

# Privacy Policies on Children's Websites: Do They Play By the Rules?

By Joseph Turow

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## FOREWORD

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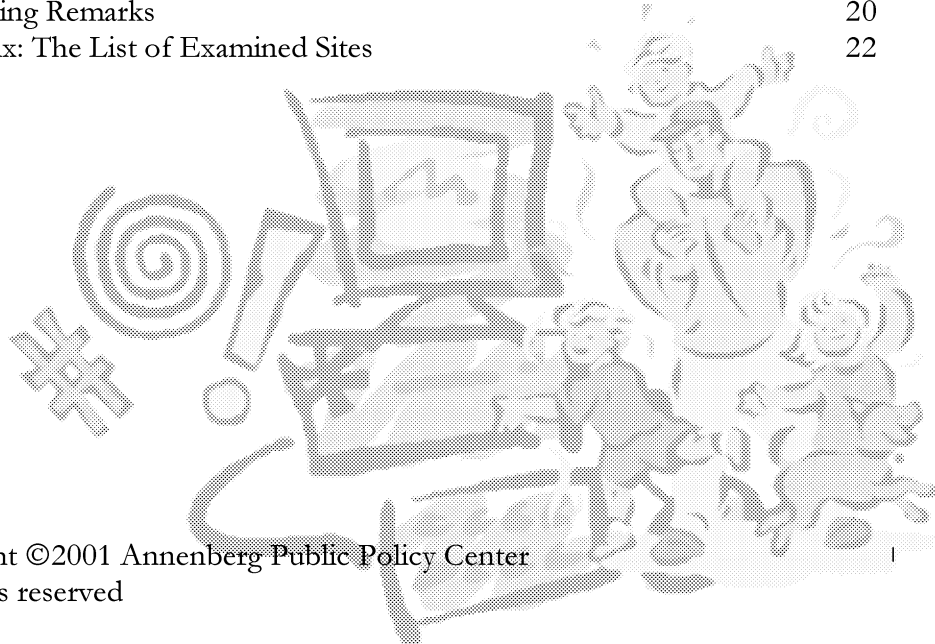
THE ANNENBERG PUBLIC POLICY CENTER  
OF THE UNIVERSITY OF PENNSYLVANIA

## Privacy Policies on Children's Websites: Do They Play By the Rules?

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## Overview

Studies show that parents worry their children might give up information that will identify them to strangers when they go on the Internet. To allay parents' fears and encourage their involvement in their children's online activities, the Federal Trade Commission (FTC) announced rules for privacy policies on websites. Those rules, implementing the Children's Online Privacy Protection Act (COPPA), went into effect in April 2000.

As we approach the first anniversary of the privacy-policy rules, an examination of the 162 sites with the highest percentage of child visitors under age 13 revealed that they often did not live up to the spirit and sometimes even the letter behind the rules. Privacy policies are typically too unclear and time-consuming to realistically encourage parents to confidently guide their children's Internet experiences.

- One in ten (17) of the children's sites collected personal information from visitors but did not have a privacy policy link on their home pages – a clear violation of COPPA. 14 of those sites had no privacy policies at all.
- COPPA rules require sites that collect personal information from children to include certain visual elements to make home-page links to their privacy notices stand out. We found that only 44% of the 90 children's sites that collected personal information and had privacy policies followed the specific FTC suggestion that the link's font style should be different from the style of adjacent words. Only 6% of those sites had links in a different color from adjacent words, another COPPA rule suggestion. Fully 68% of the sites placed them at the bottom of the home page, almost all in small letters, where visitors would have to scroll down to see them.
- Consistent with a government requirement, almost all the sites that collected personal information and had privacy policies listed the types of personal identifiable information they took from kids and how they used the data. Yet a number of important COPPA statements didn't appear in many policies. 34 of the 90 sites, for example, did not tell parents that they have the right to review their child's personal information if they allow the site to collect it. 45 sites did not say that parents have the right to ask that no further information be collected from their child.
- **The biggest problem with the privacy policies was trying to figure out what they said.** Reading through the policies to see if they reflected the COPPA rules turned out to be a time-consuming chore. Half of the 90 privacy policies were so complex that it took college students experienced with privacy issues about nine and a half minutes per policy in search of its COPPA statements. The average reading time for all the policies was also almost nine and a half minutes.

**In view of these and related findings from our study, it seems natural to question whether companies expect or even want parents to read their privacy policies.**

Federal Trade Commission rules require websites that seek to learn a child's identity get a parent's specific consent (through email or other means) before eliciting the information from the child. As the FTC suggests, however, a readable privacy policy on the site itself is

crucial so that parents can evaluate it while surfing with their kids.<sup>1</sup> The privacy policy on the site is also likely to be the same one that companies send to parents when asking for their permission to learn about their child.

