

Tech Innovation Prompting Revisions to Children's Privacy Law? FTC Reviewing COPPA Rule and Holding Workshop

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The FTC [announced](#) today that it is seeking comments on a variety of issues related to the Children's Online Privacy Protection (COPPA) Rule. Although only six years have passed since the FTC's 2013 COPPA Rule update, the FTC is initiating an early review in response to new technologies and applicability to certain business sectors, including the educational tech sector, voice-enabled connected devices, and general audience platforms that host third-party child-directed content. Along with seeking comments, the FTC will hold a [public workshop](#) on October 7, 2019 to further examine the Rule.

The agency's expedited review may also be a response to an increase in legislative scrutiny of children's privacy, including questions about child-directed content on general audience platforms, and calls from various Senators for an overhaul of COPPA legislation. Specifically, Sens. Josh Hawley (R-Mo.) and Edward Markey (D-Mass.), COPPA's original author, [introduced a bill](#) in March to update COPPA that would address children as old as 15 and provide additional rights to parents regarding children's information.

Aside from the standard questions the FTC includes in its review, the [proposed notice](#) also seeks comments on COPPA's major provisions, including definitions, notice and parental consent requirements, verifiable parental consent exceptions, and safe harbors. The notice also asks whether the FTC's 2013 Rule amendments have led to stronger protections of children's privacy and more parental control over collection of children's personal information, and if the 2013 Rule amendments resulted in any negative consequences.

In particular, the FTC seeks public comment on the following issues:

- Whether behavioral targeting and profiling should be addressed in defining exemptions for COPPA compliance;
- Whether factors to determine if a website or online service is directed to children should be updated to address sites that may have a number of child users, but aren't specifically directed to children;
- Whether the Rule should incentivize operators of general audience platforms to gain actual knowledge of whether there is child-directed content on their platforms;
- Whether the Rule should include an exception for [audio files](#) collected as replacement for written words, such as for voice-activated searches; and

- Whether the Rule should include an exception to parental consent for use of education technology in schools, and, if so, what such an exception should look like.

Comments in response to the notice are due 90 days after the notice is published in the Federal Register.

The FTC's accelerated evaluation of the Rule indicates that the agency is seriously considering the evolving technological landscape and how it affects children's privacy. In light of the continuing conversations about online privacy and the FTC's role in policing it, today's announcement indicates that the FTC continues to take its job as privacy's top cop seriously.