take reasonable steps to make sure children’s personal information is released only to third parties capable of maintaining confidentiality, security, and integrity

- Keep only as long as reasonably necessary
- Protect against unauthorized access
- Strengthening Safe Harbor programs (audit members and report annually)
WHAT DO THE CHANGES MEAN?

Chairman Jon Leibowitz explained:

“Under the Rule, advertisers and even ad networks can continue to advertise, even on sites directed to children. The only limit we place is on behavioral advertising, and in this regard our Rule is simple, effective and straightforward: until and unless you get parental consent, you may not track children to build massive profiles for behavioral advertising purposes. Period.”
On March 18, FTC attorney Mamie Kresses warned child-directed websites that they would face COPPA enforcement actions if they failed to stop third parties on their site from collecting data without parental consent.

- Be selective about what third party content appears on your site.
Kids’ Privacy Policy

Updated: 08/09/2013

For over 75 years, The Walt Disney Company has taken great pride in the relationships that it has developed with its guests. In keeping with this tradition, we at the Walt Disney Internet Group are dedicated to protecting your privacy and handling any personal information we obtain from you with care and respect. This Kids’ Privacy Policy is designed to answer your questions regarding our privacy policies and principles with respect to children under the age of 13.

Building on our general Privacy Policy, we recognize the need to provide additional privacy protections when children visit the sites on which this Kids’ Privacy Policy is posted. We explain those additional protections here in this Kids’ Privacy Policy. For your convenience, this Kids’ Privacy Policy uses terms that are defined in our general Privacy Policy.

The Children’s Online Privacy Protection Act (“COPPA”) requires that we inform parents and legal guardians about how we collect, use, and disclose personal information from children under 13 years of age; and that we obtain the consent of parents and guardians in order for children under 13 years of age to use certain features of our Web sites. Below we explain how we do that for these “kids.” Also, when we use the term “parent” below, we mean to include legal guardians.

Q1. What types of personal information do we collect about kids?
Q2. How do we use and share the personally identifiable information that we have collected about kids?
Q3. How do we notify and obtain consent from parents for the collection of information from their kids?
Q4. How can parents access, change or delete personally identifiable information about their kids?
Q5. How will we notify parents if our Kids’ Privacy Policy changes?
PRIVACY POLICY/YOUR CALIFORNIA PRIVACY RIGHTS

THE NICKELODEON GROUP PRIVACY POLICY AND YOUR CALIFORNIA PRIVACY RIGHTS

LAST UPDATED: 09/26/2013

Welcome! This Privacy Policy governs the websites, online services, and software made available by the Nickelodeon Group for use on mobile devices, tablets, personal computers and other devices, which includes the websites and online services listed here, including those operated by NeoPets, Inc. and Atom Entertainment, Inc. (collectively, the "Nickelodeon Sites" and, individually, "Site"). The Nickelodeon Group is a business unit of Viacom Media Networks, a division of Viacom International, Inc. By accessing any of the Nickelodeon Sites, you are consenting to this Privacy Policy. This Privacy Policy describes what information the Nickelodeon Sites collect from users, including children, when they visit the Nickelodeon Sites; how such information is used and stored; when such information may be disclosed to third parties; how users, parents, and guardians can control the use and disclosure of collected information; and how information is protected.

Our visitors’ privacy is important to us, and we recognize the need to provide additional privacy protection for children on the Nickelodeon Sites permitting such visitors. Our privacy practices are guided by the United States’ Children’s Online Privacy Protection Act of 1998, as well as data privacy laws in the United States and other applicable countries. Younger visitors should always check with their parents or guardians before entering information on any website or mobile application and we encourage families to discuss their household guidelines regarding the online sharing of personal information.

SUMMARY.

For your convenience, the following is a quick summary of our Privacy Policy. Please read the entire Privacy Policy for more detailed information.

<table>
<thead>
<tr>
<th>WHAT INFORMATION WE COLLECT</th>
<th>The Nickelodeon Sites collect only the information that is reasonably necessary for the activities available on the particular website. In general, we collect three types of information:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1. Information that you actively give to us (for example, during registration, sweepstakes, purchases or content submissions);</td>
</tr>
<tr>
<td></td>
<td>2. Information we automatically collect about your computer or wireless devices (such as your IP address, cookie ID, and other unique device identifiers); and</td>
</tr>
<tr>
<td></td>
<td>3. Information we collect from third parties, including through your registered third-party social media providers.</td>
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<tr>
<td></td>
<td>For more detailed information regarding the information we collect, please go here.</td>
</tr>
</tbody>
</table>
In Wake of Privacy Laws, Kids' Sites See Ad Revenue Plummet

Smaller Companies Banning Behaviorally-Targeted Ads, Conducting Expensive Audits

By: Kate Kaye  Published: August 23, 2013

Changes to the children’s privacy-protection law are keeping kids’ site publishers awake at night. The Children’s Online Privacy Protection Act changes went into effect July 1, and since then some mom-and-pop sites providing games and educational resources say their ad revenue has tanked. The rule limits the ability of such sites to track children under age 13, thus preventing them from running behaviorally-targeted ads.

"I'm just like sitting on pins and needles," said Judy Miller, founder of Apples4TheTeacher, a site featuring thousands of pages of educational resources for teachers and kids. Because it caters to teachers but also attracts children, the former elementary school teacher is unsure how the law affects her site.

"The law is so subjective for what is a kids' site and what is a mixed site, it just has thrown me into a complete bind."