**The drawbacks that we found with the prominence, completeness, and complexity of children’s privacy policies underscore the importance of COPPA’s restrictions on the collection and use of children’s personal information without parental permission.**

The public needs to believe that society provides a strong foundation for protecting children’s rights on the web whether or not parents can decipher a particular privacy policy. At the same time, COPPA’s requirement that websites ask for parents’ affirmative or “opt-in” permission means that websites must offer privacy policies that most people will notice and understand before their eyes glaze over.

There is one surefire way for website operators to have no difficulty playing by COPPA’s rules. That solution is not to collect any personal identifiable information at all from children.

**In the absence of that goal, however, the concluding section of this report presents two suggestions for helping parents with web-privacy issues.**

- **The FTC should require all sites that need or want to abide by COPPA to place the same distinctive “K”—for kids—on the home page in a specified place (for example, the top right corner).** That way a parent could tell a child to interact only with sites that have “the fancy K” on them;
- **The FTC should encourage children’s websites to work together to create a standard presentation of the required privacy information.** That would provide parents with a reasonably quick and reliable way to evaluate and compare sites. It would also be an important step toward engaging parents with policies related to their children that at this point seem designed to push parents away.

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<sup>1</sup> Federal Register 64:12 (November 3, 1999), p. 59906.

## Background to the Study

Congress enacted the Children’s Online Privacy Protection Act (COPPA) in 1998 to regulate the collection, use and disclosure of personally identifiable information from children on the Internet. COPPA requires operators of websites directed to children under age 13, and operators who knowingly collect personal information from children under age 13, to act in the following manner:

1. They must provide parents with notice of their “information practices.”
2. They must obtain a parent’s consent before they collect, use or disclose personal information from children. (The law exempts sites that collect only “online contact information”—for example, email addresses—to send a message to the child and delete the contact information immediately after a message is sent.)
3. They must provide a parent with the means to review the personal information collected from his/her child.
4. They must provide a parent with the opportunity to prevent further collection of information as well as the further use of already-collected information.
5. They must limit collection of personal information for a child’s online activities to “information that is reasonably necessary for the activity.”
6. They must establish and maintain reasonable procedures to protect the confidentiality, security and integrity of the personal information collected.<sup>2</sup>

Congress authorized the Federal Trade Commission to implement and enforce COPPA. The FTC, after a notice of proposed rulemaking and request for public comment, issued a “final rule” in November 1999. It laid out its requirements for websites that collect personal information from children under age 13. The Commission defined personal information as including “a number of different types of individually identifiable information, including name, address, and phone number; email address; and other types of information that could be used to locate an individual either online or offline.” The Commission added that non-individually identifiable information (such as knowledge of a child’s hobbies or toys) would be considered personal information if those data were linked to data that specifically identified the child.<sup>3</sup>

### The FTC Privacy Policy on Websites Directed to Children

A key aspect of the FTC’s implementation of COPPA was its requirement that websites aimed at kids under age 13 “post prominent links . . . to a notice of how they collect, use, and/or disclose personal information from children.”<sup>4</sup> The Commission cautioned website operators that collect personal information “to use categories that were descriptive enough that parents could make an informed decision about whether to consent to the operator’s collection of the information.”<sup>5</sup>

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<sup>2</sup> 15 U.S.C. 6501-6505.

<sup>3</sup> Federal Register 64:12 (November 3, 1999), p. 59902.

<sup>4</sup> Federal Register 64:12 (November 3, 1999), p. 59888.

<sup>5</sup> Federal Register 64:12 (November 3, 1999), p. 59895.

The FTC privacy-policy requirements can be divided into two categories, rules about placement of the link to the policy and rules about content of the policy itself.

Rules about the policy's placement:

- The link must be clearly labeled as a privacy policy (or notice of information practices).
- The link must be placed in a clear and prominent place and manner on the home page of the website.
- The link must be placed in a clear and prominent place and manner at every area of the website where children provide or are asked to provide personal information.

Rules about the policy's content:

- The policy must be clearly and understandably written and must contain no unrelated, confusing or contradictory materials.
- It must provide the name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the website.<sup>6</sup>
- It must list the types of personal information collected from children (for example, name, address, phone number, email address, etc.) and whether that information is collected directly or passively (for example, through cookies).
- It must explain how the personal information is or may be used (for example, marketing back to the child, notifying contest winners, allowing the child to post personal information in chat rooms, bulletin boards, personal home pages or personal profiles).
- It must state that it is not allowed to ask the child for more information than is reasonably necessary for participating in the activity on the site.
- It must note whether the operator provides any of the information collected from children to third parties. If it does provide information to outsiders, the operator must disclose the types of businesses in which the third parties are engaged, the purposes for which the personal information is used, and whether the third parties have agreed to maintain the security and confidentiality of the information.

