

Prepared Statement
of
The Federal Trade Commission

Presented by
Robert Pitofsky, Chairman

Before the
Subcommittee on Communications
of the
Senate Committee on Commerce, Science & Transportation
United States Senate
on

"Protection of Children's Privacy on the World Wide Web"

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FTC Law Enforcement Authority

The Commission's mission is to promote the efficient functioning of the marketplace by seeking to protect consumers from unfair or deceptive acts or practices and by promoting vigorous competition. The Commission's responsibilities are enforcing. Its primary legislative mandate is to enforce the Federal Trade Commission Act, which prohibits unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce.⁽³⁾ With the exception of certain industries, this statute provides the FTC with broad law enforcement authority over virtually every sector of our economy.⁽⁴⁾ Commerce on the Internet falls within the scope of this statutory mandate.

The protection of children has long been an important part of the Commission's consumer protection mission. Over the years the Commission has brought numerous cases challenging unfair or deceptive marketing practices involving children⁽⁵⁾ and has encouraged industry self-regulatory bodies to address these concerns. The FTC has also worked closely with Congress to fashion appropriate responses to new problems when they occur.⁽⁶⁾

Activities Relating to Online Privacy

The Commission has been involved in addressing online privacy issues affecting both adults and children for almost as long as there has been an online marketplace. Through a series of workshops and hearings, it sought to understand this new marketplace and its information practices, to assess the impact of these practices on consumers, and to encourage and facilitate effective self-regulation. The Commission's efforts included bringing industry and consumer and privacy advocates together to address online privacy issues, including children's privacy, and challenging industry leaders to develop and implement meaningful self-regulatory programs. The Commission's activities in this area were based on the understanding that personal information can be collected and widely disseminated on the Web at low cost and with unprecedented ease. The Commission also recognized that greater protection of personal privacy on the Web will not only protect consumers, but also increase consumer confidence and ultimately consumer participation in the online marketplace.

III. The Collection of Information from Children Online

The Commission has paid especially close attention to the growing area of marketing to children on the Internet. The advent of this new medium --- with its new methods of providing information and communicating through Web sites, electronic mail, news groups, chat rooms, electronic bulletin boards, and commercial online services --- is an historical development much like the introduction of television or, a few generations earlier, the telephone. The Internet presents children with an extraordinary new means to tap into rich sources of information that previously were difficult to access, and to communicate with their peers and others in ways never before imaginable. In addition, the Internet's technology enables marketers to establish direct and ongoing ~~close~~ relationships with individual children in ways previously unavailable to traditional media.

Growth in the Number of Children Using the Internet

Children are using the Internet in growing numbers.⁽⁷⁾ In 1998, almost 16 million of America's 69.6 million children under age 18 are reported to be online, almost doubling the number of children (9.8 million) reported to be online only one year ago.⁽⁸⁾ Over 6 million of these children are age 12 and under, up from the 3.5 million reported to be online in 1997.⁽⁹⁾ These figures show a dramatic increase in the presence of children on the Internet. Children are also avid consumers and represent a large and powerful segment of the marketplace.⁽¹⁰⁾ The increasing number of children online coupled with their growing economic impact create enormous opportunities for marketers to promote their products and services to an eager, targeted, and vulnerable audience.⁽¹¹⁾

The Collection of Information from Children Online

Online marketers have responded to this opportunity. Last March, Commission staff conducted an extensive survey of the information practices of commercial Web sites on the World Wide Web (the "Web"), including 212 children's commercial Web sites.⁽¹²⁾ Our survey found that almost 90% of the children's Web sites are collecting personal information from and about children.⁽¹³⁾ Children's sites collect personal information from children through a variety of means, including registration pages, user surveys, online contests, electronic pen pal programs, guest books, and application forms.⁽¹⁵⁾ In addition to collecting personal information directly from a child, a child may reveal his or her personal information in the course of participating in chat rooms or posting messages on electronic bulletin boards -- areas that are publicly accessible to anyone surfing the Web.

In contrast to the real world, where such information ordinarily would be solicited from young children only with the involvement of a parent, in cyberspace the vast majority of children's sites collect personal information without notice to, or even an opportunity for control by, parents. Fifty-four percent of the children's sites surveyed provide some form of a statement about the site's information practices, but only 23% of sites even tell children to seek parental permission before providing personal information.⁽¹⁶⁾ Fewer still (7%) say they will notify parents of their information practices, **and only 1% obtain parental permission prior to collecting such information.**⁽¹⁷⁾

The widespread collection of information from children online is a significant concern for parents and policymakers.

address, email address, gender, and age. The site also asked a child extensive personal questions about financial information, such as whether a child previously had received gifts in the form of stocks, cash, savings bonds, mutual funds, or certificates of deposit; who had given a child these gifts; and whether a child had put monetary gifts into mutual funds, stocks or bonds. The site also asked for family financial information including whether a child's parents owned mutual funds. Apparently in exchange for providing this information, a child was entered into a contest. Elsewhere on the Web site, contest winners' full names, age, city, state, and zip code were posted.

Another child-directed site collected personal information to register a child chat room. The information included a child's full name, e-mail address, city, state, gender, age, and hobbies. The Web site had a lotto contest that asked for a child's full name and e-mail address. Lotto contest winners' full names were posted on the site. For children who wished to find an electronic pen pal, the site offered a bulletin board service that posted messages, including children's email addresses. While the Web site said it asked children to post messages if they were looking for a pen pal, in fact anyone of any age could visit this bulletin board and use the Web site information directly to contact a child.

Because of their failure to post a privacy policy or to involve the child's parents, these Web sites illustrate the types of concerns raised by the collection and posting of children's personal information on the Web. The Commission believes that most young children do not possess the level of knowledge or judgment to determine whether to divulge personal information over the Internet.

Moreover, interactive activities available on Web sites, such as chat rooms, message boards, personal home pages, pen pal programs, and file services, make it easy for children to disclose their personal information to the general public without their parents' awareness or consent. Such public disclosures raise safety concerns. Anecdotal evidence provided at our June 1997 Public Workshop on Consumer Information Privacy testified that many children surfing the Internet claim to have experienced problems, such as attempted password theft and inappropriate advances by adults in children's chat rooms.

operators as to what information practices involving children are likely to be deceptive or unfair under Section 5 of the Federal Trade Commission Act.⁽²³⁾

Building on the guidance set forth in the staff opinion letter, the Commission recently announced its first Internet privacy case, a settlement reached with GeoCities, one of the

supports the enactment of legislation such as S. 2326, because it places parents in control of the online collection and use of personal information from their children. Children are not fully capable of understanding the consequences of divulging personal information online. Moreover, given the nature of this new medium, parents do not always have the knowledge, or the opportunity, to intervene in their children's choices about giving personal information to Web sites. The proposed legislation would allow parents to know about and control the online collection of information from their children by requiring Web sites to provide actual notice and to obtain prior parental consent

This legislation would permit parents to make choices about when and how their children's personal information is collected and used on the Web, and enable parents to monitor their children's online activities

1. My or

the same sites that adults visit. Robin Rasch, "What do Kids Want?", Family PC Magazine, May 1998, at 17.

12. See Report, Appendix A, at 3, describing the methodology used to select the sites in the children's sample.

13. Typically the sites that collect personal identifying information also collect several other types of information, enabling them to form a detailed profile of a child. Of the sites surveyed that collect a child's name and/or e-mail address, 21% collect 5 or more additional types of personal information; 48% collect 4 or more additional types of information; and 77% collect one or more additional types of information.

14. Report at 32.

15. The March survey did not identify the specific activities through which Web sites collected information,