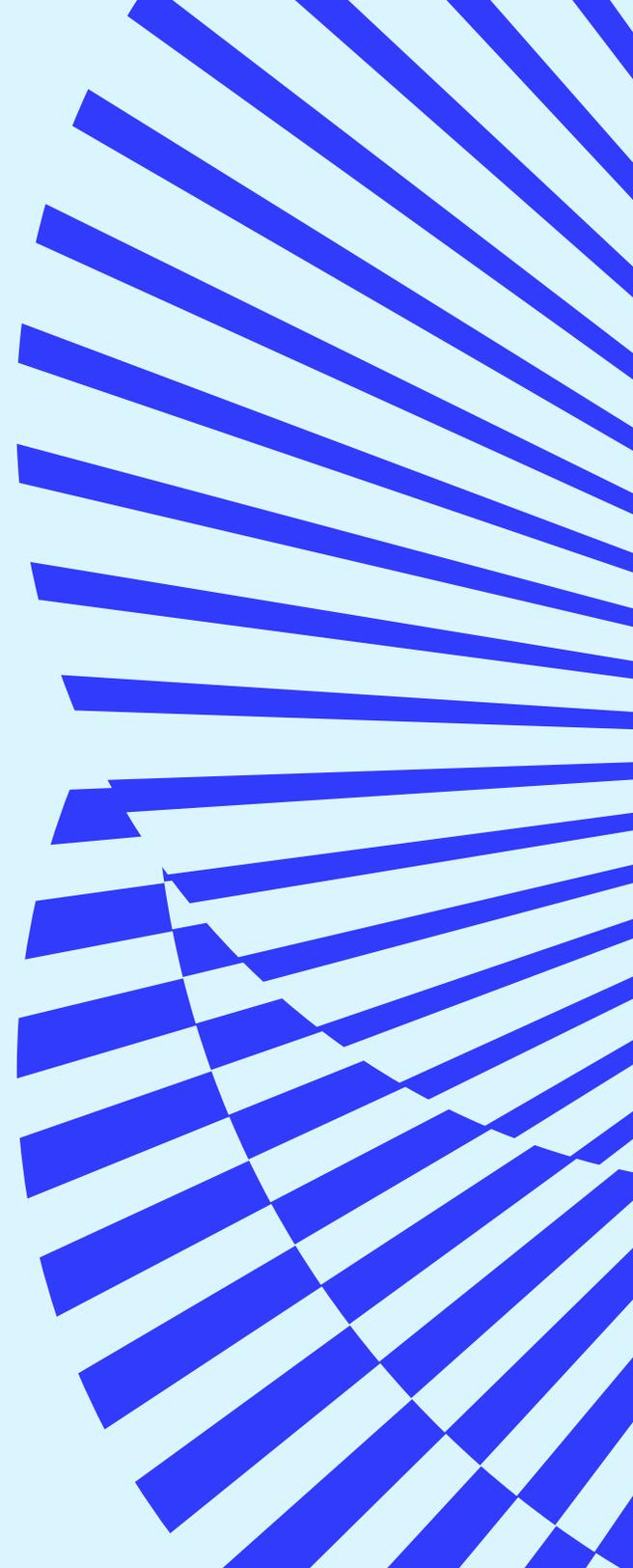


Children's Privacy and Protection Bills and Laws



U.S. Chamber of Commerce
Technology
Engagement Center



*Bold text indicates changes to COPPA (the Children’s Online Privacy Protection Rule)

	Children’s Online Privacy Protection Act (15 USC 6501 et seq.)	COPPA Rule (16 CFR 312.1 et seq.)	Children and Teen’s Online Privacy Protection Act (S. 1418, Markey)
Definitions	<p>Covered Entity</p> <p>“Operator” means any person who operates a website located on the internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service.</p> <p>Entities considered non-profits under the FTC Act are exempt.</p>	<p>“Operator” means any person who operates a website located on the internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that website or online service, where such website or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States or in the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation.</p> <p>Entities considered non-profits under the FTC Act are exempt.</p>	<p>“Operator” means any person--</p> <p>(i) who, for commercial purposes, in interstate or foreign commerce operates or provides a website on the internet, an online service, an online application, or a mobile application; AND (ii) who--(I) collects or maintains, either directly or through a service provider, personal information from or about the users of that website, service, or application; (II) allows another person to collect personal information directly from users of that website, service, or application (in which case, the operator is deemed to have collected the information); or (III) allows users of that website, service, or application to publicly disclose personal information (in which case, the operator is deemed to have collected the information).</p> <p>Non-Profit entities are not considered operators.</p>
	<p>Targeted or Knowledge Requirement</p> <p>Must be website targeted in whole or in portion to children or actual knowledge collecting personal information from a child.</p>	<p>“website or online service directed to children” means a commercial website or online service, or portion thereof, that is targeted to children.</p>	<p>Must be targeted in whole or in portion to children or actual or fairly inferred on the basis of objective circumstances.</p> <p>In considering whether a website, online service, online application, or mobile application is directed to children, the Commission shall, using competent and reliable empirical evidence, apply a totality of circumstances test to consider the intended audience of the website, online service, online application, or mobile application, as a whole.</p>