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<sup>6</sup> The rule allows that if more than one operator is responsible for a site, one operator may be designated as the one to respond to inquiries from parents concerning privacy policies and the use of children's information, as long as the names of all operators collecting or maintaining personal information from children through the website are also listed in the privacy policy.

- It must tell the parent that he/she has the option to agree to the collection and use of the child's information by the operator without consenting to allow third parties to use it.
- It must also tell the parent that he/she can review the personal information about the child that the site has collected, ask to have it deleted, and refuse to allow any further collection or use of the child's information. The privacy policy must also state the procedures for doing so.

In its November 3, 1999 Final Rule, FTC gave website operators until April 21, 2000 to create privacy policies that would conform to these requirements before they went into effect.

As the first anniversary of the Rule's implementation approaches, do children's website operators follow its letter and spirit regarding the placement and content of the privacy policy? This was the question that sparked our Annenberg Public Policy Center study.



## The Study and Its Method

Using data provided by Nielsen//NetRatings, a listing was compiled of the 500 websites (excluding pornographic ones) with the highest percentage of visitors aged 2 to 12 years old during the month of June 2000. In consultation with Federal Trade Commission staff, a subset of sites that appeared to have particular appeal to children was drawn from this initial listing.<sup>7</sup> Websites were examined for the presence of the following elements: child-oriented content (such as music, games, children's television shows, sports, toys, children's books, etc.); animated characters and colorful graphics; the use of slang and other language appealing to and comprehended by children; the presence of child-directed advertising; the age of the models portrayed on the site; and interactive activities and other incentives appealing to children.

We ended up with 162 sites that appeared to have particular appeal to children (see the Appendix).

Our systematic examination of the sites and their privacy policies took place during November 2000. It was a project undertaken by the undergraduate “Mass Media and Society” class at the University of Pennsylvania’s Annenberg School for Communication. Professor Joseph Turow directed the project with the assistance of four graduate teaching assistants.<sup>8</sup>

It was carried out in the following manner:

- A Federal Trade Commission lawyer presented a 70-minute talk about COPPA and its privacy policy rules (including questions and answers) to the 180 students in the class. The lawyer illustrated the comments with examples from real websites.
- During the next class meeting, the students were given a six-question test on the rules along with scenarios that probed their abilities to apply the rules. Students knew that they would not be allowed to proceed with the project unless they got at least 5 of the 6 answers correct. (Only a couple of students did not pass this threshold.) The students were also required to read (and were tested on) a paper that grad student Christopher Hunter wrote about the history of COPPA and its elements.<sup>9</sup>
- At least two trained individuals examined each site on the original list of 500 websites. Because of a mistake, three people examined 10 of the sites. Students were paired by

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<sup>7</sup> Nielsen//NetRatings typically requires 40 visitors for its reportability standards. These sites had a higher than-average percentage of child visitors compared to their percentage in the population, but our review included sites that had fewer than the 40 visitors of that age group. This broader reporting helped us identify a greater number of sites that appear to have particular appeal to children. Note, too, that although the sites were chosen in consultation with FTC staff, neither the analysis nor opinions in this report necessarily reflect Commission views.

<sup>8</sup> Thanks are due to Carrie Brown, Christopher Hunter, Oren Meyers, and Claire Wardle.

<sup>9</sup> We asked the students to note their highest verbal SAT score at the bottom of their test, promising that it would be used for nothing but an aggregate score. The average was a very high 680.

computer and each student in the pair received the same list of two or three sites to access. We told students about being paired in order to encourage care in answering the questions. Neither student knew who the other was until later in the process, however.

- In order to make sure each student accessed the proper website, the coding activity proceeded in the following manner: Each student received a unique identification number to use in a special place on the course website. Upon logging in with that identifier, the student automatically received a link to one of her assigned sites. On another window of the site was a questionnaire that the student had to fill out about the children's site.

The questionnaire asked about the privacy link and privacy content in ways that drew on the student's knowledge of COPPA's rules from the lecture, the test and the paper. Most of the 32 questions required yes/no or present/absent answers.

Toward the end, the student was asked "how many minutes did it take you to find and understand the site's privacy policy in order to answer the questions above?" In class and on the website, students were instructed that they should record only the minutes it took to prepare to answer the questions, not the additional time it took to actually fill out the questionnaire. The question after that asked, "overall, how understandable would you say this privacy policy is?" and presented the possibility to check one of four choices, from *very understandable* to *not at all understandable*. Finally, students were asked to explain in a box on the screen "why you answered Question 31 the way you did. List as many reasons as apply."

After the student completed and "submitted" that questionnaire so it could be saved by the computer server, the student's next website link appeared along with a blank questionnaire. The student examined that website and answered the questions in the manner described above.

