

requests a copy of the file relating to his or her dispute. Staff also assumes that, for about 7,163 (20%) of the estimated 35,817 disputes each year, consumers request copies of warrantors' annual audit reports (although, based on requests for audit reports made directly to the FTC, the indications are that considerably fewer requests are actually made). Thus, the estimated total annual copying costs for average-sized files is approximately \$44,771 (25 pages/file  $\times$  .05  $\times$  35,817 requests) and \$71,630 for copies of annual audits (200 pages/audit report  $\times$  .05  $\times$  7,163 requests), for total copying costs of \$116,401, rounded to \$116,400. Beginning with the 2002 audits, the FTC staff requested that the audits also be submitted in electronic format so they can be posted on the FTC Web site. This new procedure will likely reduce the number of hours and costs of copying the audits, because the IDSMs will be able to refer consumers to the FTC web site, where they can download and/or print out the information needed. Because this process has only recently begun (and because not all consumers have access to a computer), it is too soon to estimate the decrease in hours and costs that may result from the public posting of the audits.

**William E. Kovacic,**  
General Counsel.

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## FEDERAL TRADE COMMISSION

[File No. 042 3047]

### Gateway Learning Corporation; Analysis to Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before August 6, 2004.

**ADDRESSES:** Comments should refer to "Gateway Learning Corporation, File No. 042 3047," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the

envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, as explained in the Supplementary Information section. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form (except comments containing any confidential material) should be sent to the following e-mail box: [consentagreement@ftc.gov](mailto:consentagreement@ftc.gov).

#### FOR FURTHER INFORMATION CONTACT:

Jessica Rich, FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-3224.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC home page (for July 7, 2004), on the World Wide Web, at <http://www.ftc.gov/os/2004/07/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Written comments must be submitted on or before August 6, 2004. Comments should refer to "Gateway Learning Corporation, File No. 042 3047," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If the comment

contains any material for which confidential treatment is requested, it must be filed in paper (rather than electronic) form, and the first page of the document must be clearly labeled "Confidential."<sup>1</sup> The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form should be sent to the following e-mail box: [consentagreement@ftc.gov](mailto:consentagreement@ftc.gov).

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

#### Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Gateway Learning Corporation ("GLC"). GLC markets and sells products designed for children who are learning math and reading under the "Hooked on Phonics" brand name and trademark.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

<sup>1</sup> Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

This matter concerns alleged misrepresentations about how personal information collected from consumers through the proposed respondent's Web site would be used and alleged unfair practices in connection with proposed respondent's changes to its online privacy policy. The proposed respondent collects personal information from consumers on its Web site, including information from parents who purchase Hooked on Phonics products for their children. Such information includes the parent's first and last name, address, phone number, email address, purchase history, and his or her child's age range and gender. The proposed respondent maintains a privacy policy on its Web site that describes how it handles personal information collected from consumers.

The Commission's complaint charges that the proposed respondent falsely represented that information collected from consumers through its Web site would not be sold, rented, or loaned to third parties and that personal information about children under the age of thirteen would not be provided to any third party for any purpose. In fact, the complaint alleges, proposed respondent rented to third parties information about consumers and the age range and gender of their children. This information was used to send direct mail and make telemarketing calls to consumers.

The complaint also alleges that by posting a revised privacy policy containing material changes to its practices that were inconsistent with its original promise to consumers and retroactively applying such changes to previously-collected information, the proposed respondent engaged in an unfair practice. As alleged in the complaint, the proposed respondent collected personal information under a privacy policy that specifically stated that it did not sell, rent, or loan such information to third parties. It then changed its posted privacy policy to state that it may provide such information to third parties and, without providing any additional notice to consumers, applied this change to information collected under the earlier policy. Thus, without sufficient notice to consumers, the proposed respondent adopted a new policy and practice of sharing information with third parties that directly contradicted the promise made to consumers when the information was collected. The complaint alleges that this retroactive application of proposed respondent's revised privacy policy caused or is likely to cause substantial injury to consumers by subjecting them to

unwanted direct mail and telemarketing calls. Further, such injury is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers.

Lastly, the complaint alleges that the proposed respondent misrepresented that it would notify consumers of material changes to its information practices, when in fact, it did not notify consumers of material changes to its information practices. Instead, the proposed respondent posted a revised privacy policy on its Web site without any indication that the policy had materially changed or what aspects of the policy had changed.

Part I of the consent order prohibits the proposed respondent, in connection with the collection of personal information from or about an individual, from misrepresenting (1) That it will not sell, rent, or loan to third parties such personal information; (2) that it will not provide to any third party personal information about children under the age of thirteen; (3) the manner by which it will notify consumers of changes to its privacy policy; or (4) the manner in which it will collect, use, or disclose personal information.

Part II of the order prohibits the proposed respondent from disclosing to any third party any personal information collected on its Web site prior to the date it posted its revised privacy policy permitting third-party sharing (June 20, 2003), unless it obtains the express affirmative ("opt-in") consent of the consumers to whom such personal information relates. Part III of the order prohibits the proposed respondent, in connection with the posting in the future of any privacy policy that contains a material change from the previous version of the policy, from applying such changes to information collected from or about consumers before the date of the posting, unless it obtains the express affirmative ("opt-in") consent of the consumers to whom such personal information relates. Part IV of the order requires the proposed respondent to pay \$4,608 to the United States Treasury as disgorgement of its profits from renting customer data.

The remainder of the proposed order contains standard requirements that the proposed respondent: maintain copies of privacy statements and other documents relating to the collection, use or disclosure of personally identifiable information and to any efforts to obtain the consent of consumers and documents demonstrating such consent as required by Parts II and III of the order; distribute copies of the order to

certain company officials and employees; notify the Commission of any change in the corporation that may affect compliance obligations under the order; and file one or more reports detailing its compliance with the order. Part IX of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way its terms.

The proposed order, if issued in final form, will resolve the claims alleged in the complaint against the named respondent. It is not the Commission's intent that acceptance of this consent agreement and issuance of a final decision and order will release any claims against any unnamed persons or entities associated with the conduct described in the complaint.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 04-15922 Filed 7-13-04; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration on Aging

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension of Supplemental Form to the Financial Status Report for All AoA Title III Grantees

**AGENCY:** Administration on Aging, HHS.  
**ACTION:** Notice.

**SUMMARY:** The Administration on Aging (AoA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments on the collection of information by August 13, 2004.

**ADDRESSES:** Submit written comments on the collection of information by fax 202.395.6974 or by mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Rm. 10235, Washington, DC 20503, Attn: Brenda Aguilar, Desk Officer for AoA.

**FOR FURTHER INFORMATION CONTACT:** Margaret.Tolson@aoa.gov.