

various privacy policies on the Gateway Learning Web site, including but not necessarily limited to the attached Exhibit A, containing the following statements regarding the privacy and confidentiality of personal information collected through Respondent's Web site:

Our Promise of Privacy

We at Gateway Learning Corporation are committed to protecting the privacy of our visitors, and we treat any information you share with discretion, care and respect. This notice describes our privacy policy for the Hooked on Phonics Web site ("Site").

Do we share your personally identifiable information with third parties?

We do not sell, rent or loan any personally identifiable information regarding our consumers with any third party unless we receive a customer's explicit consent. We do share information with third parties that help us run our operations or provide services to customers (e.g., credit card processing and shipping companies),

Exhibit A, Gateway Learning Web Site Privacy Policy, December 6, 2001 (emphasis in original).

6. In April 2003, Respondent began renting personal information provided by consumers on the Gateway Learning Web site, including first and last name, address, phone number, and purchase history, without seeking or receiving any form of consent from such consumers. As part of the rental, Respondent also provided the age range (0-5 years old,

9. On or about July 1, 2003, Respondent temporarily suspended rental of any customer data collected on its Web site. Prior to that date, Respondent had rented personal information provided by its online customers, all of whom had provided personal information under a privacy policy that stated that Respondent “do[es] not sell, rent or loan” personal information (see Exhibit A). Respondent earned approximately \$4,608 from the rental orders.

10. On July 17, 2003, Respondent posted on its Web site a further revised privacy policy, attached hereto as Exhibit C. Respondent also added the phrase “(updated July 17, 2003)” to the hyperlink for the revised policy. The revised policy contained the same statement about policy changes as the previous policies, and the following revised statements regarding children’s privacy and the sharing of personal information collected through Respondent’s Web site:

Our Promise of Privacy

We at Gateway Learning Corporation are committed to protecting the privacy of our customers, and we treat any information you share with discretion, care and respect. This notice describes Gateway Learning Corporation’s privacy policy for information we collect from individuals both online (on our website) and offline (such as by mail or telephone).

* * *

Do we disclose your personally identifiable information to third parties?

From time to time, we may provide your name, address and telephone number (not your e-mail address) to reputable companies whose products or services you may find of interest. If you do not want us to disclose this information to these companies, please write to us at: Gateway Learning Corporation, 2900 South Harbor Blvd., Suite 202, Santa Ana, CA 92704, call 1-800-544-7323 or e-mail us at do-not-rent@hop.com with your full name in the subject line. Please be sure to include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request. We will process your request promptly. Please be aware that you may receive another contact before your name removal takes effect. We regret any inconvenience this may cause.

* * *

What about children's privacy?

The Site is not targeted to children, and we do not knowingly collect personally-identifiable information from children under the age of 13 on this site. We do not sell products for purchase by children; we sell children's products for purchase by adults. This site is entirely aimed at adults.

Exhibit C, Gateway Learning Web Site Privacy Policy, July 17, 2003 (emphasis in original).

11. Through the means described in Paragraph 5, Respondent has represented, expressly or by implication, that:
 - A. Respondent would not sell, rent, or loan to third parties any personal information collected from consumers on the Gateway Learning Web site unless it received consumers' explicit consent.
 - B. Respondent would not provide to any third party for any purpose any personal information about children under the age of thirteen.
12. In truth and in fact:
 - A. Respondent did rent to third parties personal information collected from consumers without receiving consumers' explicit consent.
 - B. Respondent did provide to third parties personal information about children under the age of thirteen, specifically, age range (0-5 years old, 2-5 years old, and 6-10 years old), gender, and parent's name and address.

Therefore, the representations set forth in Paragraph 11 were false or misleading.

13. As described in Paragraphs 7 - 9, Respondent posted a revised privacy policy containing material changes to its practices that were inconsistent with Respondent's original promise to consumers. Respondent retroactively applied such changes to personal information it had previously collected from consumers. Respondent's retroactive application of its revised privacy policy caused or is likely to cause substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. The practice was, and is, an unfair act or practice.
14. Through the means described in Paragraph 5, Respondent has represented, expressly or by implication, that Respondent would notify consumers of material changes to its information practices.

15. In truth and in fact, Respondent did not notify consumers of material changes to its information practices. Instead, Respondent posted a revised privacy policy on its Web site without any indication that the policy had materially changed or what aspects of the policy had changed. Therefore, the representation set forth in Paragraph 14 was, and is, false or misleading.
16. The acts and practices of Respondent as alleged in this complaint constitute unfair and deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this tenth day of September, 2004, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary