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Congress of the United States
House of Representatives
Washington, DC 20515–2107

September 24, 2012

The Honorable Jon Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20001

Dear Chairman Leibowitz:

As a co-chair of the Congressional Bi-Partisan Privacy Caucus, I urge the Federal Trade Commission (FTC) to move forward with its plans to update and strengthen the Children's Online Privacy Protection Act (COPPA). I believe the rapid change in technological development has made it more important than ever for the FTC to protect the privacy of children under COPPA and ensure that parents can make meaningful decisions to look after their kids.

The FTC has proposed a number of important changes that would strengthen COPPA. In particular, I want to commend the FTC for proposing to revise the definition of "personal information" to include persistent identifiers when used for purposes other than supporting the internal operations of a website or online service; ensuring that COPPA's privacy protections cover the expanding array of digital platforms including mobile devices, geo-location-based services, and Internet-connected games; and revising the "Notice" requirements in order to improve transparency of data collection and marketing and ensure that parents can access user-friendly information about a company's privacy policies in order to make informed decisions about their children's privacy.

I also want to support the FTC's supplemental proposal to clarify that websites directed to children as well as third parties collecting personal information on children's websites are both responsible for COPPA compliance. Given the increasing number of third party cookies and plug-ins, the FTC must reach all responsible parties in order to prevent collection of children's personal information without affirmative, verifiable parental consent.

These proposals are both consistent with Congressional intent in enacting COPPA and necessary to adequately protect children. COPPA gives the FTC broad authority as well as flexibility in implementing its protections. For example, COPPA directs the FTC to define "personal information" to include certain specific types of information such as a first and last name, email address and telephone number and in addition, "any other identifier that the Commission determines permits the physical or online contacting of a specific individual."[1]

[1] 15 U.S.C. §6501(8)(F).

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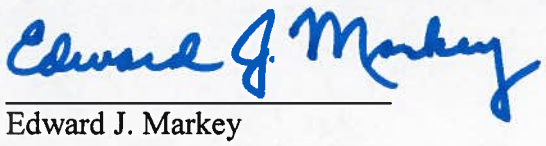
While the FTC's proposed changes are an important step, Congress must also take action to ensure that children and teens are fully protected when they go online. For this reason, I introduced legislation last year, the Do Not Track Kids Act, which strengthens COPPA and extends certain protections to teenagers. Among many proposals, the bill requires website operators to have an "eraser button" capability that enables the deletion or elimination of information about children and teens and prohibits online companies from sending targeted advertising to children and teens.

I commend the Commission for eliciting and considering a broad range of comments and then carefully developing much-needed updates to the existing law. I look forward to continuing to work with you in our efforts to ensure our nation's children are protected each time they go online.

Thank you for your attention to this important matter. If you have any questions, please have a member of your staff contact Joseph Wender at 202-225-2836.

Sincerely,



Edward J. Markey
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Congressional Bi-Partisan Privacy Caucus