



## FTC Will Propose Broader Children's Online Privacy Safeguards

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Speaking at a Dec. 15 Capitol Hill forum on children's and teens' online privacy, Federal Trade Commission Chairman Jon Leibowitz said that the agency is recommending that the Children's Online Privacy Protection Act (COPPA) expand the definition of personally identifiable information.

Leibowitz explained that he supports expanding the definition of "personally identifiable information" to include geolocation information, photos, videos, IP addresses, and similar items found on computers or mobile devices.

COPPA applies to the online collection of personal information from children under 13 years old. The act applies to websites and online services that are operated for a commercial purpose and are directed at children under the age of 13 or whose operator has actual knowledge that children under 13 are providing information to the site online.

The act outlines what a website operator must include in a privacy policy, the responsibilities of the operator to protect children's online safety, and how consent can be obtained from a parent.

In September, the FTC announced proposed revisions to the COPPA rules, the first significant changes to the Act since it the rules were issued in 2000. The FTC has been seeking public comments on the proposed revisions since September.

According to Leibowitz, the definition of personally identifiable information should be expanded from information provided by the consumer, to also include information used by the user's computer or mobile device. This would include information held in cookies, processor numbers, IP addresses, geolocation information, photographs, videos, and audio files. Additionally, the new definition would now include information that web site



operators, advertising networks, and others use to track consumers as they use the Internet.

The proposed rule changes would also expand the definition of what it means to “collect” data from children. The new definition would make it clear that personal information is being collected not only when the operator is requiring the personal information but also when the operator prompts or encourages a child to provide the information.

The way parental consent is obtained from parents would also be changed to add several new methods such as electronic scans of parental consent forms and the use of government issued identification that is checked against a database. The rules would also eliminate the popular “e-mail plus” mechanism .

The new rules would also present a data retention and deletion requirement, which would mandate that data that is obtained from children is only kept for the amount of time necessary to achieve the purpose that it was collected for. The rules would also add the requirement that operators ensure that any third parties to whom a child’s information is disclosed have reasonable procedures in place to protect the information.

These proposed changes to COPPA will have a significant effect on online operators, particularly the expansion of the definition of personally identifiable information. We note, particularly, that the expansion of the definition of “personally identifiable information” in the children’s privacy context could lead to a general expansion by the FTC of the definition in all contexts. [The FTC has cracked down on COPPA violations in the past](#), and these new powers will likely continue this trend.

*FTC Beat is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.*

*The commentary and cases included in this blog are contributed by Jeff Ifrah and firm associates Rachel Hirsch, Jeff Hamlin, Steven Eichorn and Sarah Coffey. We look forward to hearing your thoughts and comments!*