UNITED STATES OF AMERICA

FEDERAL TRADE COMMISSION WASHINGTON, D.C. 20580

Office of the Secretary

July 29, 2004

Albert Strong
Director, Privacy Assurance Program
Privo, Inc.
6320 Augusta Drive, Suite 1101
Springfield, VA 22150

Re: Application ofPrivo, Inc., Children's Online Privacy Protection Rule
Safe Harbor Program

Dear Mr. Strong:

This letter is to inform you that the Federal Trade Commission has approved Privo, Inc. 's application to serve as a safe harbor program for purposes ofimplementing the protections ofthe Children's Online Privacy Protection Rule. 1 As you know, the Rule includes a provision enabling industry groups or others to submit self-regulatory guidelines to the Commission for approval as a safe harbor program.2 Pursuant to this provision, Privo submitted an application for Commission approval on March 3, 2004. The application was published in the Federal Register on April 6, 2004 for public comment, which closed on May 7, 2004.3

To be approved by the Commission, self-regulatory guidelines must include: (1) a
requirement that participants in the safe harbor program implement substantially similar requirements that provide the same or greater protections for children as those contained in the Rule; (2) an effective, mandatory mechanism for the independent assessment ofsafe harbor program participants' compliance with the guidelines; and (3) effective incentives for safe harbor program participants' compliance with such guidelines.4 The Commission has determined that Privo's application for status as a s.afe harbor program and its self-regulatory requirements satisfy these three criteria. ·

16 C.F.R. Part 312.

2 16 C.F.R. § 312.10.

3 The Commission received seven comments, all expressing support for Privo's
program. The comments are posted on the FTC website at http://www.ftc.gov/privacy/safeharbor/privocomments/index.html.

4 16 C.F.R. § 312.IO(b).

First, the Commission has determined that the Program Requirements, Exhibit A to
Privo's "Privacy Assurance Program Membership Agreement," mirror the provisions ofthe Rule in setting forth the requirements that each safe harbor participant must follow, and therefore provide the same or greater protections as those contained in the Rule.

Second, the Commission has determined that the independent assessment mechanisms
that Privo has created to evaluate participants' compliance with its guidelines meet the standard set out in the Rule. The proposed program asks the applicant to complete an initial self-evaluation form, 5 in preparation for Privo's independent assessment ofthe website's information practices. The program also includes ongoing, periodic monitoring and seeding of each website to assess compliance with the self-regulatory guidelines.

Third, the Commission has concluded that Privo's safe harbor program provides a
number ofeffective incentives to ensure operators' ongoing compliance with its guidelines. For example, in cases where the operator fails to voluntarily comply with Privo's program requirements, Privo niay :revoke use ofthe certification mark, terminate the website's membership in the program, and/or refer the website to the Federal Trade Commission or other appropriate government agency.

The Commission therefore is pleased to approve Privo' s application as its fourth safe
harbor program. This program will play an important role in furthering compliance with the COPP A Rule, and we look forward to working with Privo and other safe harbor programs to provide these important protections for children's online privacy. The Commission reserves the right to revoke this approval if at any time it determines that the approved self-regulatory guidelines and their implementation do not, in fact, meet the requirements ofthe Rule.

By direction ofthe Commission.

(~~~PL·~ C. Landis Plummer
Acting Secretary

5 The Privo Privacy Assurance Program Self-Evaluation Form is a multi-page form
that asks for detailed information regarding the website's privacy policy, information collection, disclosure and use practices, relationships with third parties, and other practices relevant to the Rule's requirements.