- When at least two students recorded answers to each of the 500 websites, we conducted a computer analysis of the paired answers to determine the questions on which the paired individuals did not agree. The members of each pair were then told of each other's existence and asked to meet to reconcile their answers on the computer. That happened in the presence of a graduate student who could help with particularly difficult decisions. In a high percentage of the questions, answers did not need to be changed. The "reconciled" dataset is the one that was used for the analysis in this report. Here we focus on the 162 children's sites.

## The Findings

As noted earlier, our study aimed to determine whether children’s website operators follow the letter and spirit of the FTC COPPA rules in two key areas:

- (1) the presence and placement of a privacy-policy link on the home page, and
- (2) the content of the privacy policy itself, if it exists.

This section lays out our findings on these two issues. We start with the first.

### **Do children’s sites follow FTC rules about when, where and how to place the privacy link on the home page?**

#### **Do children’s sites follow FTC rules about *when* to place the privacy link?**

The FTC requires that when children’s websites seek personal identifiable information from children under age 13, they “must post a link to a notice of its information practices with regard to children on the home page of its website.” The FTC additionally requires this link “at each area on the website . . . where personal information is collected from children.”<sup>10</sup> Our research focused only on the home-page link.

As Table 1 shows, 114 (70%) of the 162 children’s sites linked to a privacy policy from the home page. Of the 48 that did not put up a link, 32 (20% of the total 162) collected no personal information from kids and therefore didn’t need to post a privacy policy.<sup>11</sup> We did find 17 sites among the 48 (10% of the total) that posted no link on the home page and did collect personal information from children.

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**Table 1: Did the children’s sites link to a privacy policy from the home page?**

	(N=162)
	%
Yes	70
No, but they didn’t collect personal information	20
No, and they <i>did</i> collect personal information	10

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<sup>10</sup> Federal Register 64:12 (November 3, 1999), p. 59913.

<sup>11</sup> Federal Register 64:12 (November 3, 1999), p. 59892.

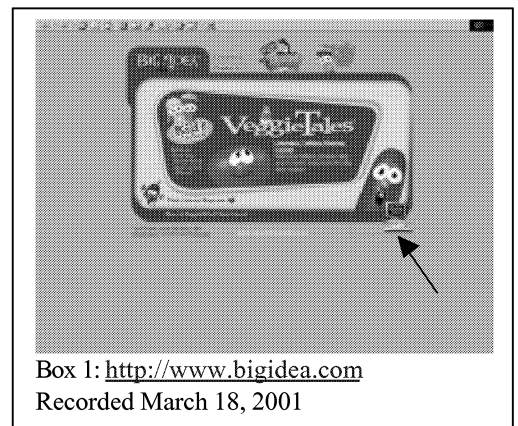
The fact that 90% of the 162 children’s sites correctly followed COPPA regulations in posting or not posting a link indicates that this aspect of the rule is successful. In fact, 24 of the 114 sites that posted a link and a policy simply did so to state that they do not collect personal information from children. (SHAMU.COM, for example, noted that “This web site does not gather personal information about you in any manner,” but reserved the right to do so in the future.)

The other 90 of the 114 sites stated in privacy policies linked to the home page that they do or may collect personal data from children. Recall that we found 17 other sites that collect personal information but do not post a privacy link on their home page. In all, then, 90 (84%) of the 107 sites that did or said they might collect personal information had links to a privacy policy from the home page.

**What of the 17 sites that didn’t post privacy links from the home page but did collect personal information?** It turns out that 3 of them posted a privacy link on parts of the site where the information was to be collected—places where the child might contact the company through email or go on a chat board. The 3 sites were POJO.COM, TOUCANSAM.COM, and TURTLEDANCE.COM.

Some may argue that placing a privacy link only in places where the information will be collected is adequate notice for parents. The Federal Trade Commission disagreed because it wanted parents to be able to access the information quickly when they evaluate a children’s site. Searching through a site to look for a privacy link might discourage parental involvement.

Table 2 lists the 17 sites that posted no privacy link at all and nevertheless collected personal information. We conducted our systematic examination of sites in November 2000. During March 2001 we still could find no privacy links on the sites. One of them, BIGIDEA.COM, linked its home page to an area specifically for kids under 13 that appeared to collect no personal information. The kid-friendly home page itself, however, did invite the visitor to “talk to us,” without any kind of privacy link. (See arrow in Box 1.)<sup>12</sup>



<sup>12</sup> It’s unclear whether Bigidea.com deletes email after receiving anybody’s question and answering it. The COPPA rule does make an exception for sites that answer kids’ emails and immediately delete them. A privacy policy or statement near the email collection is necessary to let the visitor know, however.

