

PREPARED STATEMENT OF

privacy, including in particular, the online collection and use of information from and about children.⁽⁶⁾ The Commission also has issued a series of reports to Congress regarding privacy online, including th

the implementation of the fair information practice principles of Access and Security online. In a series of public meetings, the Advisory Committee discussed options, and the costs and benefits of each option, for implementation of these principles. The Advisory Committee submitted a final report to the Commission in May 2000 which highlighted the complexities of implementing Access and Security and, in light of the differing views of Committee members, developed several different options for providing Access and Security.⁽⁸⁾

The Commission's survey included two groups of sites drawn from a list of the busiest U.S. commercial sites on the World Wide Web: a census of 91 of the 100 busiest sites (the "Most Popular Group"), and a random sample of 335 sites that had at least 39,000

Part 2 of its Report to Congress in July, 2000.⁽¹²⁾

Despite the NAI companies' commendable self-

that Congress enact legislation to protect children's privacy online.

In addition to the compliance clinic, the FTC has undertaken a number of initiatives designed to enhance compliance with the Rule. First, we have been active in monitoring compliance. FTC staff recently "surfed" a number of children's sites, and sent an email to those sites that seemed to have substantial compliance problems, alerting them to COPPA's requirements. Second, the Commission has begun a program of law enforcement against Rule violators. To date, we have filed suit against one Web site for COPPA violations, and we have a number of other investigations ongoing.⁽¹⁶⁾

Further, the FTC has undertaken a number of important and widespread educational initiatives to encourage compliance with COPPA's provisions. The Commission launched a special Web page at www.ftc.gov/kidzprivacy to help children, parents, and site operators understand COPPA and how it will affect them. Resources available on the Web site include guides for businesses and parents and "safe surfing" tips for kids. Staff has handled several hundred telephone and e-mail compliance inquiries. At the time the Rule was issued in October of 1999, and has prepared a publication, entitled COPPA FAQ, to answer more than 50 of the most frequently asked questions about COPPA and the new Rule. FTC staff also is working with staff of the Department of Education to develop educational materials for schools about COPPA and online safety and has partnered with the private sector to help with outreach efforts.

D. The Gramm-Leach-Bliley Act

The GLBA also obligates the Commission to promulgate a rule requiring financial institutions to safeguard their customer records and information. On September 7, 2000, the Commission issued a notice and request for comment pertaining to development of its Safeguards Rule in the Federal Register,⁽²²⁾ to garner public input concerning the safeguarding of consumer information by the wide range of financial institutions subject to the Commission's jurisdiction. After comments are received, the Commission will publish a Notice of Proposed Rulemaking, review comments received in response to that Notice, and issue a Final Rule.

E. Comments

The Commission has also shared its expertise in consumer privacy with other government agencies dealing with privacy issues through the submission of public comments. Recently, Commission staff submitted comments in response to the request for public comment by the Department of Justice, the Department of Treasury, and the Office of Management and Budget regarding their study of how a consumer's filing for bankruptcy relief affects the privacy of individual consumer information that becomes part of a bankruptcy case.⁽²³⁾ The staff comment focused on the privacy of a b

through an online consultation form in addition to billing and shipping information. The Commission's complaint alleged that defendants misrepresented the security and encryption used to protect consumers' information and claimed that the defendants used the information in a manner contrary to their stated purpose.

In another recent matter, as noted earlier in note 15 *supra*, the Commission challenged a Web site's attempts to sell personal customer information gathered pursuant to a privacy policy that promised that such information would never be disclosed to a third party. *FTC v. Toysmart.com*, No. 00-CV-11341-RGS (D. Mass. filed July 10, 2000).⁽²⁹⁾

In addition to these public enforcement actions, the Commission is currently conducting numerous nonpublic investigations of Web sites to determine if their privacy policies are deceptive or unfair.

III. CONCLUSION

The Commission is committed to the goal of ensuring privacy for consumers and will continue working to address the variety of privacy issues raised by our increasingly information-driven society. I would be pleased to answer any questions you may have.

1. My oral testimony and responses to questions you may have reflect my own views and are not necessarily the views of the Commission or any other Commissioner.
2. 15 U.S.C. § 45(a).
3. The Commission does not have criminal law enforcement authority. Further, certain entities, such as banks, savings and loan associations, and common carriers, as well as the business of insurance, are wholly or partially exempt from Commission jurisdiction. See Section 5(a)(2) of the FTC Act, 15 U.S.C. § 45(a)(2), and the McCarran-Ferguson Act, 15 U.S.C. § 1012(b).
4. The FTC Act and most other statutes enforced by the Commission apply equally in the offline and online worlds. See, e.g., *FTC v. ReverseAuction.com*, No. 00-0032 (D.D.C. Jan. 6, 2000) (discussed *infra*); *In re Trans Union*, Docket No. 9255 (Feb. 10, 2000) appeal docketed, No. 00141 (D.C. Cir. Apr.

7. The Commission vote to issue the Report was 3-2, with Commissioner Swindle dissenting and Commissioner Leary concurring in part and dissenting in part.
8. Available at <http://www.ftc.gov/acoas/papers/finalreport.htm>.
9. 2000 Report at Appendix A.
10. 2000 Report at 36-38. The proposed legislation would govern U.S. commercial Web sites to the extent

notwithstanding statements made in its privacy policy that it would never share customer information with a third party. As evidence of the COPPA violation, the Commission alleged that the site collected names, e-mail addresses, and ages of children under 13 through its Dinosaur Trivia Contest without notifying parents or obtaining parental consent. *FTC v. Toysmart.com*, 00-CV-11341-RGS (D. Mass. filed July 21, 2000).

17. Public Law 106-102, codified in part at 15 U.S.C. 6801 et seq.

18. Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), and Secretary of the Treasury.

19. National Credit Union Administration (NCUA) and Securities and Exchange Commission (SEC).

20. 56 Fed. Reg. 33646. The Rule is codified at 16 CFR Part 313. The Federal Trade Commission (FTC) ET EMC /P <-4(e F)2(/P 5(a)-