



COPPA and the FTC: 2011 Update

Recently, the Federal Trade Commission announced that it would be [proposing amendments](#) to update critical aspects of the Children’s Online Privacy Protection Act (“COPPA”) to better protect minors’ privacy online against ever-developing software designed to circumvent said privacy. Two of the more notable developments arising from the proposed amendments are:

1. The FTC has determined that a website’s constructive knowledge that it is collecting the personal information of children under the age of 13 does NOT trigger the provisions in COPPA, and therefore such websites are free to disregard it’s restrictions. What this means for business owners is that COPPA only applies to websites that are actively targeting children under age 13 or have actual knowledge that it is collecting the personal information of such children.

2. The FTC seeks to change the definition of “Personal Information” to include a child’s Geolocation and IP address. This determination indicates that the FTC may be shifting toward a more expansive view of what constitutes “Private” and “Personal” Information, not solely with regard to users under the age of 13, but with regard to users of all ages.

The main takeaway for business owners in all of this is that the FTC is making a concerted effort to keep children protected under the law as Internet technology evolves ever-quickly. Website operators must be aware of how they collect, disseminate and store data when dealing with content that targets children, and must make sure that parental consent is acquired before using the data collected by the site.

To learn more about the amendments proposed by the FTC, or to share thoughts and comments with the FTC please visit: <http://www.ftc.gov/opa/2011/09/coppa.shtm>

In one example of the FTC’s latest efforts to protect the privacy of children, the FTC [scored a win](#) against a developer seeking to exploit data obtained from children without parental consent. Recently, the FTC, acting in its paternalistic capacity, reached a settlement with W3

Innovations LLC (d.b.a. Broken Thumbs Apps) for what the FTC deemed to be violations of COPPA.

The complaint alleged that W3 created various mobile applications for smart phones (“apps”), designed for and directed at children under the “Games-Kids” section of Apple, Inc.’s App Store, and subsequently requested and encouraged users to share their experiences via email and post personal information on W3’s message boards. Seems innocent enough...

The kicker? W3 never obtained parental consent before collecting children’s email addresses and posting their personal information online; a direct violation of COPPA.

Under the settlement, W3 Innovations LLC was fined \$50,000, forced to delete all information obtained in violation of COPPA, and barred from any future violations of COPPA or risk harsher penalties.

The lesson here is simple: Internet businesses targeting children must make parental consent a paramount concern in their operations. A business that overlooks parental consent risks substantial fines, harsh penalties and jeopardizing its viability. The FTC is making it clear that children are by no means off limits to businesses and can be used as information commodities... so long as businesses play by the rules, and obtain parental consent before tapping into this youthful resource.