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**Table 2: Which sites posted no privacy policies on the home page and still collected personal identifiable information?**

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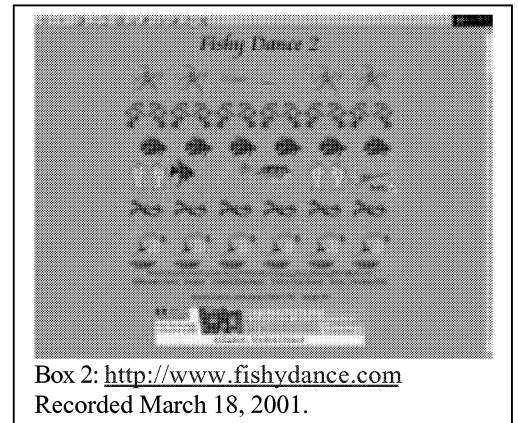
ADFY.COM	NANCYDREW.COM
BIGIDEA.COM	POJO.COM
BUFFY.COM	PLANETNAMEK.COM
CHEATINDEX.COM	POKEMONSNAP.COM
COWDANCE.COM	STICKMANDANCE.COM
DBZHOMELAND.COM	TOUCANSAM.COM
FISHYDANCE.COM	TURTLEDANCE.COM
GAMESDOMAIN.COM	WEIRDAL.COM
LIZARDDANCE.COM	

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As for the 14 other sites, it is likely that their operators will argue that they are not “directed” to children. Without internal documents from the operators it is difficult to state whether they are, in fact, targeting kids under age 13. The criteria we used in consultation with FTC staff members, did, however, lead to the conclusion that these sites appear to have particular appeal to children.

Nielsen//NetRatings data also indicated a substantial proportion of child visitors under age 13 to these sites.

BUFFY.COM and the heroine of NANCYDREW.COM were considered children’s sites because their TV and book characters, respectively, are of well-known interest to kids under, as well as over, 13. FISHYDANCE.COM was tagged a children’s site because its use of weirdly jiggling animated characters would seem to clearly be aimed at getting children to visit the site. (See Box 2).



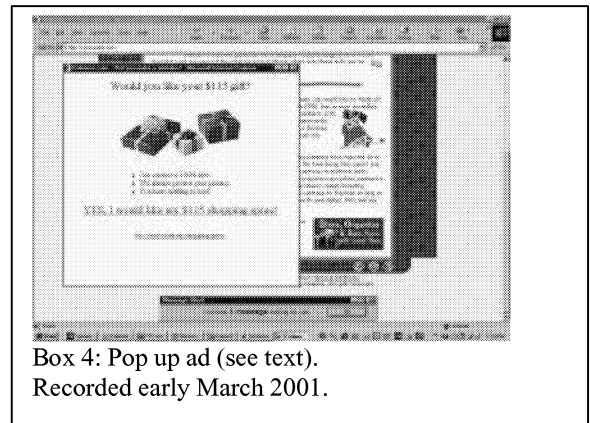
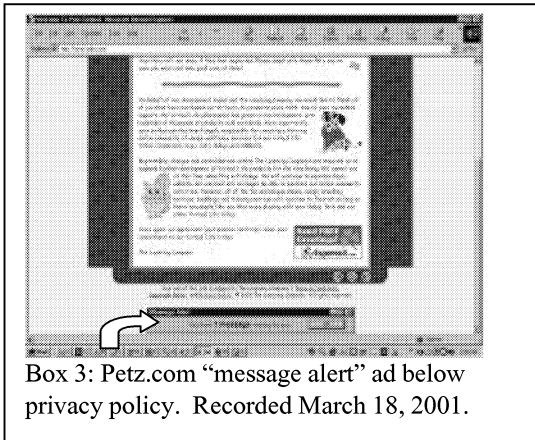
Box 2: <http://www.fishydance.com>  
Recorded March 18, 2001.

These cases make up a small percentage of the 162 children’s sites. Nevertheless, they suggest possible controversy over whether a site is truly aimed at children and therefore should be subject to COPPA rules.

The possibility of such controversy is one reason we suggest (and elaborate in the concluding remarks) that the FTC should require sites that agree to abide by COPPA to all place the same prominent “K”—for kids—on the home page in a specified place (for example, the top right corner). That way a parent could tell a child to interact only with sites that have “the fancy K” on them. Sites such as FISHYDANCE.COM would then have an incentive to conform if posting a K and attracting kids is important to their business.

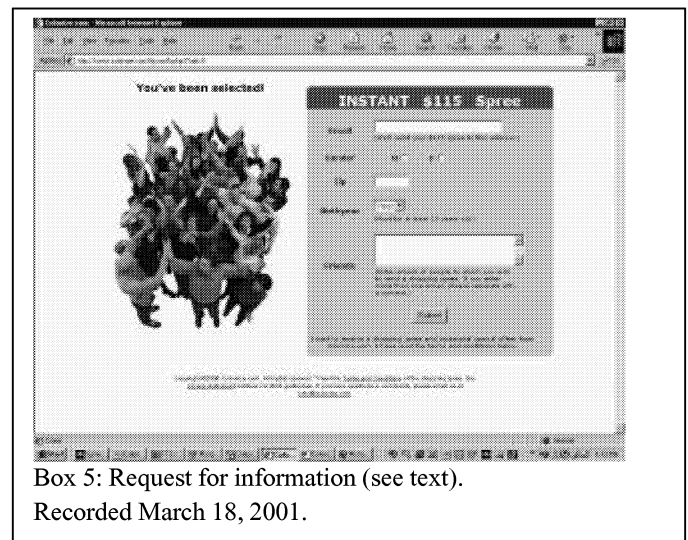
**In the course of examining whether sites follow FTC rules about when to place the privacy link, we came across an example of how a site might break the spirit of the requirement while still posting the link.**