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<p>Definitions <i>(Continued)</i></p>		<p>(1) In determining whether a website or online service, or a portion thereof, is directed to children, the Commission will consider its subject matter, visual content, use of animated characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding the intended audience.</p> <p>(2) A website or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information directly from users of another website or online service directed to children.</p> <p>(3) A website or online service that is direct to children under the criteria set forth in paragraph (1) of this definition, but that does not target children as its primary audience, shall not be deemed directed to children if it (i) does not collect personal information from any visitor prior to collecting age information; and (ii) prevents the collection, use, or disclosure of personal information from visitors who identify themselves as under age 13 without first complying with the notice and parental consent provisions of this part.</p> <p>(4) A website or online service shall not be deemed directed to children solely because it refers to links to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext li</p>	

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Definitions <i>(Continued)</i>	<p>Covered Information</p> <p>“Personal information” means individually identifiable information about an individual collected online, including--</p> <p>(A) A first and last name (B) A home or other physical address including street name and a name of a city or town (C) An e-mail address (D) A telephone number (E) A Social Security number (F) Any other identifier that the Commission determines permits the physical or online contacting of a specific individual (G) Information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.</p>	<p>“Personal information” means individually identifiable information about an individual collected online, including:</p> <p>(1) A first and last name (2) A home or other physical address including street name and a name of a city or town (3) Online contact information (4) A screen or user name where it functions in the same manner as online contact information (5) A telephone number (6) A Social Security number (7) A persistent identifier that can be used to recognize a user over time and across different websites or online services. Such persistent identifier includes, but is not limited to, a customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, or a unique device identifier. (8) A photograph, video, or audio file, where such file contains a child’s image or voice (9) Geolocation information sufficient to identify the street name and name of a city or town (10) Information concerning the child or the parents of that child that the operator collects online from the child and combines with an identifier described [in the COPPA rule].</p> <p>“Online contact information” means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.</p>	<p>“Personal information” means individually identifiable information about an individual collected online, including--</p> <p>(A) A first and last name (B) A home or other physical address including street name and a name of a city or town (C) An e-mail address (D) A telephone number (E) A Social Security number (F) any other identifier that the Commission determines permits the physical or online contacting of a specific individual (G) Geolocation information (I) Information generated from the measurement or technological processing of an individual’s biological, physical, or physiological characteristics that is used to identify an individual--including fingerprints, voice prints, iris or retina imagery scans, facial templates, DNA information; or gait (J) Information linked or reasonably linkable to a child or teen; OR (K) Information linked or reasonably linkable to a child or teen or the parents of that child or teen (including any unique identifier) that an operator collects online from the child or teen and combines with an identifier describer in this subparagraph.</p> <p>EXEMPTED ARE CERTAIN AUDIO FILE VOICE RECORDINGS SUBJECT TO SPECIFIC CONDITIONS</p>

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Definitions <i>(Continued)</i>	Protected Group	“Child” means an individual under the age of 13.	“Child” means an individual under the age of 13. “Teen” means an individual over the age of 12 and under the age of 17.
	Sensitive Information		
Obligations, Consumer Rights and Prohibitions	Transparency	Yes	Yes
	Right to Access	Yes	Yes
	Right to Correction		Yes
	Right to Deletion		Yes
	Right to Portability		
	Fiduciary Duty		
	AI Specific or Right to Human Review of Automated Decision Making		



