



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

Office of Commissioner
Edith Ramirez

To: Don Clark, Secretary
From: Alyssa O'Connor
Date: December 5, 2012
Re: COPPA Rule: Comments to be Placed on the Public Record

On November 14, 2012, Commissioner Edith Ramirez and agency staff participated in a conference call with representatives from Viacom, Inc. ("Viacom") to discuss the proposed modifications to the FTC's COPPA Rule.¹

The Viacom representatives raised concerns with three proposals in the supplemental NPRM: the creation of a mixed audience category under the definition of "web site or online service directed to children"; changes to the definition of "support for internal operations"; and the revised standard of liability for first and third-party content providers.

Viacom began by explaining its view that the creation of a mixed audience category would adversely impact children's online privacy. Viacom noted that the proposed provision would effectively require mixed audience websites to utilize age screens, and, according to Viacom, age screens drive away seventy to eighty percent of website traffic. Viacom contends this could discourage children from visiting age-appropriate, mixed audience websites and push them towards more mature content. Viacom also stated that there would be legal uncertainty surrounding the new category, which would lead to the "sterilization" of children's content on mixed-audience sites and a reduction in the amount of teen-directed content. Viacom argued that a reduction in teen-oriented content would cause significant declines in advertising revenue.

As an alternative to the Commission's proposal, Viacom suggested that the Commission permit mixed-audience websites to age screen for particular site functionalities, such as message boards or applications for posting photographs, which pose risks to children's privacy. In Viacom's view, this solution would preserve operators' ability to provide content without driving away targeted audiences.

Viacom turned next to the proposed definition of "support for internal operations." The representatives acknowledged that Viacom frequently tracks children's preferences to

¹ Participating via telephone for Viacom were Keith Murphy, Senior Vice President, Government Relations and Regulatory Counsel; Steve Youngwood, Executive Vice President and General Manager of Digital for Nickelodeon & MTV Networks Kids and Family Group; and Antonious Porch, Senior Vice President & Deputy General Counsel for Nickelodeon and MTV Networks Kids and Family Group. In addition to Commissioner Edith Ramirez, Janis Kestenbaum, Attorney Advisor to Commissioner Ramirez, and Alyssa O'Connor, Honors Paralegal, participated on behalf of the FTC.

personalize web content, but they said the company does not behaviorally target children or collect personal information on sites it considers child-oriented, such as NickJr.com. Viacom argued that the proposed definition of “support for internal operations” is problematically vague and could chill innovation. The representatives asked that the agency provide greater clarity, especially regarding the definition of contextual advertising.

Finally, Viacom addressed the issue of shared COPPA liability between first and third parties. Viacom explained that it utilizes plug-ins on teen websites but not on sites directed to children, and it contractually requires its partners to be COPPA compliant. Viacom expressed support for extending COPPA liability to third parties, but emphasized that imposing liability on first parties for the acts of third parties would be unfair, particularly for an entity like Viacom.