Boxes 3, 4 and 5 illustrate frames from PETZ.COM, a site operated by The Learning Company. As required, the site has a privacy policy; it is located at the bottom of its home page and links to an elaborate statement. Right below the privacy link, however, has been a “message alert” that looks like a computer command and has stated “You have 1 **message** waiting for you.”



From at least November 2000 through mid-March 2001 a click on the OK button of the alert yielded a pop-up ad (Box 4) that asked “Would you like your \$115 gift?” Clicking yes to a free gift led to a box that announces “You’ve Been Selected!” and offered an “instant \$115 spree” in return for personal identifiable information (Box 5). The choices that emerged in yet a different box (not shown) include Harry Potter books—a clear nod to children.

FLYCAST.COM, the advertising company that pays PETZ.COM for placing advertisements on the site, served this ad. During the numerous times that we visited this site, other ads did appear, including public service ads from the Advertising Council. Nevertheless, the “message alert” commercial showed up several times during the beginning and middle of March 2001.



**Apart from being an ironic contradiction of the privacy-policy link that sits above it, the message alert ad points to the difficulty of policing the Web for privacy violations.** Because of their quickly changing character, Web advertisements especially can defy the letter and spirit of FTC rules. The “shopping spree” offer showed up with an “on again/off again” frequency, and our systematic auditing of websites detected it simply as a

matter of chance. We have no way of knowing whether it appeared on other children’s sites or whether other ads are being served to kid sites that also offer gifts for information.

### **Do children’s sites follow FTC rules about where and how to place the privacy link?**

The FTC’s Children’s Online Privacy Protection Rule requires that if a site collects personal information from kids under age 13, the link to the site’s privacy policy must be placed “in a clear and prominent place and manner on the home page of the website . . .”

*Clear and prominent* means that the link must stand out and be noticeable to the site’s visitors through use, for example, of a **larger font size** in a **different color** on a **contrasting background**. [emphasis added]<sup>13</sup>

The Commission emphasized that it “does not consider *clear and prominent* a link that is in small print at the bottom of the home page, or a link that is indistinguishable from a number of other, adjacent links.”

The relevant links to consider here belong to sites that collected personal identifiable information from children and so fall under COPPA’s jurisdiction. As we noted, we found 107 such sites, and 90 had privacy policies.

Our trained coders found that 79% of the 90 sites had links that did stand out against the home page’s *background*—that is, they could be seen clearly against the color in back of them. As for the *extent* to which they stood out against the background, though, the coders judged only 53% of the sites *very* or *somewhat prominent*; 19% were *not prominent* or *not at all prominent* (see Table 3).

When it came to stylistic elements that would help the links stand out from *adjacent* material (not just the background), evidence for the links’ prominence fell sharply. The FTC rule suggests font size and different color as examples of techniques sites might use for links to stand out. We added a few more.

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**Table 3: How prominent were the privacy links?**

	(N=90) %
Very prominent	23
Somewhat prominent	30
Neither prominent nor not prominent	28
Not prominent	13
Not at all prominent	6

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<sup>13</sup> Federal Register 64:12 (November 3, 1999), p. 59894.

As Table 4 shows, sites incorporated few elements that would help the links stand out among adjacent words and images. Only 44% of the 90 children’s sites that collect personal information and have links followed the specific FTC suggestion that the link’s font style should be different from the style of the adjacent words. Only 6% of those sites had one in a different color from adjacent words, another FTC suggestion. 39% had a bigger font size and 25% had a graphic, but other elements that could have made the links stand out among adjacent fare were rare.

Further analysis of the 13 categories in Table 4 showed that 42% of the sites used none of them (not even “other features”) in their links. 74% used three or fewer of the elements, while only 9 of the 90 sites (10%) used 7 or more elements that would help the link stand out among adjacent material.

The links’ placement further decreased the chance that the link would be noticed. Fully 69% (62) of the links appeared at the bottom of the home page. Using a standard setup—an Internet Explorer browser and a computer monitor using 800 x 600 pixels—we found that placement at the bottom typically meant it would not be seen when the home page appeared on the screen. Our coders had to scroll down to see the links.

