

Commissioner Julie Brill
November 15, 2012
Family Online Safety Institute

Thank you. It is great to be here today, and I appreciate FOSI's invitation to spend some time with you this morning.

My roots in children's online privacy and safety run deep. For many years, I was chair of the National Association of Attorneys General Privacy Working Group. I worked with North Carolina Attorney General Roy Cooper on some of his many initiatives to protect children both online and in the physical world. I know General Cooper was very honored to receive an award from FOSI two years ago. I have also worked closely with Maryland Attorney General Gansler, who you heard from yesterday, to help him with his upcoming initiative as President of the National Association of Attorneys General and its focus on privacy and children's online safety.

When I speak to folks about children's privacy, I know that people are most interested in my work as a Commissioner at the Federal Trade Commission.

But the touchstone of my perspective on children's privacy and online safety comes from my most significant role: that of a parent.

It is this background – my years in local law enforcement, my leadership in the state attorney general community, and my experience as a parent – that has defined my focus on children's online privacy and safety as a Commissioner of the Federal Trade Commission.

My two boys are no longer under the age of 13, and so the Children's Online Privacy Protection Act no longer covers information collected about them.¹ It is sometimes hard for me to believe, but they are 19 and 17 now. They are of an age when they spend much of their time playing massive multi-player online games with 10,000 of their closest friends.

Ah, for the good old days!

When my boys were younger, I appreciated having some control over their online experience, and of course, the information they were sharing with others.

Parents want this type of control – and this control is necessary to assure the safety of children and the privacy of their online information.

That was the reason Congress enacted COPPA in 1998. And the reason Congress required the FTC to vigorously enforce the law. To give parents the kind of control that is so critical, when information about their kids can be revealed so easily – with the click of a mouse or the touch of a screen.

¹ Children's Online Privacy Protection Act of 1998, 15 U.S.C. §§ 6501-6506 (1998).

We have taken that mandate seriously.

In the twelve years since the Rule's enactment, the Commission has brought twenty COPPA enforcement actions.

Together, these twenty cases have garnered more than \$7.6 million.

Our enforcement actions have covered the full range of online services offered to children.

In 2006, as social networking for children was exploding, we obtained a \$1 million penalty – setting a new record back then – against the social networking site Xanga.com.² The Commission believed that Xanga knowingly collected personal information from and created blog pages for 1.7 million children – without the important step of first obtaining their parents' permission.

In May of 2011, the Commission settled charges against Playdom, a leading developer of online virtual worlds.³ This case broke another record – imposing a \$3 million dollar civil penalty against the company for collecting and disclosing personal information about children, including full names, email addresses, and location information, without parental consent.

The Commission has also taken COPPA into the mobile space. In August of last year, the Commission brought its first COPPA case involving mobile apps. We believed that W3 Innovations violated COPPA by failing to obtain parental consent before collecting and maintaining thousands of girls' email addresses, and also allowing girls to publicly post personal information on in-app message boards for their “dress up” and “girl world” apps.⁴

And the Commission's most recent COPPA case puts me in a position that I never thought I'd be in as an FTC Commissioner — an opportunity to talk about Justin Bieber. I didn't have girls, and so Bieber Fever bypassed my household entirely.

Our most recent FTC COPPA enforcement action involved the operator of fan websites for music stars — like Rihanna, Demi Lovato, and Selena Gomez as well as Justin Bieber.

The company—Artist Arena—operated fan websites where children were able to register to join a fan club create profiles and post on members' walls. Children also provided personal information to subscribe to fan newsletters.

Artist Arena claimed that it would not collect children's personal information or activate a child's registration without parental consent. But we believed that these claims were not true,

² *United States v. Xanga.com, Inc.*, Civil Action No. 06-CIV-6853(SHS) (S.D.N.Y., filed Sept. 7, 2006).

³ *United States v. Playdom, Inc.*, No. SACV11-00724 (C.D. Cal filed May 24, 2011).

⁴ *United States v. W3 Innovations, LLC*, No. CV-11-03958-PSG (N.D. Cal filed Aug. 12, 2011).

and that the company often did not obtain parental consent. We required Artist Arena to pay a \$1 million penalty.⁵

All of our enforcement efforts have been designed to ensure that parents are empowered, as COPPA requires, to make decisions about which online and mobile entities can collect information about their kids.

