



December 11, 2019

Federal Trade Commission, Office of the Secretary  
600 Pennsylvania Avenue NW, Suite CC-5610 (Annex B)  
Washington, DC 20580  
*Via Online Submission at <https://www.regulations.gov>*

**Re: COPPA Rule Review, 16 CFR part 312, Project No. P195404**

Dear Chairman Simons, Commissioner Phillips, Commissioner Chopra, Commissioner Slaughter, and Commissioner Wilson:

New York City's Chief Privacy Officer, Chief Technology Officer, and General Counsel to the New York City Department of Information Technology and Telecommunications and Cyber Command submit this comment in response to the request for public comment issued by the Federal Trade Commission ("FTC") regarding the amendments that the FTC made in 2013 to the Children's Online Privacy Protection Rule ("COPPA Rule"), to determine whether additional changes to the COPPA Rule are needed in light of continuing technology advances. The City of New York ("City") welcomes this opportunity to share our perspective with the FTC on the need to ensure that COPPA remains effective, and to convey our support for the goal of increasing operators' compliance with COPPA.

The City recognizes the importance of having online privacy and security protections for children that keep pace with technological developments and also underscore consumer rights. The need for such protections to manage the type of information provided to and collected from children online is magnified in today's increasingly digital world, especially given the rising incidence of data breaches and cyber attacks.

Recognizing the importance of protecting residents' privacy rights, the City adopted, in its Charter, the role of a Chief Privacy Officer, and the Mayor established the Mayor's Office of Information Privacy. The City has enhanced protections for individuals' privacy, and is working to expand secure access to public services and resources, including educational services. The Mayor's Office of the Chief Technology Officer has worked extensively to promote digital privacy rights through advancing local legislation on internet privacy and developing policy and standards for technologies.

Cybersecurity protection is also of paramount importance to the City. As the City's technology leader, the Department of Information Technology and Telecommunications is responsible for maintaining the core IT infrastructure and systems that touch every aspect of city life crossing the full spectrum of governmental operations. New York City Cyber Command, in collaboration with the Department of Information Technology and Telecommunications, leverages a citywide cybersecurity framework that incorporates robust information security standards and detailed guidance to enhance the protection of



City data and information systems. Vendors providing online services on behalf of the City must agree to specific City privacy standards and data security practices that protect the confidentiality, security and integrity of City information. The City also negotiates custom online data usage notices consistent with privacy best practices and information technology solutions undergo a vigorous security review and testing process.

Addressing the challenge of digital inclusion, with privacy as a key component, is also a priority for the City of New York. Offering resources and programming for residents to learn how to safely engage online and protect their families from harm when using the internet. As New York City works to achieve the goal of universal internet access, it is also cognizant that the 29% of New York households that lack home broadband internet access<sup>1</sup> correlates with poverty. This population, including people of color and non-native English speakers, also generally has the greatest concerns about online privacy.<sup>2</sup>

With rapid developments in technology making accessing online content easier than ever for children with home or personal mobile devices, it is important that laws and regulations address the privacy and security risks for children arising from the collection, storage, use, and sharing of their personal information. The City appreciates the FTC's request for public comment and urges the FTC to continue its process of gathering input and developing expertise in the areas noted in this request for comment, and in other areas related to children's online privacy, before issuing additional amendments to the COPPA Rule.

In particular, the City urges additional study in several of the areas listed in the FTC's request for public comment before any action is taken. These include the collection of children's voice data and metadata by audio technologies, the notion of an exception for educational technology tools, and the question of whether there are instances in which it would be appropriate for de-identification to be used as a substitute for deletion of data collected in violation of COPPA. Recent advances in technology have added significant complexity to the issues addressed by COPPA and merit additional study in order to appropriately regulate.

Apart from potential changes to the COPPA Rule, the City recommends considering a stronger standard than COPPA's existing "actual knowledge" requirement with the intent of increasing the accountability of those who are best aware and in control of their collection practices. Ultimately, the City recognizes the need for greater enforcement of privacy protections when it comes to children's online engagement and the collection of data, as more and more children navigate the world online. General audience websites and online services, as well as other operators and platforms with child-directed or oriented content, should be responsible

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<sup>1</sup> "Truth in Broadband: Access and Connectivity in New York City." New York City Mayor's Office of the Chief Technology Officer. (2018)

<sup>2</sup> Madden, Mary, "Privacy, Security, and Digital Inequality." Data and Society. (2017)



for compliance with COPPA. The City believes that general audience websites and online services should be held accountable where violations occur, and urges the FTC to consider how to increase compliance.

The City believes COPPA should further protect children's online activity and information by continuing to adapt its framework, as technology evolves, to address the need for new types of protections to consumer rights in the digital realm.

The City thanks the FTC for the opportunity to comment and encourages the FTC to maximize privacy protections for the children whose personal information is at stake. We look forward to continued engagement on this important issue.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Laura Negrón", written over a horizontal line.

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NYC Mayor's Office of Information Privacy

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John Paul Farmer  
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Michael Pastor  
General Counsel  
NYC Department of Information Technology and Telecommunications  
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