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1 c. Obtaining verifiable parental consent prior to collecting, using, and/or
2 disclosing personal information from children;

3 d. Giving parents the option to consent to the collection and internal use of
4 their children's personal information without consenting to the disclosure of that
5 information to third parties;

6 e. Providing a reasonable means for parents to review the personal
7 information collected from their children and to refuse to permit its further use or
8 maintenance;

9 f. Not conditioning children's participation in an activity upon children
10 disclosing more personal information than is reasonably necessary to participate in that
11 activity; and

12 g. Establishing and maintaining reasonable procedures to protect the
13 confidentiality, security, and integrity of personal information collected from children.

14 8. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation
15 of the Rule constitutes an unfair or deceptive act or practice, in violation of Section 5(a)(1) of
16 the FTC Act, 15 U.S.C. § 45(a)(1). *See also* COPPA, 15 U.S.C. § 6502(c).

17 **DEFENDANT**

18 9. Defendant American Pop Corn Company is an Iowa corporation with its
19 principal office or place of business located at One Fun Place, Sioux City, Iowa 51108.

20 10. Since at least April 21, 2000, defendant has been operator of
21 www.jollytime.com, a website on the Internet, a portion of which is directed to children.
22 Defendant uses the website to market its popcorn products. Defendant markets its products
23 throughout the United States, including through the Internet.

24 11. The acts and practices of defendant alleged in this complaint have been in or
25 affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

26 **DEFENDANT'S COURSE OF CONDUCT**

27 12. Defendant operates the www.jollytime.com website, which provides information
28 about popcorn and the Jolly Time brand. The site includes a portion directed to children

1 designated the “Kids Club.” The Kids Club features a cartoon character of a boy named “Bob,”
2 and child-oriented activities such as simple games and crafts projects. Defendant encouraged
3 children to join the Kids Club so that it could send them “cool, for-kids-only stuff,” and prizes
4 to the children who achieved the highest scores on the games offered on the site. These prizes
5 were incentives specifically directed to children, such as “cool” t-shirts featuring the Bob
6 cartoon figure blasting off on a rocket. (See Exhibit 1.)

7 13. Defendant collects or has collected personal information from children through
8 the operation of the Kids Club portion of its website and thus is an “operator” as defined in the
9 Rule.

10 **Defendant’s Information Collection Practices**

1 14. A child who registered to sign-up for the Kids Club was presented with an
2 online form to fill out with personal information. Although defendant’s website instructs
3 children to “check with your parents first,” the defendant did not notify and obtain verifiable
4 consent from their parents prior to collecting this personal information. (See Exhibit 2.)

5 15. During registration for the Kids Club, defendant collected personal information
6 from children including the child’s first and last name, physical address, email address, and day
7 and month of birth, excluding year of birth. Defendant intended to use the information
8 collected to send prizes to the children who had received the highest scores while playing the
9 games offered on the Kids Club. Up until approximately January 2001, defendant collected
0 information from approximately five hundred Kids Club registrants, and sent prize t-shirts and
1 coupons to twelve winners. The personal information required to join the club was more than
2 was reasonably necessary to allow children to participate in Kids Club activities.

3 **Defendant’s Privacy Policy**

4 16. Defendant posts a privacy policy, but the policy does not clearly,
5 understandably, or completely disclose all of its information collection, use, and disclosure
6 practices and other disclosures required by the Rule. (See Exhibit 3.)

7 17. Defendant’s privacy policy also makes the false or misleading statements that:
8 “When a guest under age 18 registers in the Kids Club area of our site, that guest will be asked

1 to provide the e-mail address of his/her parent or guardian. Parents/guardians will receive an e-
2 mail from us, informing them of the registration. At that time, parents/guardians may elect to
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- information collected from their children and to refuse to permit its further use or maintenance, in violation of Section 312.6 of the Rule, 16 C.F.R. § 312.6; and
- e. Conditioning children’s participation in an activity on their disclosing more personal information than is reasonably necessary to participate in such activity, in violation of Section 312.7 of the Rule, 16 C.F.R. § 312.7.

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COMPLAINT

1 DATED:

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