

FEDERAL TRADE COMMISSION

16 CFR Part 312

**Children's Online Privacy Protection Safe Harbor Proposed Self-Regulatory Guidelines;
Privo, Inc. Application**

AGENCY: Federal Trade Commission

ACTION: Notice announcing submission of proposed "safe harbor" guidelines and requesting public comment.

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

DATES: Comments must be received by May 7, 2004.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "Privo Safe Harbor Proposal, Project No. P044506" 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 159-H (Annex F), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, as explained in the Supplementary Information section. The Commission 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, as prescribed in the Supplementary Information section, to the following email box: privosafeharbor@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 website, to the extent practicable, at www.ftc.gov/privacy/safeharbor/shp.htm. 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 website. 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>.

FOR FURTHER INFORMATION CONTACT: Rona Kelner, (202) 326-2752, or Elizabeth Delaney, (202) 326-2903, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 601 New Jersey Avenue N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

On October 20, 1999, the Commission issued its final Rule¹ pursuant to the Children's Online Privacy Protection Act, 15 U.S.C. 6501, *et seq.* The Rule requires certain website 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 to the Commission for approval self-regulatory guidelines that would implement the Rule's protections.²

¹ 64 Fed. Reg. 59888 (1999).

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

Pursuant to Section 312.10 of the Rule, Privo 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/privacy/safeharbor/shp.htm.

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, Privo 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?³ 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

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

effective?⁴ 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?⁵ 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.

Section C. Invitation to Comment

All persons are hereby given notice of the opportunity to submit written data, views, facts, and arguments addressing the proposed self-regulatory guidelines. The Commission invites written comments to assist it in ascertaining the facts necessary to reach a determination as to whether to approve the proposed guidelines. Written comments must be submitted on or before May 7, 2004. Comments should refer to "Privo Safe Harbor Proposal, Project No. P044506" 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 159-H (Annex F), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. If the comment contains any

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

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

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."⁶ 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 email box: privosafeharbor@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 website, to the extent practicable, at www.ftc.gov/privacy/safeharbor/shp.htm. 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 website. More information, including routine uses

⁶ 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).

permitted by the Privacy Act, may be found in the FTC's privacy policy, at

<http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark
Secretary