

**Billing Code - 6750-01**

**Children's Online Privacy Protection Safe Harbor Proposed Self-Regulatory Guidelines;  
ESRB Privacy Online, A Division of the Entertainment Software Rating Board**

**AGENCY:** Federal Trade Commission

**ACTION:** Notice of Proposed "Safe Harbor" Guidelines and Request for Public Comment

**SUMMARY:** The Federal Trade Commission publishes this notice and request for public comment concerning proposed self-regulatory guidelines submitted by ESRB Privacy Online, a division of the Entertainment Software Rating Board ("ESRB"), under the safe harbor provision of the Children's Online Privacy Protection Rule, 16 C.F.R. § 312.10.

**DATES:** Written comments must be submitted on or before [30 days from publication of notice], 2000. Comments will be posted on the Commission's web site: < <http://www.ftc.gov> >.

**ADDRESSES:** Written comments should be submitted to: Secretary, Federal Trade Commission, Room H-159, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The Commission requests that commenters submit the original plus five copies, if feasible. To enable prompt review and public access, comments also should be submitted, if possible, in electronic form, on either a 5 ¼ or a 3 ½ inch computer disk, with a disk label stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS or Windows are preferred. Files from other operating systems should be submitted in ASCII text format.) Alternatively, the Commission will accept comments submitted to the following e-mail address, < [safeharbor@ftc.gov](mailto:safeharbor@ftc.gov) >. Individual members of the public filing comments need not submit multiple copies or comments in electronic form. All submissions should be captioned: "ESRB Safe Harbor Proposal -- Comment, P004504."

**FOR FURTHER INFORMATION CONTACT:** Toby Levin, (202) 326-3156, Abbe Goldstein, (202) 326-3423, or Karen Muoio, (202) 326-2491, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 601 Pennsylvania Ave., N.W., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

**Section A. Background**

On October 20, 1999, the Commission issued its final Rule<sup>1</sup> pursuant to the Children's Online Privacy Protection Act, 15 U.S.C. 6501, *et seq.* The Rule requires certain web site operators to post privacy policies, provide notice, and obtain parental consent prior to collecting, using, or disseminating personal information from children. The Rule contains a "safe harbor" provision enabling industry groups or others to submit self-regulatory guidelines that would implement the

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<sup>1</sup> 64 Fed. Reg. 59888 (1999).

protections of the Rule to the Commission for approval.<sup>2</sup>

Pursuant to Section 312.10 of the Rule, ESRB has submitted proposed self-regulatory guidelines to the Commission for approval. The full text of the proposed guidelines is available on the Commission's website, < [www.ftc.gov](http://www.ftc.gov) >.

### **Section B. Questions on the Proposed Guidelines**

The Commission is seeking comment on various aspects of the proposed guidelines, and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the public 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 numbers and subsection of the questions being answered. For all comments submitted, please provide any relevant data, statistics, or any other evidence, upon which those comments are based.

1. Please provide comment on any or all of the provisions in the proposed guidelines. For each provision commented on please describe (a) the impact of the provision(s) (including any benefits and costs), if any, and (b) what alternatives, if any, ESRB should consider, as well as the costs and benefits of those alternatives.
2. Do the provisions of the proposed guidelines governing operators' information practices provide "the same or greater protections for children" as those contained in Sections 312.2 - 312.8 of the Rule?<sup>3</sup> Where possible, please cite the relevant sections of both the Rule and the proposed guidelines.
3. Are the mechanisms used to assess operators' compliance with the guidelines effective?<sup>4</sup> If not, please describe (a) how the proposed guidelines could be modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.
4. Are the incentives for operators' compliance with the guidelines effective?<sup>5</sup> If not, please describe (a) how the proposed guidelines could be modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.
5. Do the guidelines provide adequate means for resolving consumer complaints? If not, please describe (a) how the proposed guidelines could be modified to resolve consumer complaints adequately, and (b) the costs and benefits of those modifications.

By direction of the Commission.  
Donald S. Clark  
Secretary

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<sup>2</sup> See 16 C.F.R. § 312.10; 64 Fed. Reg. at 59906-59908, 59915.

<sup>3</sup> See 16 C.F.R. § 312.10(b)(1); 64 Fed. Reg. at 59915.

<sup>4</sup> See 16 C.F.R. § 312.10(b)(2); 64 Fed. Reg. at 59915.

<sup>5</sup> See 16 C.F.R. § 312.10(b)(3); 64 Fed. Reg. at 59915.