



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Chairman Jon Leibowitz

TO: Don Clark
FROM: Christine DeLorme
DATE: November 6, 2012
RE: COPPA Rule: Comments to be placed on the public record

On November 6, 2012, representatives of Facebook met with FTC Chairman Leibowitz's attorney advisor and other agency staff to discuss the supplemental proposed amendments to the FTC's COPPA Rule.¹

Facebook stated that COPPA enforcement should focus on entities that have purposefully availed themselves of audiences under the age of 13. The company raised concerns about the proposed treatment of plugins as co-operators with equal liability as primary sites, given that Facebook has no knowledge or control over where its social plugins are installed. Facebook also stated that when a Facebook plugin is installed on another site, it is impossible to block the collection of an IP address by Facebook when the plugin is loaded. Facebook stated that if there were some centralized list of child-directed sites and IP addresses, it might be possible to periodically scrub this information after it is already collected.

Facebook asked whether "support for internal operations" would apply to the operations of the service associated with the plugin, as opposed to support for the primary site where the plugin appears. The company noted the value of its plugins even on child-directed websites – which are also visited by parents – and asked how it should deal with a situation where a registered Facebook user (represented to Facebook to be over the age of 13) visits a child-directed site where a Facebook plugin is installed.

Facebook stated that "support for internal operations" should include first party advertising, such as Facebook's tailoring of ads within Facebook itself, based on actions of users who click the "like" button on other websites. Facebook does not consider the passive collection of information where the "like" button is installed (*i.e.* any information collected if the user does not actually click the "like" button on a third-party website) to fall within the category of first party advertising.

Facebook emphasized that the multi-factor test to determine whether or not a web site is directed to children is difficult for the company to apply, and therefore it cannot easily determine whether sites where its plugins are installed are covered by COPPA or not.

¹ In attendance on behalf of Facebook were Erin Egan (Chief Privacy Officer, Policy) and Rob Sherman (Manager, Privacy & Public Policy). In attendance from the FTC were Steve Bellovin, Christine DeLorme, Rick Quaresima, and Marianne Watts.

Facebook stated that it does have terms and conditions for plugin users, and also that it is completely open with regard to what information is collected by its plugins. Facebook stated that primary sites should be responsible for code and plugins they load on their own websites.

Facebook emphasized the need for clarity where a Federal statute with financial penalties is concerned and stated that excessive regulation could cause the use of plugins to be chilled, as well as create the need to collect even more information from users to effectuate notice and consent.

Facebook also discussed the proposal outlined in the public comment from the Future of Privacy Forum relating to a “common mechanism” that would allow platforms to obtain centralized consent for multiple apps running on those platforms. Facebook stated it was contemplating such a mechanism (if it opens up its service to children under 13), which would notify parents up front of all of the types of information that could be collected by apps, obtain consent for the collection, and allow parents control on the back end to remove any apps installed by children.