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FEDERAL TRADE COMMISSION

16 CFR Part 312

Children's Online Privacy Protection Rule

AGENCY: Federal Trade Commission.
ACTION: Final rule amendment.

SUMMARY: The Federal Trade Commission ("the Commission") issues a final amendment to the Children's Online Privacy Protection Rule ("the Rule"), to extend the sliding scale mechanism which allows Web site operators to use e-mail, coupled with additional steps, to obtain verifiable parental consent for the collection of personal information from children for internal use by the Web site operator, until the conclusion of the Commission's proceeding to undertake a comprehensive review of the Rule. As explained in a separate document being published elsewhere in this issue of the *Federal Register*, the Commission is requesting additional comment on the sliding scale mechanism.

DATES: Effective April 21, 2005.
ADDRESSES: Requests for copies of the amended Rule and the Statement of Basis and Purpose should be sent to: Public Reference Branch, Federal Trade Commission, Room H-130, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Karen Muoio, (202) 326-2491, or Rona Kelner, (202) 326-2752, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Mail Drop NJ-3212, Washington, DC 20580.

requires that Web site operators obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children under 13 years of age.

The Rule provides that "[a]ny method to obtain verifiable parental consent must be reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent."² Prior to issuing the Rule, the Commission studied extensively the state of available parental consent technologies.³ In July 1999, the Commission held a workshop on parental consent, which revealed that more reliable electronic methods of verification were not widely available and affordable.⁴ In *mak3077 op.3147 547.5001il4 Tw(In m92)Te7 547.55905aled adoptarentaTf.2 0 0 7.ated, in 445 45 4chnohop on parentated, inbalssi*

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As part of the effort to protect children's online privacy, Congress enacted the Children's Online Privacy Protection Act of 1998 ("COPPA"), 15 U.S.C. 6501-6508, to prohibit unfair or deceptive acts or practices in connection with the collection, use, or disclosure of personally identifiable information from children on the Internet. On October 20, 1999, the Commission issued its final Rule implementing COPPA, which became effective on April 21, 2000.¹ The Rule imposes certain requirements on operators of Web sites or online services directed to children under 13 years of age, and on operators of other Web sites or online services that have actual knowledge that they are collecting information from a child under 13 years of age. Among other things, the Rule

² 16 CFR 312.5(b)(1).
³ *et al.*, public comments received on the initial 1999 rulemaking, available on the FTC's Web site at *f . t*
⁴ *et al.* press release announcing workshop and transcript of workshop, available on the FTC's Web site at *f . t* and *f . t*
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⁵ 64 FR 59901, 59902 (1999).
⁶ *et al.*
⁷ *et al.* at 59902.

⁸ *et al.*
⁹ 16 CFR 312.5(b)(2).
¹⁰ 64 FR 59899 (1999).
¹¹ 64 FR 59902 (1999).
¹² 16 CFR 312.5(b)(2).
¹³ 67 FR 18818 (2002).
¹⁴ 70 FR 2580 (2005).

¹ 64 FR 59888 (1999).

parental consent through lower-cost e-mail-based means.

E. Steps the Agency Has Taken To Minimize Any Significant Economic Impact on Small Entities, Consistent With the Stated Objectives of the Applicable Statutes, Including the Factual, Policy, and Legal Reasons for Selecting the Alternative(s) Finally Adopted, and Why Each of the Significant Alternatives, If Any, Was Rejected

The Commission has determined that the Rule amendment, which maintains the , will not have a significant economic impact on small entities. If anything, the final Rule amendment benefits small entities in that it continues to permit qualified Web site operators, including small entities, to obtain parental consent through lower-cost e-mail-based means. One alternative to the final Rule amendment that was considered and rejected was allowing the sliding scale mechanism to sunset as scheduled on April 21, 2005. This alternative likely would be more burdensome for small entities. If the sliding scale were to expire on April 21, 2005, small businesses currently using this mechanism would have to revise their parental consent procedures to adopt one of the more costly means of obtaining parental consent—such as using a print and send form, processing a credit card transaction, or using a toll-free telephone number staffed by trained personnel—or cease their online offerings to children altogether. Accordingly, the Commission has determined that extending the sliding scale pending further review is appropriate.

Therefore, to the extent that small entities are affected by the Rule amendment, the Commission believes

²⁰ 5 U.S.C. 605.

²¹ 44 U.S.C. 3501–3520.