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BLOG

FTC Issues Proposed Revisions to COPPA Rule

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The FTC issued proposed revisions to the Children's Online Privacy Protection Rule (the "Rule") and is seeking comment. The Commission proposes modifications to the Rule in the following five areas: Definitions, Notice, Parental Consent, Confidentiality and Security of Children's Personal Information, and Safe Harbor Programs. In addition to modifying these provisions, the Commission proposes adding a new Rule section addressing data retention and deletion.

The proposed rules seek to expand the definition of personal information to include geolocation information and tracking cookies used for behavioral advertising, and to modify the definition of "collection" to allow children to participate in interactive communities without parental consent, provided that the sites take reasonable measures to delete the child's personal information to prevent public disclosure.

The proposed rules also require that websites give parents direct notice before collecting a child's personal information, as opposed to merely giving notice in a privacy policy. The FTC also proposes adding several new ways to obtain parental consent, and eliminating the "email plus" method of obtaining parental consent (a lower standard that currently applies when the child's personal information is not being shared, or the child is not given the ability to share personal information). The FTC also proposes strengthening the Rule's current confidentiality and security requirements. In addition, the FTC is making a proposed change to the safe harbor process. Companies that participate in approved programs are shielded from liability under the COPPA Rule. This shield will still exist, however, the FTC's proposal is that approved safe harbor providers should be required to audit their members at least annually and report periodically to the FTC the results of those audits in order for their safe-harbor to continue to be effective.

TIP: Comments are due to the FTC on or before November 28, 2011. Please contact us if you may be interested in submitting comments.

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