



## 210 Privacy Update with the FTC

**Elizabeth A. Delaney**  
*Staff Attorney*  
Federal Trade Commission

**Ellen R. Finn**  
*Senior Attorney*  
Federal Trade Commission

## Faculty Biographies

### Elizabeth A. Delaney

Elizabeth A. Delaney is an attorney in the Division of Advertising Practices of the Federal Trade Commission's Bureau of Consumer Protection and is one of the primary attorneys responsible for implementing the Children's Online Privacy Protection Rule. In this role, she has worked extensively on industry and public outreach efforts to provide guidance on Rule requirements and compliance initiatives. Ms. Delaney's responsibilities also include participation in the review and approval process for safe harbor applications, as well as investigatory work with respect to COPPA violations. In addition, Ms. Delaney was a member of the team that worked on the Commission's Study of the Marketing of Violent Entertainment to Children, which was presented to Congress in September 2000.

Prior to joining the Federal Trade Commission, Ms. Delaney was an associate at the Washington, DC office of O'Melveny & Myers LLP, where she represented a variety of clients in matters involving federal, state and regulatory enforcement actions, internal investigations, corporate compliance issues, and regulatory counseling.


Ms. Delaney received her law degree from the University of California, Hastings College of the Law.

### Ellen R. Finn

Ellen R. Finn is an attorney in the Federal Trade Commission's Bureau of Consumer Protection, Division of Financial Practices. At the FTC, Ms. Finn serves as a consumer privacy specialist responsible for a variety of policy, litigation, planning, and outreach activities.

Prior to joining the FTC, Ms. Finn served as special assistant to Chief Judge Harry T. Edwards at the U.S. Court of Appeals for the District of Columbia Circuit and as a supervising attorney in Georgetown University Law Center's Appellate Litigation Clinic.

Ms. Finn received a BA from the University of Michigan and is a graduate of New York University School of Law.



**FEDERAL TRADE  
COMMISSION**

## COPPA Enforcement Update

Beth Delaney  
Federal Trade Commission

### Children's Privacy Legislation

- 1998 survey of 212 children's sites:
  - 89% of children's sites collect personal information from children
  - 24% posted a "privacy policy"
  - 1% required prior parental consent
- June 1998: FTC recommends legislation to protect children online



## Children's Privacy Legislation

---

- Oct. 1998: Congress passes the Children's Online Privacy Protection Act (COPPA)
- Nov. 1999: FTC issues Final Rule
- April 2000: The Rule goes into effect



## Status Report

---


- Update on Cases
- Voluntary Compliance Efforts
- Survey Reports on COPPA Compliance
- Safe Harbor Programs



## First Round of COPPA Cases

---

- April 2001:
  - Monarch Services, Inc./Girl's Life
  - Bigmailbox.com
  - Looksmart, Ltd
  
- October 2001:
  - Lisa Frank, Inc.



## Second Round of COPPA Cases

---

- February 2002:
  - American Popcorn Company
  
- April 2002:
  - The Ohio Art Company

## Girl's Life - Monarch Services, Inc.

- Directed to children and young teenagers
- Offered bulletin boards, email accounts, electronic postcards and contests



## Girl's Life

- Collected full name, email address, postal address, parent's telephone number
- Disclosed personal information to third parties
- Privacy policy did not comply with COPPA
- Civil penalty of \$30,000



## Bigmailbox.com

---

- Through *girlslife.com*, offered free email accounts to children
- Collected personal information and preferences
- Sent direct marketing offers to email account holders
- Disclosed personal information to third parties
- Civil penalty of \$35,000



## Looksmart, Ltd.

---

- Provided free message board service to websites directed to children
- Hosted a children's area on its own site
- Collected full name, email address, birth date, gender and preferences
- Allowed children to post messages with their full names and email addresses without prior parental consent
- Civil penalty of \$35,000

## Lisa Frank, Inc.



- Referred by CARU
- Collected full name, mailing address, email address, phone number, birth date and preferences
- Did not obtain prior parental consent

## Lisa Frank, Inc.

- Privacy policy said that it obtained prior parental consent for kids under 13, when in fact the site did not
- Privacy policy did not contain all the disclosures required by COPPA
- Civil penalties of \$30,000





