



## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Trade Commission (“FTC” or “Commission”) requests that the Office of Management and Budget (“OMB”) extend for an additional three years the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements contained in the Children’s Online Privacy Protection Rule (“COPPA Rule” or “Rule”). That clearance expires on April 30, 2025.

**DATES:** Comments must be filed by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to

[www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review - Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** James Trilling, Attorney, (202) 326-3497, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580.

#### **SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Children’s Online Privacy Protection Rule, 16 CFR part 312.

*OMB Control Number:* 3084–0117.

*Type of Review:* Extension without change of currently approved collection.

*Affected Public:* Private Sector: Businesses and other for-profit entities.

*Estimated Annual Burden Hours:* 26,600.<sup>1</sup>

*Estimated Annual Labor Costs:* \$14,381,493.<sup>2</sup>

*Estimated Annual Non-Labor Costs:* \$0.

*Abstract:* The COPPA Rule, 16 CFR part 312, requires commercial websites and online services to provide notice and obtain parental consent before collecting, using, or disclosing personal information from children under age thirteen, with limited exceptions. The COPPA Rule contains certain statutorily required notice, consent, and other requirements that apply to operators of any commercial website or online service directed to children that collect personal information, and operators of any commercial website or online service with actual knowledge that they are collecting personal information from children. The Rule also applies to operators that have actual knowledge that they are collecting personal information directly from users of another website or online service that is directed to children. Covered operators must, among other things: (1) provide online notice and direct notice to parents of how they collect, use, and

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<sup>1</sup> This is an increase from the estimate of 17,600 hours per year the Commission set forth in the September 30, 2024 Federal Register Notice regarding the FTC’s request that OMB extend for an additional three years the current PRA clearance for information collection requirements contained in the COPPA Rule. *See* 89 FR 79596 (Sept. 30, 2024) (“September 2024 Notice”). The increase is due to FTC staff subsequently using a different, more up-to-date data source to estimate the number of new operators subject to the COPPA Rule per year. *See* section 12.1.a of the Supporting Statement for the Children’s Online Privacy Protection Rule (“Supporting Statement”) that the Commission is contemporaneously submitting to OMB, available at <https://www.reginfo.gov/public/do/PRAMain>. The hours estimate set forth in the September 2024 Notice was based on the FTC staff estimating 280 new operators per year; the updated hours estimate in this notice is based on FTC staff estimating 430 new operators per year (increase of 150 additional new operators per year × 60 estimated annual hours burden per new operator = 9,000 hour increase in estimated annual burden hours). In addition, the hour amount set out after the heading “*Estimated Annual Burden Hours:*” in the September 2024 Notice contained a typo. *See* 89 FR 79596. The “Burden Statement” portion of that Notice stated the correct estimated annual burden that FTC had calculated at the time of the September 2024 Notice: 17,600 hours.

<sup>2</sup> This is an increase from the estimate of \$8,687,169 in annual labor costs the Commission set forth in the September 2024 Notice. The increase is attributable to increases in the estimated number of covered entities (*see supra* footnote 1), the estimated hourly wage rates of legal counsel and technical personnel utilized by new covered entities to comply with the Rule’s online and direct notice and verifiable parental consent requirements (*see* section 12.2.a of the Supporting Statement), the estimated hourly wage rates of in-house lawyers utilized to comply with new COPPA Safe Harbor program applicant requirements (*see* section 12.2.b of the Supporting Statement), and the estimated hourly wage rates of compliance officers utilized by FTC-approved COPPA Safe Harbor programs to prepare and submit to the Commission their annual reports required by the Rule (*see* section 12.2.c of the Supporting Statement).

disclose children’s personal information; (2) obtain the prior consent of the child’s parent in order to engage in such collection, use, and disclosure; (3) provide reasonable means for the parent to obtain access to the information and to direct its deletion; and (4) establish procedures that protect the confidentiality, security, and integrity of personal information collected from children.

*Request for Comment:*

On September 30, 2024, the FTC sought public comment on the information collection requirements associated with the COPPA Rule. 89 FR 79596 (Sept. 30, 2024) (“September 2024 Notice”). The Commission received three responsive comments.<sup>3</sup>

One comment asserted that “decreasing the time and financial burden of new online operators to draft their privacy policies is beneficial to everyone involved,” suggested generally that using “simple language and formatting” in privacy policies “that can be understood by a child” might lower the burden of drafting and enhance the quality of the policies, and stated that Truth in Lending Act disclosure forms might be instructive for enhancing the quality of and lowering operators’ burdens in drafting privacy policies.<sup>4</sup> A second comment asserted that “[r]educing redundant questions or allowing automated data entry options could help decrease the time burden” for the Rule’s information collection requirements and suggested that the Commission implement digital tools for easier data submission, offer webinars or tutorials to clarify the purpose and process of complying with the information collection requirements, and regularly review the collected data to ensure that it is achieving the intended outcomes without overburdening entities subject to the COPPA Rule.<sup>5</sup> Neither of these comments connected its general recommendations to specific information collection requirements associated with the

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<sup>3</sup> The Commission received a total of four comments, all of which are available at <https://www.regulations.gov/docket/FTC-2024-0038/comments>. One comment was not responsive; it discussed issues related to health insurance enrollment and coverage rather than issues related to the information collection requirements associated with the COPPA Rule. See Cmt. FTC-2024-0038-0002.