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**Table 4: What stylistic elements did sites use that made their privacy links prominent compared to adjacent material?\***

	(N=90)
	%
<b>Font style</b> was different from adjacent words	44
<b>Font size</b> of link was different from adjacent words	39
The link had <b>line graphics</b>	25
The link was <b>bolder</b> than adjacent words	17
The link was <b>larger</b> than adjacent words	17
The link was <b>smaller</b> than adjacent words	14
The link was <b>underlined</b>	14
The link was <b>highlighted</b>	9
The link had <b>an image</b>	7
The link was <b>different in color</b> from adjacent words	6
The link had a <b>different font</b> from adjacent words	7
The link had <b>italics</b>	1
 The link had <b>other features</b> that made it stand out	 21

\* The numbers don’t add up to 100 because links could have more than one or none of these elements. See text.



Moreover, 54 all of the 62 links—60% of the 90--specifically flouted the FTC’s caution about using small-lettered links at the bottom of the home page. None was a different color than adjacent words, only 8 (13%) used a font that was larger than those in adjacent words, and only 4 (7%) had a font that was bolder.

There were exceptions to the seeming desire of site operators to virtually hide their privacy links. Especially noteworthy were 6 sites (6%) that displayed links with icons denoting membership in a group such as the Entertainment Software Rating Board (ESRB). Examples were HASBROINTERACTIVE.COM and GAME.COM. Their privacy links stood out quite clearly despite everything else on the screen.

## **Do children’s sites follow FTC rules about the content of the privacy policy itself?**

Our examination of the privacy policies sought to determine whether they contained a number of key requirements in the Federal Trade Commission’s COPPA rule (see pages 4-6). Of the 114 sites that linked to privacy policies from their home page, 90 were relevant to COPPA because they said they did or might collect personal identifiable information from children under 13. We focused on these sites.

Our coders read the 90 privacy policies to note whether or not the required statements appeared regarding

- the types of personal information collected;
- how the personal information would or may be used;
- if the personal information will or may be shared with third parties;
- the site’s collection of only information “reasonably necessary” for the child to participate;
- parents’ right to review their children’s personal information;
- parents’ right to ask the site to delete their children’s personal information; and
- parents’ right to ask that no further information be collected from their children.

If a site indicated that information would be shared with third parties (such as advertisers or marketing affiliates), the coders also noted whether the site followed another FTC requirement. It is that the operator should give the parent an opportunity to consent to the collection and use of information for the purpose of the site but not with third parties.

Table 5 shows that almost all the sites provided information about how personal information would or might be used. 91% of the sites noted the types of personal information they collect from kids under 13.

**Table 5: What percentage of the 90 privacy policies provides statements that the FTC requires on the following topics?**

	(N=90) %
The types of personal information collected	91
How the personal information would or may be used	96
The site's collection of only information "reasonably necessary"	55
Parents' right to review their children's personal information	62
Parents' right to ask the site to delete personal information	64
Parents' right to ask that no further information be collected	51
If the personal information will be shared with third parties	40
*That the personal information will NOT be shared with third parties	60

\*This is not a required FTC statement; but see text.

The level of disclosure dropped substantially with the next four statements, however. Depending on the topic, nearly 1 of every 3 or 1 of every 2 of the sites did not provide the required disclosure. We also found that 32% (11) of the 34 sites that said they shared personal information with third parties did not inform parents of their right to disallow that sharing.

Further analysis revealed that 36% of the privacy policies contained 3 or fewer of these 6 statements. We could find 5 or more of the statements in only a bit more than half (52%) of the 90 sites. Most likely to be missing were statements centering on what the parent can do about reviewing or deleting the child's information or asking that no further data be collected. Clearly, parents reading through many of the sites would be hard-pressed to find out about all the rights that the Federal government says they should know they have.

The statement relating to the sharing of a child's personal information with "third parties" deserves special attention. The FTC requires sites that engage in this practice to reveal that information in the website. We found that 40% of the sites noted that they do or may share the child's personal information with third parties. We also found, however, that the other 60% went out of their way to note that they do *not* share those data with third parties—a disclosure the FTC does not mandate. Ironically, while a site's assurance that it wouldn't share data with a third party may seem laudable, it might actually mask more than it reveals. The reason has to do with the special meaning of the phrase "third parties." Technically, corporate "affiliates" of the website operator—for example, other divisions of a conglomerate—are not third parties. They may still get the child's personal information despite the disclaimer. Moreover, a child who clicks a link on the site that whisks him or her away to another site (say, an advertiser's page) might be asked personal information over which the first site has no responsibility. That site may well have very different privacy policies and may not even conform to COPPA.

