



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

Division of Advertising Practices

November 24, 2004

Mr. Marc Rotenberg
Executive Director
Electronic Privacy Information Center
1718 Connecticut Ave., N.W., Suite 200
Washington, D.C. 20009

Dear Mr. Rotenberg:

On April 22, 2003, the Electronic Privacy Information Center, along with Commercial Alert, Consumer Action, Privacy Rights Now Coalition, Center for Media Research, Consumer Federation of America, Junkbusters Corp., The Privacy Rights Clearinghouse, The Media Rights Access Project, and Privacyactivism, filed a complaint requesting that the Federal Trade Commission ("FTC" or "Commission") determine whether Amazon.com, Inc. ("Amazon") was violating the Children's Online Privacy Protection Act of 1998 ("COPPA"), 15 U.S.C. §§ 6501 *et seq.*, or the FTC's COPPA Rule, 16 C.F.R. Part 312, and take action to remedy any such violations.¹ The complaint alleges that Amazon "directs portions of its website towards children and, with actual knowledge of its actions, collects personal information from children," but complies with neither COPPA nor the COPPA Rule.

After careful review of the relevant websites and other information, it appears to the Commission staff that the "Toy Store" portion of the Amazon website is not directed to children and that Amazon is not collecting information from visitors with actual knowledge that they are children under 13. Accordingly, the FTC staff has determined not to recommend that the Commission take formal action in response to your complaint.²

Although the "Toy Store" portion of the Amazon website and the other associated sites (toysrus.com, babiesrus.com, and imaginarium.com) market toys and use child models, bright colors, and child-like fonts, the presence of other elements leads us to conclude that these sites likely are not directed to children under 13. First, the stated purpose of these websites is to sell

¹ The COPPA Rule requires certain website operators to post privacy policies, provide notice, and obtain parental consent prior to collecting personal information from children. The Rule applies to operators of commercial websites directed to children under 13 that collect personal information from children, and operators of general audience sites with actual knowledge that they are collecting personal information from children under 13. *See* COPPA Rule, Statement of Basis and Purpose, 64 Fed. Reg. 59,888, 59,893 (Nov. 3, 1999).

² This letter represents the views of the staff and does not necessarily represent the views of the Commission or any individual Commissioner.

Mr. Marc Rotenberg – Page 2

toys to adults.³ Second, the vocabulary and other language used on these websites appears to be directed to adults rather than children. Third, the websites do not host activities directed to a child audience.⁴ Thus, the FTC staff does not believe that the overall character of these websites indicates that they are targeted at children under 13.

Your complaint specifically addresses the “Kid’s Review Form” portion of the product review function on the Amazon website. Amazon designed this form so that children under 13 visiting its general audience website could post product reviews without providing any personal information to Amazon or the public. The form is not promoted in a way that actively attracts children. Indeed, it is only after visitors to the Amazon website click on a “write a review” button that an icon appears alerting them that children under 13 may participate by using a special reviewing mechanism, the “Kid’s Review Form.” This icon appears regardless of whether or not the product is one that children under 13 typically use. The FTC staff does not believe that this form alone indicates that the Amazon website is directed to children under 13.

Your complaint also contends that Amazon has actual knowledge that it is collecting personal information from children under 13 through its systematic monitoring of product reviews posted on its website. Amazon’s “Review Guidelines” request that all reviewers refrain from including certain information, including profanity, phone numbers, mail addresses, and URLs, in their product reviews.⁵ Some reviewers nevertheless may include personal information in their reviews. Amazon screens these reviews to determine whether they include inappropriate content. However, it generally uses an automated system to conduct this screening, and the screening criteria do not evaluate whether a review contains personal information, including whether such information was posted by children under 13. Consequently, staff believes that is unlikely that Amazon had actual knowledge that children had posted personal information through the product review function.⁶

³ The Amazon privacy policy states that the company “does not sell products for purchase by children. We sell children’s products for purchase by adults. If you are under 18, you may use Amazon.com only with the involvement of a parent or guardian.”

⁴ The “Toy Store” portion of the Amazon website and the affiliated sites do not contain any activities particularly attractive to children, such as games, puzzles, contests, coloring pages, homework help, or email newsletters.

⁵ See www.amazon.com/exec/obidos/tg/browse/-/508094/102-2368051-7649745#reviewguidelines.

⁶ During the rulemaking process, commenters expressed concerns that operators of general audience websites, such as chat sites, would be liable under COPPA for unsolicited postings by children. See 64 Fed. Reg. at 59,889. The Commission recognized the legitimacy of these concerns and modified the Final Rule to provide that such sites would only be liable if they have actual knowledge that the postings are being made by a child under 13, and when they have such knowledge, fail to delete any personal information before it is made public, and also delete

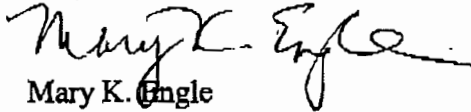
Mr. Marc Rotenberg – Page 3

Furthermore, Amazon created the Kid's Review Form, described above, to allow children under 13 to post product reviews without revealing personal information to either Amazon or the public.⁷ In contrast to the automated language screening on the general product review site, Amazon manually evaluates each posting made through the Kid's Review Form to ensure that no personal information is posted by children.⁸

We recognize that some children may circumvent the procedures and post personal information in product reviews on Amazon, such as in the case of the seven instances described in your complaint. However, in light of the large number of postings submitted to Amazon each day, these seven instances appear to be the exception rather than the rule.⁹ Moreover, if a child under 13 posts personal information to an Amazon website and the company learns of the posting through complaints or its own monitoring, Amazon will immediately remove the posting. (Amazon has removed the personal information submitted by the seven children identified in the complaint.)

We appreciate your bringing this matter to our attention. Requests for investigation from groups such as yours are a helpful means of reviewing possible illegal practices.

Very truly yours,


Mary K. Engle
Associate Director

it from their records. *Id.* The Commission, however, also pointed out that “[i]n most cases, if the operator does not monitor the chat room, the operator likely will not have the requisite knowledge under the Act.” *Id.*

⁷ The “Kid’s Review Form” function was not working at the time of EPIC’s review. Therefore, children may have used the regular registration process instead, which collects email address and full name and allows the reviewer to disclose this information and other information in the “About Me” section of the website. Amazon has acknowledged that this page was not operational for certain periods during the month of January 2002.

⁸ The “Kid’s Review Form” does not implicate COPPA or the COPPA Rule because there is no collection of personal information from children under 13. *See* 16 C.F.R. § 312.2 (definition of “collection” does not include circumstances where “the operator deletes all individually identifiable information from postings by children before they are made public”).

⁹ Amazon recently changed its policy so that all product reviewers must supply a credit card or purchase history to post reviews. This change in policy should substantially reduce the likelihood that children will post product reviews with personal information.