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June 5, 2008

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex A)
Pennsylvania Ave., NW
Washington, D.C. 20580

RE: Project No. P074403; "Beyond Voice: Mapping the Mobile Marketplace."

Children Now is pleased to submit comments on the impact of mobile advertising and marketing on children. We are encouraged by the Federal Trade Commission's (FTC) initiative to explore consumer protection issues related to the expansion of mobile commerce and believe children are a unique audience that merit special consideration and protection.

By way of introduction, Children Now is a national organization for people who care about children and want to ensure that they are the top public policy priority. Children Now focuses on ensuring quality health care, a solid education and a positive media environment for all children. As a leading children's media policy advocacy organization, Children Now has been working on issues related to advertising and marketing in the digital age for many years.

Children Now believes that in order to create a healthy media environment, we must both *provide* children with content that supports their healthy development and *protect* them from potential harm. We work toward this goal by reaching out to industry leaders, developing and advocating for policy solutions and commissioning independent research. We also co-chair the Children's Media Policy Coalition,¹ a broad group of public health, research and child advocacy organizations such as the American Academy of Pediatrics, the American Psychological Association and the National PTA. The Coalition works on a range of issues to ensure that children's interests are prioritized in the media policy arena.

As media becomes increasingly interactive, we believe advertising and marketing practices will be considerably more powerful and influential on our youngest consumers. Due to their susceptibility to commercial persuasion and the amount of media they consume, children are the perfect targets for advertisers. Children under the age of eight do not recognize the persuasive intent of ads and tend to accept them as accurate and unbiased.² Very young children are not able to distinguish between programming and advertising and do not understand that the purpose of a commercial is to sell a product.³

¹ Other members include: National Institute on Media and the Family, American Academy of Child & Adolescent Psychiatry, Action Coalition for Media Education, Benton Foundation and United Church of Christ.

² Dale Kunkel, "Children and Television Advertising," *Handbook of Children and the Media*, ed. Dorothy G. Singer & Jerome L. Singer (Thousand Oaks, CA: Sage Publications, 2001): 375-393.

³ Brian Wilcox, et al., *Report of the APA Task Force on Advertising and Children* (American Psychological Association, 2004).

Our work relating to digital marketing issues dates back to early 2000 when we began working to ensure that the Federal Communications Commission (FCC) establish public interest obligations for digital broadcasters. Over the course of several years, we submitted comments on behalf of the Children's Media Policy Coalition and developed policy briefs detailing our concerns about new, interactive forms of advertising targeted to children.

In 2004, the Federal Communications Commission established rules for digital broadcasters. They recognized and acknowledged the potential dangers of new forms of advertising, specifically interactive advertising, by tentatively concluding that there should be no commercial links to the Internet in children's television programs unless technology is created to let parents decide whether or not to opt in. In addition, the FCC commissioners also unanimously agreed that digital broadcasters should not be able to circumvent existing advertising rules through interactive technology.

Children Now raised the issues about new, interactive forms of advertising and marketing again on July 20, 2006 when we hosted the *Future of Children's Media: Advertising* conference in Washington, D.C. At this forum, we brought together children's media industry leaders, advertising executives, policymakers and academics to discuss the issues and implications of new marketing methods including viral marketing and SMS text messaging.

As children and adolescents are increasingly becoming consumers of Internet-connected cell phones, iPods and other mobile devices, Children Now remains concerned about the implications of their use of this technology. In addition to ensuring that parents have controls for their children's cell phones, we must also protect children's privacy and shield them from targeted marketing practices and tracking technology that allow marketers to create detailed profiles of consumers. Stronger privacy policies for children that address and mitigate the industry's sophisticated data collection and targeting practices, including location-based services and behavioral tracking, need to be established.

In addition, we believe that other issues need to be addressed, including: the sufficiency of self-regulatory guidelines for mobile marketers and the enforcement of existing regulations such as the Children's Online Privacy Protection Act (COPPA) which may need to be updated to reflect the new mobile advertising environment.

The Network Advertising Initiative's recent call for a ban on behavioral targeting to children under 13 represents a good model for self-regulation of mobile marketing. However, it is questionable whether self-regulatory efforts will be enough to address concerns about how marketers and advertisers target young consumers. We expect the Federal Trade Commission to ensure that any privacy violations or deceptive and unfair advertising practices exhibited by mobile marketers will be addressed swiftly.

Children Now recently filed comments with groups including the American Psychological Association and the American Academy of Pediatrics to the Federal Trade Commission about proposed principles for industry self-regulation of online behavioral marketing that may be applied in mobile marketing campaigns. We asked the FTC to:

- 1) Adopt voluntary industry guidelines that define “sensitive data” to include the online activities of all persons under the age of eighteen and prohibit the collection of sensitive information for behavioral advertising purposes;
- (2) Monitor whether the industry is following these voluntary guidelines, and, if they are not, initiate a rulemaking proceeding to prohibit the collection of data concerning the activities of persons under the age of eighteen for behavioral advertising purposes;
- (3) Revisit and clarify its COPPA rule to require affirmative express consent from parents when advertisers collect information used to send individualized ads to children as part of behavioral advertising.

Should you have any questions about Children Now’s position on these issues, please contact Eileen Espejo at 510-763-2444, x114.

We look forward to working with the Federal Trade Commission, policymakers, mobile carriers, application developers, other aggregators and children’s advocates to determine how to deliver the benefits of mobile devices while also protecting children from potential harm.

Respectfully submitted,

Children Now