UNITED STATES OF AMERICA

FEDERAL TRADE COMMISSION WASHINGTON, D.C. 20580

Division of Advertising Practices

Sent via electronic and U.S. mail

Susan L. Lyon
CooleyLLP
719 Second Avenue
Suite 900
Seattle, W A 98104-1732

July 31,2012

Re: OpenFeint, Inc., FTC File No. 112-3113

Dear Ms. Lyon:

As you know, the staff of the Federal Trade Commission's Division of Advertising
Practices has investigated whether your client, OpenFeint, Inc., violated the FTC's Children's Online Privacy Protection Rule ("COPPA Rule"), 16 C.F.R. Part 312, through the operation of the OpenFeint online service. The

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define website or online service directed to children as a commercial website or online service, or a portion thereof, that is targeted to children.! The Commission's original April 1999 Notice of Proposed Rulemaking (NPRM) and the November 1999 Statement of Basis and Purpose (SBP) accompanying the final Rule indicate that the Rule is intended to cover entities in the position ofOpenFeint. In the NPRM, in discussing the definition of "operator," the Commission stated that it includes "both a person who collects or maintains personal information directly
from a visitor through a website or online service and a person who collects or maintains such information through another's website or online service.,,2 In the SBP, in discussing the
potential liability of network advertising companies, the Commission noted that "[i]f such companies collect personal information directly from children who click on ads placed on

websites or online services directed to children, then they will be considered operators who must who maintains that cotrolh

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staff also recognizes the many policy implications regarding the potential responsibility of software "plug-ins" under COPPA, some of which have been raised by comments in the current Rule review proceedings. Accordingly, the staff has determined not to recommend enforcement action at this time.

This action is not to be construed as a determination that a violation may not have
occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take further action as the public interest may require.

c.c.: Ms. Jennifer C. Archie
Latham & Watkins LLP

jennifer.archie@lw.com

Very truly yours,

~UL4~':1~ Mary K~el Engle
Associate Director