



Commissioner J. Thomas Rosch

United States of America
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580

November 9, 2012

TO: Donald S. Clark, Secretary

FROM: Kelsey A. Buntjer

SUBJECT: COPPA Rule: Meeting Notes to be Placed on the Public Record

On November 9, 2012, Commissioner J. Thomas Rosch met with David LaDuc, Senior Director of Public Policy at Software Information Industry Association (SIIA); Mark MacCarthy, Vice President of the SIIA, Jared Sher, Vice President and General Counsel of News America Incorporated, Rick Lane, Senior Vice President of News Corporation, Lisa Lindgren, Manager of Government Relations at Adobe, Dan Mullaney, Director of Government Affairs at Pearson, and David Lieber, Privacy Policy Counsel at Google. FTC participants included Beth Delaney, Dave Koehler, and Kelsey Buntjer, members of Commissioner Rosch's office. The purpose of the meeting was to discuss proposed changes to the FTC's COPPA Rule.

The group informed Commissioner Rosch that their concerns were articulated in the public comments submitted by the SIIA to the FTC in the COPPA rulemaking on December 23, 2011 and September 24, 2012. In particular, Mr. LaDuc expressed the concern that the expansion of the definitions of "personal information," "operator," and "website or online service directed to children," exceeded the statutory authority granted to the Commission by COPPA.

The parties asserted the most problematic of these issues is the expansion of the "personal information" definition to include persistent identifiers.

Mr. LaDuc noted that it is unreasonable to require platforms to provide COPPA notice and consent for third parties. Mr. Lane cited the example of Apple's app store and explained the difficulty in Apple determining whether some of its apps were targeted to children, and if so, whether they were COPPA compliant. He also pointed out his belief that some of the proposed changes to the Rule would change the fundamental infrastructure of the Internet and dramatically impact the way the Internet operates.

Other members of the group noted their concern that the notices of proposed rulemaking seem to blur the lines between behavioral advertising and contextual advertising. It was recommended that more clarification should be provided on that front.

Members of the group also stressed the value of educational websites and online services directed to children, and discussed their concerns that the proposed rule changes would inadvertently end up placing burdens on these valuable products. These members also asked for additional clarification about the role of educational apps and online services, and their COPPA obligations.