<sup>4</sup> See Cmt. FTC-2024-0038-0003.

<sup>5</sup> See Cmt. FTC-2024-0038-0004.

COPPA Rule or the accuracy of the burden estimates set forth in the September 2024 Notice.

For example, the COPPA Rule does not require entities to answer redundant questions. Covered operators have flexibility to draft simple, straightforward privacy policies, and the COPPA Rule already requires operators to provide clearly understandable privacy notices. Consequently, these comments did not provide a basis for the Commission to modify any of the statements or estimates the Commission set forth in the September 2024 Notice.

kidSAFE, one of the FTC-approved COPPA Safe Harbor programs, asserted that the September 2024 Notice underestimated the amount of time that FTC-approved COPPA Safe Harbor programs spend annually to audit members and submit annual reports to the Commission on the aggregate results of these audits.<sup>6</sup> More specifically, kidSAFE asserted that the September 2024 Notice’s annual time burden estimate of approximately 100 hours per FTC-approved COPPA Safe Harbor program does not sufficiently account for both the time kidSAFE spends preparing its annual report to the Commission and the time it spends overseeing and reviewing its subject operators’ compliance with its program guidelines—including by engaging in “randomized, year-round routine monitoring and compliance maintenance”—so that it has the information necessary to complete the annual report.<sup>7</sup> Accordingly, kidSAFE recommended that the Commission differentiate the time that FTC-approved COPPA Safe Harbor programs spend assessing subject operators’ compliance with their program guidelines from the time the programs spend preparing and submitting their annual reports to the FTC.<sup>8</sup> In response, the Commission clarifies that the September 2024 Notice’s 100 hour per FTC-approved COPPA Safe Harbor program time burden estimate is an estimate of the time FTC-approved COPPA Safe Harbor programs spend preparing their annual reports to the Commission. The COPPA Rule requires Safe Harbor programs’ annual reports to the Commission to contain an aggregated summary of the results of the programs’ assessments of subject operators’ compliance with their

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<sup>6</sup> See Cmt. FTC-2024-0038-0006, at 2.

<sup>7</sup> *Id.* at 2-3.

<sup>8</sup> *Id.* at 3.

program guidelines,<sup>9</sup> so the PRA time estimate includes Safe Harbor programs' preparation of their annual reports using the information they gathered during their annual assessments of their members' compliance with their program guidelines. However, the PRA time estimate does not include the time the Safe Harbor programs spend assessing members' compliance with the guidelines. The time that Safe Harbor programs spend assessing members' compliance with program guidelines is not time spent complying with "collection of information" obligations under the PRA.<sup>10</sup>

Based on the compensation it pays to its professionals, kidSAFE also suggested that the September 2024 Notice's estimate of the mean hourly wage of the compliance officers who prepare FTC-approved COPPA Safe Harbors' annual reports to the Commission (\$38.55) was too low.<sup>11</sup> kidSAFE's comment does not set forth a basis for the Commission to increase the estimated mean hourly wage of compliance officers who prepare annual reports. It is not clear the extent to which kidSAFE's assertion is based on the hourly wages of individuals who assess operators' compliance with kidSAFE's guidelines—which, as explained above, is activity that the September 2024 Notice does not encompass—or whether those individuals' hourly wages are higher than the hourly wages of individuals who prepare kidSAFE's annual report to the Commission. Moreover, the Commission did not receive any other comments asserting that the September 2024 Notice's reliance on the Bureau of Labor Statistics' wage information to estimate the mean hourly wage of compliance officers was misplaced, and kidSAFE's assertions

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<sup>9</sup> See 16 CFR 312.11(d)(1).

<sup>10</sup> Under the PRA, "collection of information" occurs when ten or more persons are asked to report, provide, disclose, or record information in response to "identical questions." See 44 U.S.C. 3502(3)(A). FTC-approved COPPA Safe Harbor programs' assessments of members' compliance with the programs' guidelines do not constitute a "collection of information" because the COPPA Rule's requirement for Safe Harbor programs to assess each subject operator's compliance with the Safe Harbor programs' member guidelines no less than annually does not constitute asking ten or more persons to report, provide, disclose, or record information in response to identical questions. The FTC-approved COPPA Safe Harbor programs' member guidelines vary from each other. The COPPA Rule does not mandate the process that each Safe Harbor program uses to assess members' compliance with its guidelines, and the process varies from program to program.

<sup>11</sup> See Cmt. FTC-2024-0038-0006, at 2.

regarding the wages that it pays compliance officers do not provide any insight on other FTC-approved COPPA Safe Harbor programs' experience.

Pursuant to OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.*, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. For more details about the COPPA Rule's requirements and the basis for the calculations summarized above, see 89 FR 79596.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for ensuring that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which is . . . privileged or confidential"—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

**Josephine Liu,**

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