

News America and Disney Gain Experience with US Children's Online Privacy Act

Report by Rob Veeder

TO ADDRESS PARENTS' CONCERNS that website operators were soliciting personal information from under age surfers, the US Congress passed the Children's Online Privacy Protection Act (COPPA) in 1998.

It became effective on April 21st 2000 when the Federal Trade Commission (FTC) issued implementing regulations.

The law covers commercial websites or on-line services that collect personal information from children younger than 13. It also covers general purpose websites whose operators have "actual knowledge" that they are collecting personal information from preteens. The law is intended to give parents some control over the online activities of their children.

Sites and services that are covered by COPPA are required to:

- Post prominent links on their websites to a notice of how they collect, use, and/or disclose personal information from children
- Notify parents that they wish to collect information from their children and obtain parental consent prior to doing so
- Refrain from making a child's participation conditional on getting more personal information than is reasonably necessary
- Let parents review and have their children's information deleted from the operator's database and prohibit further collection from the child
- Put in place procedures to protect

the confidentiality, security, and integrity of personal information they collect from children and

- Be subject to FTC enforcement actions including civil penalties.

As with many initial efforts to regulate behaviour in a new and imperfectly understood environment, COPPA offers some cautionary lessons. At a seminar held during the recent *Privacy & American Business* conference, Ellen Agress of News America Publishing and Alden Schacher of the Walt Disney Internet Group discussed how their respective organisations were complying with the law.

The primary difficulty with COPPA is that its main on/off switch is age. Collection of personal information from visitors who are under 13 triggers the Act's provisions. And, because it is difficult for operators to determine which visitor is really 13 or older and which is not, the potential liability this uncertainty breeds tends to make operators extremely cautious – some even to the extent of shutting down their sites.

For a large corporation with multiple online locations, gearing up to comply with COPPA and maintain that compliance can be a complex task. Ms. Agress listed the steps taken by News America Publishing. The initial challenges were to survey all

the sites it operated and determine which were covered by COPPA. Next, it had to decide who would be accountable and then conduct a site audit of both present and planned activities to guard against falling out of compliance at some later date. It also had to craft policy and procedures for the sites and communicate them through the organisation. Finally, it had to set up monitoring activities to ensure continuing compliance.

While it may be easy to identify a site aimed at children and one that intentionally gathers information from them, there is a danger that general audience sites may inadvertently fall under COPPA. A general-purpose site that screens for age and receives data from any under-13 year olds could fall under the law's "actual knowledge" provision. Ms. Agress advised against asking for age on an adult site unless clearly needed for a business purpose.

Even when the company has completed its initial COPPA compliance activities, it will have to spend time and money on continuing to review activities. These include training, monitoring sites for compliance, performing liaison, reviewing registration forms, approving all new online activities and coordinating third party audits.

In addition to describing essentially

Continued on page 15