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Obligations, Consumer Rights and Prohibitions <i>(Continued)</i>	Reasonable Basis/ Exceptions <ul style="list-style-type: none"> • Online contact information used to respond to specific requests of child/parent • Data used for the sole purpose of obtaining parental consent or providing notice under the Act •Protect the safety of the child • Protect security and integrity of the website, take precautions against liability, respond to judicial process; cooperate in investigation regarding public safety 	<ul style="list-style-type: none"> • For consent, where the sole purpose of collecting the name or online contact information of the parent or child is to provide notice and obtain consent [under the Rule]. If the operator has not obtained parental consent after a reasonable time, the operator must delete such information from its records. • For consent, where the purpose of collecting a parent’s online contact information is to provide voluntary notice to, and subsequently update the parent about, the child’s participation in a website or online service that does not otherwise collect, use, or disclose children’s personal information. In such cases, the parent’s online contact information may not be used or disclosed for any other purpose. • For consent, online contact information used to respond to specific requests or child/parent. • For consent, protect safety of the child • For consent, protect security and integrity of website, take precautions against liability, respond to judicial process; cooperate in investigation regarding public safety • Where an operator collects a persistent identifier and no other personal information and such identifier is used for the sole purpose of providing support for the internal operations of the website or online service. 	



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Obligations, Consumer Rights and Prohibitions <i>(Continued)</i>	Consent <ul style="list-style-type: none"> • Verifiable parental consent required for collection, use, or disclosure of personal information from children. • Opportunity at any time for parents to refuse to permit operator’s further use or maintenance in retrievable form, or future online collection, of personal information from that child. 	<ul style="list-style-type: none"> • Verifiable parental consent required prior to the collection, use, and/or disclosure of personal information from children, including consent to any material change in the collection, use, or disclosure practices to which the parent has previously consented Collection and use can be consented to without consent to disclose. 	To obtain verifiable consent for the collection, use, or disclosure of personal information after material change in privacy notice.
	Misc. Prohibited Practices or Obligations <ul style="list-style-type: none"> • Conditioning a child’s participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity. 	<ul style="list-style-type: none"> • Conditioning a child’s participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity. 	<ul style="list-style-type: none"> • Conditioning a child’s participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity. • Collect, use, disclose to third parties, or compile personal information of a child or teen for purposes of individual-specific advertising to children or teens (or to allow another person to collect, use, disclose, or compile such information for such purpose). • To Collect the Personal Information of a child or teen unless collection is (1) consistent with the context of a particular service or the relationship of the child or teen with the operator, including the collection necessary to fulfill a transaction or provide a product or service requested by the child or teen; OR (ii) required or specifically authorized by federal or state law. • Transfer or store child or teens data outside the United States

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Obligations, Consumer Rights and Prohibitions <i>(Continued)</i>	Data Minimization	An operator of a website or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.	May not retain personal information of a child or teen for longer than is reasonably necessary to fulfill a transaction or provide a service requested by the child or teen except as required or specifically authorized by Federal or State law.	
	Discrimination based on privacy rights	The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations, to permit the operator’s further use or maintenance in retrievable form, or future online collection, of personal information from that child.	The regulations shall prohibit an operator from discontinuing service provided to a child or teen on the basis of a request by the parents of the child or by the minor, under regulations to delete personal information.	
	Misc. Provisions			
Accountability	Pricing and Service Differences			
	Privacy Program			
	Audit Requirement			
	Privacy/ Security Officer Requirement			
Security	Data Security	Yes	Yes	Yes

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Misc. Industries	Service Providers and Processors			
	Data Brokers			
	Small Business Relief			
Enforcement Issues and Effective Date	Enforcement Agency	FTC and equivalent enforcers	FTC	FTC and equivalent enforcers
	Safe Harbor	FTC approved self regulatory programs	FTC approved self regulatory programs	FTC approved self regulatory programs
	Expanded Penalty Authority			
	State AG Enforcement	Yes		Yes
	Rulemaking	Yes		Yes
				New Guidance required within 180 on fairly implied knowledge standard.
	Private Right of Action			
	Effective Date			

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Enforcement Issues and Effective Date <i>(Continued)</i>	<p>Preemption</p> <ul style="list-style-type: none"> Neither an operator of such a website or online service nor the operator’s agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child. No state or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this chapter that is inconsistent with the treatment of those activities under the Act. 		<ul style="list-style-type: none"> Neither an operator of such a website or online service nor the operator’s agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(A)(iii) to the parent of a child. No state or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this chapter that is inconsistent with the treatment of those activities under the Act.