

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 312

RIN 3084-AB20

Children's Online Privacy Protection Rule Safe Harbor Proposed Self-Regulatory Guidelines; kidSAFE Seal Program Application for Safe Harbor

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Request for public comment.

SUMMARY: The Federal Trade Commission requests public comment concerning the proposed self-regulatory guidelines submitted by the kidSAFE Seal Program ("kidSAFE"), owned and operated by Samet Privacy, LLC, under the safe harbor provision of the Children's Online Privacy Protection Rule.

DATES: Written comments must be received on or before October 18, 2013.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below. Write "kidSAFE Application for Safe Harbor, Project No. P-135418" on your comment, and file your comment online at <http://www.ftc.gov/oc/privacy/child/20130918>.

or by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex E), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Kristin Cohen, Attorney, (202) 326-2276, or Peder Magee, Attorney, (202) 326-3538, Division of Privacy and Identity Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

On October 20, 1999, the Commission issued its final Rule pursuant to the Children's Online Privacy Protection Act, 15 U.S.C. 6501 *et seq.*, which became effective on April 21, 2000.¹ On December 19, 2012, the Commission amended the Rule, and these amendments became effective on July 1, 2013.² The Rule requires certain Web site operators to post privacy policies and provide notice, and to obtain verifiable parental consent, prior to collecting, using, or disclosing personal information from children under the age of 13.³ The Rule contains a "safe harbor" provision enabling industry groups or others to submit to the Commission for approval self-regulatory guidelines that would implement the Rule's protections.⁴

Pursuant to Section 312.11 of the Rule, kidSAFE has submitted proposed self-regulatory guidelines to the Commission for approval. The full text of the proposed guidelines is available on the Commission's Web site, at <http://www.ftc.gov/oc/privacy/child/20130918>.

Section B. Questions on the Proposed Guidelines

The Commission is seeking comment on various aspects of the proposed guidelines, and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted. Each response should cite the number and subsection of the question being answered. For all comments submitted, please provide any relevant data, statistics, or any other evidence, upon which those comments are based.

1. Please provide comments on any or all of the provisions in the proposed guidelines. For each provision commented on please describe (a) the impact of the provision(s), including benefits and costs, if any, and (b) what alternatives, if any, kidSAFE should consider, as well as the costs and benefits of those alternatives.

2. Do the provisions of the proposed guidelines governing operators'

information practices provide "the same or greater protections for children" as those contained in Sections 312.2-312.10 of the Rule?⁵ Where possible, please cite the relevant sections of both the Rule and the proposed guidelines.

3. Are the mechanisms used to assess operators' compliance with the proposed guidelines effective?⁶ If not, please describe (a) whether and how the assessment mechanisms could be modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.

4. Are the incentives for operators' compliance with the proposed guidelines effective?⁷ If not, please describe (a) whether and how the incentives could be modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.

5. Do the proposed guidelines provide adequate means for resolving consumer complaints? If not, please describe (a) whether and how the dispute resolution process could be modified to resolve consumer complaints adequately, and (b) the costs and benefits of those modifications.

6. Does kidSAFE have the capability to run an effective safe harbor program? Specifically, can kidSAFE effectively conduct initial and continuing assessments of operators' fitness for membership in its program in light of its business model and technological capabilities and mechanisms?⁸ If not, please describe (a) whether and how the

¹ 64 FR 59888 (1999).

² 78 FR 3972 (2013).

³ 16 CFR Part 312.

⁴ 16 CFR 312.11; 78 FR at 3995-3996, 4012-4013.

⁵ 16 CFR 312.11(b)(1); 78 FR at 4013.

⁶ 16 CFR 312.11(b)(2); 78 FR at 4013.

⁷ 16 CFR 312.11(b)(3); 78 FR at 4013.

⁸ 16 CFR 312.11(c)(1).

discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment doesn't include any sensitive health information, like medical records or other individually identifiable health information. In addition, don't include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, don't include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).⁹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at www.ftc.gov/ftccomments, by following the instructions on the web-based form. If this Notice appears at www.ftc.gov/ftccomments, you also may file a comment through that Web site.

If you file your comment on paper, write "kidSAFE Application for Safe Harbor, Project No. P-135418" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the

Secretary, Room H-113 (Annex E), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service. If you fsRu wantlhingmusr,0 1 DC3 1 f_2 1 Tf0.00menlowi.F 0 Tw /#!home

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⁹In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. FTC Rule 4.9(c), 16 CFR 4.9(c).