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COPPA and On-line Privacy for Children

by
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Regulations fulfilling the Children's Online Privacy Protection Act (COPPA) went into effect on April 21, 2000. They require websites to obtain permission from parents before collecting or distributing personal information about children under the age of 13.¹ Issued by the Federal Trade Commission, the regulations impose a fine of up to \$11,000 for each violation. Unfortunately, the COPPA regulations have had the perverse effect of causing many popular children's websites to shut down, severely limit their content, or completely deny access to children under 13. At the same time, the easily circumvented rules create a false sense of security rather than truly protect children from on-line threats.

The technology. The regulations require websites to ensure that children are not providing personal information to the website without parental consent. This requires filtering software to monitor the entries made by website visitors. One such program is ChildTracker (available at www.childtracker.net), which prevents children from entering further information after it determines their age. Typically, it requires that the website ask visitors their age. If the visitors answer with a number under 13, ChildTracker prevents them from entering further information and alerts the website operator that parental consent needs to be obtained.²

There are several alternative technologies that can be used to protect children. Some, like McAfee's Internet Guard Dog, are installed on the user's personal computer, rather than on websites. It comes with customizable controls that parents can use to block websites, filter chat rooms, and monitor time spent on-line.³ A more advanced option is Surfmonkey.com, a children's Internet portal that certifies all of its links are child-friendly and enables parents to control and monitor what sites their children may visit and even who they can e-mail.⁴

The background. In response to complaints that websites were targeting children to collect personal information without getting parental permission, the Children's Online Privacy Protection

Act was passed in 1998. It instructed FTC to design regulations to protect the privacy of children's information on the Internet. The regulations crafted by FTC went into effect on April 21, 2000. They require that websites explain to parents how their child's information is collected, obtain "prior verifiable consent" from the parents, give parents an opportunity to examine the information that has been collected, allow parents to choose to remove the information after the fact, limit the collection of information to what is reasonably necessary, and keep the information securely.⁵

The cost of compliance with COPPA regulations is prohibitive. Estimates on the cost to websites of completing parental verification vary, but it is clear that compliance is not cheap. Internet child-safety expert Perry Aftab says it can cost as much as \$290,000 per year for a popular site with many interactive features.⁶ Aftab's non-profit organization, Wired Kids (www.wiredkids.org), offers a budget-rate verification service for \$20,000 a year.⁷ Another estimate done by the companies themselves places the cost at \$2 per child, or an annual cost of \$50,000-60,000 for a medium-size website.⁸ For sites without significant financial backing and resources, this cost alone can make running a children's website fiscally infeasible. These regulations effectively create a sort of big-business protectionism, whereby only large companies can afford to operate children's websites. Small businesses are shut out of the industry.

COPPA regulations have prompted cuts in on-line content for children. Since many websites are unable or unwilling to invest the large amounts of money necessary to comply with COPPA, many are abandoning their offerings for kids altogether. Mainstream websites like Snap.com and Email.com eliminated all accounts for kids under 13 in preparation for the regulations.⁹ The same has happened at the NBC Internet site, while sites such as ChannelOne.com and Sony's interactive game site, The Station, no longer allow kids under 13 to participate in games, contests, and other features.¹⁰ The site for *Seventeen* magazine tells younger girls to come back when they turn 13, and other teen sites, such as eCrush.com, smartgirl.com, and bolt.com, have taken similar measures.¹¹ Some sites aimed at younger children have had to pull the plug altogether; the popular Thomas the Tank Engine site and its accompanying e-mail bulletins were canceled, much to the disappointment of young US and overseas fans, after the owner determined that the cost of getting parental permis-

sion from the 500,000 users who visit his site every month was too high.¹² Despite its good intentions, COPPA has had the effect of segregating the 13-and-under crowd from the interactive fun enjoyed by their older peers, and has severely limited their options on-line.

COPPA is an ineffective mechanism for protecting children.

Despite the fact that COPPA is putting dozens of children's sites out of business, the law and its regulations can actually be side-stepped quite easily—not by website operators, but by the kids themselves. If kids lie about their age, and type in 15 instead of 8, they can gain full access to the sites that would otherwise ban them. And since there's no way for websites to tell how old a user really is, they're left to rely on self-reporting. Further, even if kids do accurately report their age, they can still rather easily forge permission notes on their parents' e-mail account or faxes. And, since international sites are not bound by these US regulations, websites operating overseas can collect information in any manner they please. The effect of COPPA, then, is to create a false sense of security for parents, who may fail to take normal precautions in the belief that the law will prevent their kids from revealing personal information.

Policy recommendation. Ultimately, parental supervision is the best way to protect children from revealing too much information on-line. Parental education about the dangers of talking to strangers on-line, and responsible monitoring of, and involvement in, a child's Internet activity will be far more effective than any privacy regulations. Congress should release the financial pressure that COPPA has imposed on the children's Internet industry. Allow the COPPA standards to be downgraded from mandatory regulations to voluntary guidelines. At the very least, Congress should exercise restraint and impose no further regulations, lest the children's Internet industry be harmed even further.

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¹ Lawrence J. Magid, "New Law Protects Kids Online, But It's No Substitute for Parenting," *Los Angeles Times*, 24 April 2000.

² Kris Oser, "Web Nanny: Getting Parental Permission Online," *Direct* (August 2000).

³ "Cyberangels, Cyberdogs," *i.merchant* (June 2000).

⁴ Monty Phan, "Do You Let Your Child Roam the Mall?; Internet Wanderings Are Just as Perilous," *The Arizona Republic*, 4 April 2000.

⁵ Donna Kelley and Rick Lockridge, "FTC Reveals Plans to Protect Internet Privacy of Children," *CNN Today*, 20 October 1999, 2:13pm EST. Transcript # 99102009V13.

⁶ Perry Aftab, Prepared Testimony Before the House Committee on Commerce, Subcommittee on Telecommunications, Trade and Consumer Protection, 11 October 2000.

⁷ Carrie Kirby, "Youth Privacy Net Law Takes Effect," *The San Francisco Chronicle*, 21 April 2000.

⁸ Sri Ramakrishnan, "Online but Off Track," *The Washington Post*, 22 July 1999.

⁹ "Protection Act to Change Look of Kids Sites," *Rocky Mountain News*, 26 March 2000.

¹⁰ Kirby, "Youth Privacy Net Law Takes Effect."

¹¹ Elizabeth Weise, "Parental Permission About to be a Fact of E-Life for Preteens," *USA Today*, 19 April 2000.

¹² Jonathan Petre and Sonia Purnell, "Fat Controller Is Gagged by US Internet Law," *The London Sunday Telegraph*, 7 May 2000.