

February 14, 2005

Federal Trade Commission
Office of the Secretary
Room 159-H (Annex Y)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Sliding Scale 2005, Project No. P054503

The Children's Media Policy Coalition (hereinafter "Coalition") and Dr. Kathryn Montgomery, former president of the Center for Media Education, respectfully submit this letter in response to the Federal Trade Commission's ("FTC" or "Commission") request for comments on amending the Children's Online Privacy Protection Act ("COPPA") to make permanent a sliding scale that allows website operators and online services to collect personal information on children aged 13 and under if parental consent is obtained through the use of an email message plus one additional parental step.

The Children's Media Policy Coalition is a broad group of public health, education and child advocacy organizations that work to ensure that children's interests are prioritized in the media policy arena. Coalition members include Children Now, the American Academy of Pediatrics, the American Psychological Association, the American Academy of Child & Adolescent Psychiatry, the Benton Foundation, the National PTA, the Office of Communication of the United Church of Christ, Inc., and the National Institute on Media and the Family.

The Coalition has worked on a range of issues, including media consolidation and the transition to digital television. Our most recent success was ensuring new digital public interest rules to help ensure that children have access to educational television programming and parents are able to identify educational shows. We also secured one of the only public interest stipulations in the 2003 media ownership ruling which prohibits companies that own multiple stations in one market from airing the same educational programming across their stations.

The Coalition recognizes that the intent of COPPA was to minimize the amount of data collected from children by website operators and online services, a goal that the members of the Coalition strongly support. As the Center for Media Education stated in their original comments on COPPA: "The Act does not contemplate that the FTC engage in any balancing of the interests of children and the interests of industry, nor does it suggest that the FTC should take any action that facilitates information collection from children. Thus, the FTC's mandate is clear. It must implement the Act in a way that best protects children's interests."¹

Four and a half years after the implementation of COPPA, there is no research to indicate whether the sliding scale is the most effective method of protecting children. In

¹ CME/CFA, *et. al.*, Comments to the FTC on the Children's Online Privacy Protection Rule, P994504. June 11, 1999. Found at: <http://www.ftc.gov/privacy/comments/cme.pdf>.

its notice of proposed rulemaking, the Commission acknowledged that the email plus option of the sliding scale is not the most reliable method of obtaining parental consent. It is, however, the least costly option for online services and website operators. Without knowing how effective the sliding scale is at protecting children, it may be that the current rule serves businesses' financial interests at the expense of children's privacy, thereby undermining the intent of the COPPA rules.

Many questions remain about the effectiveness of the sliding scale: Are the sliding scale safeguards working? Are children 13 years and under able to circumvent the email consent requirements? Are website operators and online services taking the required steps to obtain parental consent? Once parental consent is received, what types of information are companies collecting on children? How are these companies using the data they collect? How does the current system affect children's Internet experience as well as their personal privacy?

These are all important questions that must be answered before the sliding scale is made permanent. The Coalition recognizes how difficult it can be to change federal regulations once they have been permanently implemented. We therefore recommend that the Commission extend the temporary use of the sliding scale mechanism until independent research is conducted to determine its effectiveness at protecting the privacy of young Internet users.

Sincerely,

Children Now

National PTA

American Academy of Pediatrics

Office of Communication of the United
Church of Christ, Inc.

American Psychological Association

National Institute on Media and the Family

American Academy of Child & Adolescent
Psychiatry

Kathryn Montgomery, Ph.D.

Benton Foundation