

Federal Trade Commission Report to Congress on COPPA Staffing, Enforcement and Remedies

The joint explanatory statement accompanying the Consolidated Appropriations Act of 2022 directed the Federal Trade Commission (FTC or Commission) to provide the Committees on Appropriations a report detailing the current amount of resources and personnel focused on enforcing the COPPA Rule; the number of investigations into violations of the COPPA Rule in the past 5 years; and the types of relief obtained, if any, for any completed investigations.¹ The Committee also “urge[d] the FTC to prioritize investigations into potential violations of the Children’s Online Privacy Protection Act Rule (COPPA Rule) and to incorporate findings from new and recent cases relating to children’s privacy into its ongoing COPPA Rule review process.”

This report addresses the resources the Commission has devoted to investigating potential COPPA violations and bringing enforcement actions; provides detail about the extent of the Commission’s investigations and related efforts with respect to children’s privacy; and describes the remedies obtained in the various actions. In short, the FTC dedicates approximately 9-11 full-time equivalents (FTEs) to the COPPA program annually, has opened 80 investigations of potential COPPA violations in the last 5 years, and has obtained relief including civil penalties; data and algorithm deletion requirements; and requirements that companies implement a comprehensive privacy program with biennial assessments from an independent third-party assessor.

FTC Staffing on Children’s Privacy

Protecting children’s privacy is, and has been, a Commission priority for decades. As the Commission stated in its May 2022 Policy Statement on Education Technology and the Children’s Online Privacy Protection Act,² “Protecting children’s privacy online has been a priority for the Commission since 1998, when the Commission recommended ‘that Congress develop legislation

¹ Joint Explanatory Statement published in the Congressional Record on March 9, 2022, at H2349, <https://www.congress.gov/117/crec/2022/03/09/168/42/CREC-2022-03-09-pt3-PgH1709.pdf>, accompanying the Consolidated Appropriations Act, 2022, H.R. 2471 (Pub. L. 117-103), incorporated by reference House Report 117-79, <https://www.congress.gov/117/crpt/hrpt79/CRPT-117hrpt79.pdf>, at 72-73. The report language indicated that the “Committee is aware of the significant increase in online activity by children during the COVID 19 pandemic and is concerned that this may lead to a greater opportunity for bad actors to unlawc 1.27.e9773.9 (o)6 ((n)-5 (s)i)5.5 (o)6 m1.6 (c)4.3 (a)9.9 u(

Appendix

This appendix includes a brief summary of the remedies obtained in the 11 actions identified previously that were announced in the May 2017-May 2022 time frame, in reverse chronological order.

2022:

U.S. v. Kurbo, Inc. and WW International, Inc.:¹⁴

The settlement order requires WW International (formerly known as Weight Watchers) and Kurbo to delete personal information illegally collected from children under the age of 13. It also requires that the companies destroy any algorithms or work product derived from the data collected from children in violation of COPPA, and pay a \$1.5 million civil penalty. The companies are also prohibited from retaining data collected in the future from children under 13 for more than a year after the last time a child uses the Kurbo by WW service.

2021:

U.S. v Kuuhuub Inc., Kuu Hubb Oy, and RecolorOy:¹⁵

Under the settlement order, the companies must delete all the personal information they collected from children under 13 unless they obtain parental consent, and must offer current paid subscribers of the Recolor app a refund if they were under the age of 18 when they signed up for the app. The companies must notify users of the app about the alleged COPPA rule violation and the steps that users

building infrastructure to comply with COPPA, new training programs for employees on data security, privacy, and how to identify child-directed sites, and additional reviews of certain apps.

personal information they collect. Finally, the order requires defendants to report certain information to the Commission in the wake of a covered incident (such as a breach).

2018:

U.S. v. VTech Electronics Limited and VTech Electronics North America, LLC:²⁴

The settlement order requires VTech to pay a civil penalty of \$650,000. In addition, the order
