

COPPA Compliance in Online Communities

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Summary

This white paper describes the process of developing an online community that is compliant with the U.S. governments *Children's Online Privacy Protection Act* (COPPA) of 1998. With an increase in online chats and discussion forums the privacy of children is becoming an increased concern in North America and world-wide. Although this act holds no sway over web sites external to the U.S., it is a good guideline on how to protect the privacy of web site users under the age of 13.

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COPPA Compliance in Online Communities

The *Children's Online Privacy Protection Act* sets standards for the interaction with children through a web site or a web-based service. This document will outline the procedures you should follow and the steps you must take in order to prepare your online community for COPPA compliance. In order to verify your compliance however, you should seek the advice of a recognized lawyer. This document is intended as a guideline only and does not guarantee compliance.

Background Information

In 1998 the *Children's Online Privacy Protection Act* was passed by the U.S. Federal Trade Commission. This act outlines how one should operate a web site or portion of a web site that is targeted towards Children (an individual under the age of 13). This act applies to all web site operators who want to operate a web site within the United States or the District of Columbia, or that would engage in a service between any such territory and another country, state or province. Although this act does not hold jurisdiction over any interactions between any two non-U.S. parties, many people outside of the U.S. use the Act as a basis for their own activities and policies.

Key Issues and Items

There are a number of key points in this act and we've summarized them in the following three sections in order to simplify reading and processing.

Why this is Important

This act serves as a restriction on web site operators in order to protect the privacy of children online, and to notify parents of children when that privacy may come into question. It is important to comply with this act if you have any users who reside in the United States or if you conduct business with individuals who reside in the United States.

To Whom the Act Applies

If you operate a commercial Web site or an online service directed to children under 13 that collects personal information from children or if you operate a general audience Web site and have actual knowledge that you are collecting personal information from children, you must comply with the *Children's Online Privacy Protection Act*.

- To determine whether a Web site is directed to children, the FTC considers several factors, including the subject matter; visual or audio content; the age of models on the site; language; whether advertising on the Web site is directed to children; information regarding the age of the actual or intended audience; and whether a site uses animated characters or other child-oriented features.
- To determine whether an entity is an "operator" with respect to information collected at a site, the FTC will consider who owns and controls the information; who pays for the collection and maintenance of the information; what the pre-existing contractual relationships are in connection with the information; and what role the Web site plays in collecting or maintaining the information.

Prohibited Acts

In General it is unlawful for the web site operator of a web site to collect or disclose personal information from a child in a manner that violates the regulations in the act. Furthermore, the web site operator can not be held liable for disclosing information if that disclosure is made in good faith to the parent or guardian of a child.

Personal Information

The Children's Online Privacy Protection Act applies to individually identifiable information about a child that is collected online, such as full name, home address, email address, telephone number or any other information that would allow someone to identify or contact the child. The Act also covers other types of information - for example, hobbies, interests and information collected through cookies or other types of tracking mechanisms - when they are tied to individually identifiable information.

Implementing COPPA Compliance

The first and most important step of reaching compliance is to post a privacy notice on the home page of the web site *and* at each area where personal information is collected – such as registration pages. The link to this privacy notice must be clear and prominent; a small link at the bottom of a page, or a link that is indistinguishable from other links is insufficient.

The notice itself must be clearly written and understandable and it must contain the following information:

- The name and contact information of the web site operators
- The types of personal information collected
- How the web site operator uses the information
- Whether the operator discloses this information to third parties
- That the parent has the option to agree to the collection without consenting to disclosure
- That the operator may not request more information than is reasonably necessary to conduct business
- That the parent can review the child's information or ask for the information to be deleted from all records

The web site must also contain a direct notice to parents that includes all of the above information. Additionally the web site must notify a parent that it wishes to collect personal information from the child; that the parent's consent is required for the collection, use and disclosure of the information; and how the parent can provide consent. An operator may use any one of a number of methods to notify a parent, including sending an email message to the parent or a notice by postal mail.

Registration & Profile Changes

In order to comply with the COPPA regulations, a registration must include the following steps or features:

- On the registration page, the child's age must be collected
- On the registration page a *visible and prominent* link to the privacy notice must be posted.
- The contact information for the child's parents or guardians must be collected.
- Before the child's personal information can be collected, the parents must be notified of the registration and they must approve the collection of said information. This can be performed through a variety of methods including email, fax, telephone or postal mail.
- Parental permission must be obtained before personal information can be displayed.

In addition to the above points, any time the web site operator wishes to collect more personal information, the parent must be notified and permission must be obtained. This will have an impact on the process of editing a child's personal profile in your community software. There are two options to get around this: first it's acceptable to not allow the child to change their own contact information at any time, and second it's acceptable to require parental consent before changes are applied.

So in both cases – registration and profile changes, a system should be developed whereby any personal information collected is held in a buffer before it is committed. While the information in that buffer, the parent must be contacted and they must a) approve the collection of that information and b) be able to edit/delete elements of that information. Only once the parent has agreed, can that information be committed and the registration or profile edit be completed.

Tip: You can use a session cookie to prevent children from back clicking to change their age once they realize that parental consent is required to collect their information for the activity

Personal Information Display

An important point about the disclosure of personal information is that many online communities allow members to post information or comments. Beside these posts some personal information (e.g. email and name) are often displayed. Because to be fully COPPA compliant, there must be a facility for a parent to give permission for the personal information to be collected without giving permission personal information to be displayed, this standard practice becomes somewhat more complicated. There must be a method for a child to participate in the community without their personal information being displayed.

Contacting Members

A fundamental element of the Act is that a child may not be contacted *except* in the following circumstances:

- To respond to a direct request
- To gain contact information for the parents
- To notify of account termination
- Parental Permission has been obtained

This means that as a web site operator, you may not initiate contact with a child unless permission has been obtained. This has serious implications with regards to notifications and announcements in an online community. For notifications to be sent the child must have requested the notifications – so any situations where notifications are automatically sent out can't be enabled unless the child has requested them. For announcements, before the child can be sent an announcement, permission must be obtained from the parents.

COPPA Review

An organization of interest is the Children's Advertising Review Unit (CARU) which works closely with the FTC to ensure that the COPPA regulations are being observed and that they adequately protect children's interests. Information is available on the CARU website (<http://www.caru.org>) which highlights their activities.

Concluding Remarks

The full content of the *Children's Online Privacy Protection Act* is available at <http://www.ftc.gov/ogc/coppa1.htm>. Additionally the FTC has established a special web site to help children and parents understand the Act – the site is available at <http://www.ftc.gov/kidsprivacy>. Finally, as a web site operator, if you have any questions you can contact the COPPA Compliance Information Line at +1(202)326-3140.

Other Privacy Acts and Documents

There are several other online privacy acts (or privacy acts with implications to online initiatives) which you may want to review if you are in the process of updating your web site's privacy policies and procedures. One such act is Canada's *Personal Information Privacy and Electronic Documents Act*. More information on this Act can be found at the Canadian Privacy Commission web site at <http://www.privcom.gc.ca>.

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