

**Before the
Federal Trade Commission
Washington, DC 20580**

In the Matter of:

COPPA Rule Review 2005

Project No. P054505

Comments of the American Library Association

The American Library Association (ALA), which represents some 64,000 members, primarily school, public, academic and some special librarians, but also trustees, publishers and friends of libraries, has been a consistent contributor throughout the development and passage of the Children's Online Privacy Protection Act (COPPA)(15 U.S.C. 6501-6508) and the subsequent Rule (16 C.F.R. Part 312) by the Federal Trade Commission. Librarians have substantial expertise on the information needs of children and are committed to provide unfettered access to age-appropriate information. We also believe that safeguarding privacy is essential to ensuring that all people – including children – are able to exercise their freedom to read and access information. It was for these reasons that the ALA was concerned about the initial COPPA legislation and worked both to narrow its reach and craft a flexible and workable parental consent provision that would respond to Congress' legitimate concerns about privacy and safety, while preserving children's access to information in libraries. In our view, the adoption of the sliding scale was critical to achieving this balance. In this current proceeding, we ask that the Commission make the sliding scale for obtaining parental consent permanent and refrain from any action that would upset the delicate balance between protection of children's privacy and their access to information.

The library profession remains strongly committed to the protection of personal privacy, both in the library setting and beyond. At the same time, librarians view their principal mission as providing broad access to ideas and information, and promoting the First Amendment values of free inquiry and free expression. Although COPPA has made significant strides to protect children's privacy online, ALA is concerned that any effort to make the rules regarding parental consent more restrictive or "airtight" would interfere with libraries' mission to provide children with open access to age appropriate materials. This concern extends in particular to children who use libraries as their primary source for Internet access, such as those children who come from low-income families that do not have Internet in the home or are from non-English speaking households where the parent would be unable to respond to or adequately grasp the parental consent requirements. Furthermore, ALA is concerned that parental consent requirements may make it difficult for children to access material in libraries because, unlike classroom teachers, librarians do not act on behalf of parents to grant consent. ALA has filed on these and other issues in previous proceedings, and continues to advocate for an appropriate and practical solution that balances the protection of privacy with unencumbered access to information.

It was with these interests in mind that the ALA submitted comments in February's sliding scale proceeding (Project No. PO54503) in support of retaining the sliding scale system, which, to our knowledge, has worked effectively to protect privacy while maintaining children's access to information. In that proceeding, ALA stated, "We believe that the sliding scale has proven to be a good solution to the problem of obtaining parental consent, and we have observed that there have been few implementation problems with this approach." In this current proceeding, we therefore urge the FTC to make the sliding scale system permanent, as it provides appropriate flexibility in obtaining parental consent and has appropriately balanced interests in the library context.

The sliding scale provides clear rules to operators as to the degree of consent required depending on the intended use of any information collected. It therefore provides an incentive to minimize the use of personal information; an incentive that would disappear if a single harsh standard were adopted. The current rule allows parents to become involved in their child's online activities, but does not impose unnecessary burdens on access to information. ALA therefore urges the Commission to make the sliding scale permanent to retain the flexibility in the current law. At the same time, ALA urges the Commission to consider the unique concerns regarding the application of COPPA and the Rule to our nation's libraries as it considers any future rulemaking.