

**Public Comments  
Federal Trade Commission  
Children’s Online Privacy Protection Rules  
“Sliding Scale 2005, Project Number P054503**

**Submitted by**

**The Electronic Privacy Information Center  
Washington, DC**

**February 14, 2005**

The Electronic Privacy Information Center (EPIC) is a public interest research center established in 1994 to focus public attention on emerging civil liberties issues as they related to information technology and to protect privacy, the First Amendment, and constitutional values.

EPIC has a particular interest in the issue of children’s privacy. EPIC was the first organization to bring this issue to the attention of the Federal Trade Commission.<sup>1</sup> EPIC also testified before House Judiciary Committee’s Subcommittee on Crime on children’s privacy and the proposed Children’s Online Privacy Protection Act (COPPA) in 1996 and specifically addressed the issue of parental consent.<sup>2</sup> EPIC has also communicated its concerns regarding the regulatory process set out by the Federal Trade Commission (FTC) regarding compliance with the rules for the management of information on children under the age of 13 who engage in online communication. Recently, EPIC led a coalition of children’s privacy advocates to lodge a complaint with the FTC regarding Amazon’s web site practices as they relate to the collection and use of information about children.<sup>3</sup>

Our comments today are limited to the proposal by the FTC to weaken COPPA and allow website operators and online service providers to obtain parental consent for the collection of personal information from children for internal use by means of an e-mail message.

First, in the notice requesting comment provided by the FTC it is asserted that the lower cost of the information collected from children intended for “internal use” would encourage information collection of this type and dissuade the collection of information that would be disclosed to third parties. EPIC strongly encourages the FTC to survey those companies that engage in online transactions with children and determine whether in fact the proposed rule change would in fact discourage information-sharing with third parties prior to adopting the permanent rule change. We have every reason to believe that

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<sup>1</sup> EPIC Letter FTC Commissioner Christine Varney, Dec. 14, 1995, available at [http://www.epic.org/privacy/internet/ftc/ftc\\_letter.html](http://www.epic.org/privacy/internet/ftc/ftc_letter.html)

<sup>2</sup> EPIC testimony before the House Judiciary Committee’s Subcommittee on Crime’s Hearing on the Children’s Online Privacy and Parental Empowerment Act of 1996, available at [http://www.epic.org/privacy/kids/EPIC\\_Testimony.html](http://www.epic.org/privacy/kids/EPIC_Testimony.html)

<sup>3</sup> EPIC complaint on Amazon’s violation of COPPA, available at <http://www.epic.org/privacy/amazon/coppacomplaint.html>

the proposed change will facilitate greater information collection on children.

Second, the definition of “internal use” should be defined in this context, which should not equate to sharing of information among affiliates, member companies, or family companies.

Third, there should be strict limitations on how this information collected on children may be used.<sup>4</sup> The information collected should be restricted to the purpose for which it was originally collected.

Fourth, regarding the availability of new technologies for parental consent, the FTC rightly concedes that, “the expected progress in available technology has not occurred.” This is a strong argument for not instituting permanent policies especially as they relate to children’s online activity. The FTC has a unique role to play regarding children’s online privacy and in some respects their safety. For this reason, the Commission should continue to assess the adequacy of techniques for parental consent prior to making any changes in the COPPA rule.

Fifth, the Internet as a new public communication medium augmented with the benefit of the World Wide Web technology is barely 10 years old. How it is used and the mechanism for engaging users is still in its experimental phase. More needs to be done to identify the nuances of communication that attract young Internet users, but especially those who are very young and susceptible to manipulation. The rules for the savvy “Internet Information Consumers” have not all been written, and not enough focuses in this effort has been directed at teaching children how to be safe and alert when using the Internet. Social teaching for children about not speaking to strangers is broken everyday on the Internet.

Considerably more work needs to be done to ensure that personal information concerning children is not inappropriately obtained or misused once it is properly obtained. The FTC should seek the expertise of parents, consumer advocates, and children advocates on Internet and Children’s privacy and safety. We strongly support the recommendation of the Center for Digital Democracy to undertake a comprehensive review of the practices in the field.

Sincerely,

Marc Rotenberg  
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EPIC Associate Director

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<sup>4</sup> EPIC Letter to Christine Varney on Direct Marketing Use of Children's Data, EPIC, December 14, 1995. available at [http://www.epic.org/privacy/internet/ftc/ftc\\_letter.html](http://www.epic.org/privacy/internet/ftc/ftc_letter.html)