And there is every indication that parents appreciate the opportunity to exert the control that COPPA gives them.

A salient example. Much attention has been given to estimates of the number of children under the age of 13 on Facebook – despite the fact that Facebook requires its users to be over 13 in order to sign up. Consumer Reports estimates that there are 5.6 million children under 13 who are signed up as users of Facebook.⁶

One study found that most parents of kids under 13 who are on Facebook actually assist their children to input erroneous birth date information in order to gain access to the social network, so they can communicate with their friends and family who also are part of the network.⁷

There have been a variety of conclusions drawn from this study. I believe its significance is that it demonstrates – quite powerfully – that parents want to be involved in helping their kids gain access to social networks and online services that parents find beneficial for their kids. That is, parents want to exert precisely the type of control over their kids’ online experience that Congress envisioned when it enacted COPPA.

And it’s our job to figure out how parents can exercise this control most effectively and easily.

The Federal Trade Commission is in the midst of considering how to update the COPPA Rule to continue to provide parents with the meaningful control that they want in this new technological environment.

Much has changed since the COPPA Rule was originally issued back in 2000.

⁵ *United States v. Artist Arena LLC*, No. 1:12-cv-07386-JGK (S.D.N.Y. filed Oct. 3, 2012).

⁶ *Facebook & your privacy: Who sees the data you share on the biggest social network?*, CONSUMERREPORTS.ORG, June 2012, available at <http://www.consumerreports.org/cro/magazine/2012/06/facebook-your-privacy/index.htm>.

⁸ Boyd, Danah, et al., *Why Parents Help Their Children Lie to Facebook About Age: Unintended Consequences of the ‘Children’s Online Privacy Protection Act’*, First Monday [Online], Volume 16 Number 11 (31 October 2011), available at <http://www.uic.edu/htbin/cgiwrap/bin/ojs/index.php/fm/article/view/3850/3075>.

As the New York Times columnist Tom Friedman has said, “Back then, the cloud was in the sky, 4G was a parking space, an application was what we harassed our teenagers to send to college, twitter was a sound, and skype was a typo.”⁸

In today’s new high tech, high mobility environment, the COPPA Rule clearly needs an upgrade.

The changes that the agency has proposed to the COPPA Rule have received a bit of attention – as some of you know.

And that’s good.

Our rule-making is a transparent process for a reason – so we can get as much stakeholder input as possible, consider it all, and then incorporate that input into the final rule.

Among other things, the changes we have proposed would:

- Make clear that COPPA applies to new media, including the mobile app space
- Ensure that information that should be characterized as “personal information” is in fact covered by the COPPA Rule. Children share so much these days – including videos, photos and audio files.
- Streamline how parents are notified about an operator’s privacy practices; and
- Allow operators to innovate and create new ways to obtain verifiable parental consent from parents.

We also want to make sure that all the right entities are required to comply with the COPPA Rule. So we’ve proposed to capture a greater portion of the universe of entities who collect and use information about kids, to ensure they too come within the ambit of COPPA.

I assure you – we are still in the midst of our rule-making process. We are still hearing from stakeholders about their reactions to our proposed changes. I greatly appreciate all of the input that we have received – and continue to receive – to help us in this process.

We understand the issues. And perhaps more importantly, we understand that these are difficult issues. We are deeply sensitive to creating a rule that will allow companies to innovate and create new, exciting products for kids and that will also fulfill Congress’s mandate to ensure that:

- Parents are informed; and

⁸ Interview by David Gregory with Thomas Friedman, Columnist, New York Times, in Washington, D.C. (Sept. 4, 2011), available at http://www.msnbc.msn.com/id/44391034/ns/meet_the_press-transcripts/#.TmRvSY5QKSo.

- Parents have the opportunity to say “no” before their young children divulge their personal information online.

In closing, I’d like to urge industry to continue to innovate – providing websites and apps that will educate, entertain and delight children. But I also urge a continued careful deployment of today’s robust technology for the benefit of kids that provides parents with the control that they want – the control they need — and the control that Congress required the FTC to ensure that they have.

Thank you.