## American Popcorn Company

---

- Kids Club portion of the site collected full name, mailing address, email address, and day and month of birth
- Site only told children to "check with your parents first"
- Privacy policy was deceptive



## American Popcorn Company

---

- Civil penalties of \$10,000
- PI collected from a very small number of children
- Company was extremely cooperative and complied with COPPA upon being contacted by FTC



## Ohio Art Company (Etch-a-Sketch)

---

- Birthday club registration collected name, mailing address, email address, ages and dates of birth
- Site only said "get your parent's permission first"
- Collected more information than reasonably necessary



## Ohio Art Company (Etch-a-Sketch)

---

- Privacy policy did not contain all of the COPPA-required disclosures
- Civil penalties of \$35,000



## Terms of the Consent Agreements

---

- Civil penalties
- Consumer ed: Link from privacy policy to [www.ftc.gov/kidzprivacy](http://www.ftc.gov/kidzprivacy)
- Deletion of personal information collected without parental consent
- Employee education and written acknowledgement
- Written compliance report to FTC



## Determining Civil Penalties

---

- Several factors are considered, including:
  - Nature, extent and duration of the violation
    - Types of information collected
    - What was done with the information
  - Number of children affected
  - Potential for harm

## Ongoing Investigations

- FTC is actively investigating sites that are not complying with COPPA:
- Surveillance of sites
- Referrals from advocacy groups
- Complaints from consumers



## Voluntary Compliance Efforts

- Email warnings sent out in April 2002
- Over 60 websites contacted
- You, Your Privacy Policy and COPPA



## Has the Rule Caused Any Change?

- FTC published a survey in April 2002
  
- Two surveys of children's sites were published in the spring of 2001
  - Annenburg Public Policy Center
  - Center for Media Education



## FTC 2002 Survey Of Kid's Sites

- Examined 144 sites primarily directed to children
- 72% of the sites collected PI (104)
- 89% had a privacy policy
- 91% of these explained how the PI would be used



## FTC 2002 Survey Of Kid's Sites

---

- Only about 50% told parents all 4 pieces of contact information
- Only about half contained all the COPPA-required disclosures
- Only about half let parents know that they could review PI and have it deleted



## FTC 2002 Survey Of Kid's Sites

---

- About 47% had a parental consent mechanism in place
- 35% that did not have a parental consent mechanism collected too much PI to fall within an exception to obtaining parental consent



## The Annenberg Public Policy Center Survey, March 2001

---

### *Privacy Policies on Children's Websites: Do They Play By the Rules?*

- Survey of 162 sites with particular appeal to children
- Examined whether privacy policies on the sites complied with COPPA's requirements



## The Annenberg Public Policy Center Survey, March 2001

---

- 91% of the sites posted a privacy policy
- 62% provided for parental access to personal information collected from children
- 22% of the policies were difficult to understand



## Center for Media Education Survey, April 2001

---

### *COPPA: The First Year - A Survey of Sites*

- Examined 153 sites directed to kids
  
- The percentage of kids' sites collecting PI is about the same



## Center for Media Education Survey, April 2001

---

- In general, sites are limiting the type & amount of PI collected from kids
  - 1998: 49% collected home address
  - 2001: 21% collecting this information
- However, CME found that despite the positive changes in information collection practices, a majority of sites did not obtain prior parental consent or provide parental notice as required by the Rule





## Safe Harbor Programs

---

- Children's Advertising Review Unit (CARU) approved January 2001
- Entertainment Software Rating Board (ESRB) approved April 2001
- TRUSTe approved May 2001



## Safe Harbor Programs

---

- More information on these programs is available at:

[www.ftc.gov/privacy/safeharbor/shp.htm](http://www.ftc.gov/privacy/safeharbor/shp.htm)

- Or you can visit their websites



## Online Compliance Resources

---

- [www.ftc.gov/kidzprivacy](http://www.ftc.gov/kidzprivacy)
- [www.ftc.gov/privacy/index.html](http://www.ftc.gov/privacy/index.html)
- [www.ftc.gov/privacy/safeharbor/shp.htm](http://www.ftc.gov/privacy/safeharbor/shp.htm)