



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

Office of Chairman Jon Leibowitz

TO: Don Clark
FROM: Christine DeLorme
DATE: December 11, 2012
RE: COPPA Rule: Comments to be placed on the public record

On December 11, 2012, representatives of Facebook spoke by telephone with FTC Chairman Leibowitz and his attorney advisor to discuss the supplemental proposed amendments to the FTC's COPPA Rule.¹

Facebook stated that the company wants a regulatory environment that permits innovation, and in this vein, the company is concerned about the effect of the SNPRM on social plug-ins and the ability of platforms to use a common mechanism for obtaining consent.

Facebook emphasized that under no circumstances does the company have actual knowledge of children under age 13 using its service. Facebook's social plug-ins are not child directed and the company does not believe that any knowledge triggering legal liability should be imputed to the company for its plug-ins. Facebook further emphasized that it should not be penalized for employing an age screen for users of its service, and that any "actual knowledge" requirement for plug-ins should be understood to mean actual knowledge referring to a specific user and not a particular site (*i.e.* knowledge that a particular user of a site is under 13, and not merely knowledge that a site is directed to children under 13). Facebook stated that restricting the use of plug-ins stifles innovation.

Facebook also stated that in order to open its service to users under 13, it would need some sort of general mechanism to obtain consent on behalf of operators using its platform. Facebook advocated including language proposed by the Future of Privacy Forum into the Statement of Basis and Purpose for the Final Rule. Facebook also stated that the proposal for a formal mechanism to obtain Commission approval of new methods of consent is inadequate, because it merely gives advocates a free pass to criticize proposals and the companies that submit them. Facebook pointed to the recent criticism over its site governance procedures as an example of what happens when such proposals are put out for public comment. Facebook also emphasized that it would be a better use of FTC resources to simply put out clear guidance now, instead of waiting to approve proposals submitted later, even if there is a formal procedure for expedited review. Further, Facebook expressed frustration that the company would have to resort to an additional formal approval process after engaging with FTC staff for such a prolonged period of time during the rule review.

¹Participating on behalf of Facebook were Sheryl Sandberg and Elliot Schrage. Participating from the FTC were Chairman Leibowitz and Christine DeLorme.