**The potential ambiguity of many of the “third party” statements leads to the next major point: the biggest problem with the privacy policies was the time it took to figure out what they said.**

We looked at our trained coders’ self-reported ability to understand the privacy policies and at the amount of time it took them to read each policy in search of the COPPA statements presented above. The coders believed that in most cases they could understand the policies. Of the 90 sites, they noted 30% as very understandable, 48% as understandable, 22% as somewhat understandable, and none as not at all understandable.<sup>14</sup> Interestingly, we found no relationship between how understandable coders found a site and the time it took them to read through it. Because we asked coders to note whether a site was “understandable” without considering time or complexity, a site that took a long time to search for the COPPA statements might still get tagged as quite comprehensible.

Understanding the sites turned out to be quite a time-consuming chore for these highly literate students.<sup>15</sup> We found that most of the 90 privacy policies were so long and complex that it took the coders an average of 9.4 minutes to read each policy in search of its COPPA statements. The median time was quite similar: half of the sites took more than 9.2 minutes each for the coders to read.

Still another way to get a sense of the large amount of time it took to understand the policies can be seen in Table 6. The table divides the minutes it took to read the policies into three groups. It indicates that readers took 8 minutes or more to read two-thirds of the privacy policies.

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**Table 6: How long did it take to read the privacy policies in search of the COPPA statements?\***

	(N=90)
	%
3-7.5 minutes	37
8-10 minutes	33
10-17 minutes	29

\*The numbers don’t add up to 100% because of rounding error.

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<sup>14</sup> When coders reconciled their answers, that included their sense of a site’s understandability. In a few cases, a coder initially called a site *not at all understandable*, but the reconciliation raised it to *somewhat understandable*.

<sup>15</sup> To arrive at a single time for each site’s privacy policy, we averaged the times that the students working separately on it had recorded. These are the times we present here. As it turned out, coders tended to be quite similar in the times that they recorded for the same sites.

Clearly, people read privacy policies at different rates, and the time these coders took to understand each policy was possibly lengthened because they were trying to do the best job they could to see if the policies matched up against the FTC statements. Nevertheless, the coders' written comments, and conversations with them at the end of the project, make clear that a high percentage of the policies were simply too complex to be read and understood carefully in a short period of time. PSYPOKE.COM, SIMTHEMEPARK, and SURFMONKEY.COM are examples of sites with long policies that took a lot of thinking to decipher in relation to COPPA.

Even policies that seemed on their face to be straightforward could be vague and difficult when the students truly tried to understand them. After spending 14 minutes looking through APPLEJACKS.COM, for example, a coder wrote that “at first glimpse, this privacy policy seems understandable. There are clear headings and the information under the first few topics seems pretty straightforward. However, I was a bit confused about the Eet/Ern Program ...”

With some sites, the problem seemed to be that too much conciseness confused the coders, who read vague statements over and over to try to understand what they meant in terms of the COPPA rules. An example is TOPSITELIST.COM. As for the sites with long policies, the coders deemed most of them understandable, but only after taking a long time to wade through a succession of disconnected paragraphs, with sometimes tortured clauses, to note if they hit on the COPPA clauses.

Sometimes length had its virtues. Although CHEVRONCARS.COM took coders quite a while to read carefully (they averaged 16 minutes), it does provide a model for websites that attract both children and adults. The site features Wally the Warning Squirrel in different areas to caution children that “either (1) you are being asked to give us personally identifiable information, or (2) you are entering the KIDS SHOP where you must be 18 or older and have a valid credit card to make a purchase.” (See Box 6)

There are exceptions, of course. The privacy policy on HASBROINTERACTIVE.COM was a relative model of lucidity.<sup>16</sup> Not surprisingly, the coders averaged 3.5 minutes to go through it. One commented, “The privacy policy was well-outlined and well-organized. There were headings about cookies and about parental and children concerns, which made it easy to navigate. The language was very simple.”

question: And, we ask for your parent's email address so that we can tell your mom or dad that you have asked us to send you email. We don't share any information collected on this site with anybody. And, as you'll see, there are no ads on this site.

See this site again?

That's Wally the Warning Squirrel. He will appear to warn you that either (1) you are being asked to give us personally identifiable information, or (2) you are entering the KIDS SHOP where you must be 18 or older and have a valid credit card to make a purchase.

**Privacy Policy Table Of Contents:**

WHAT Information we collect and WHY we collect it  
 How we use your information  
 Links to other sites  
 How to contact us

Here is the scoop on KIDS SHOP and WHAT we ask for information. WHAT information we collect and WHY we collect it:

(1) The Kids Shop: In the KIDS SHOP, we do not ask for any information from any child under 18. Everyone is allowed to browse the KIDS SHOP and look at all the cool things for sale. BUT you MUST BE 18 OR OLDER and have a valid credit card to make a purchase. Since, in the KIDS SHOP, we only ask for personal information from people who are buying something, you will not be asked for any personal information while you are in the KIDS SHOP unless you are over 18. And, any of the information entered in

Box 6: Wally the Warning Squirrel  
<http://www.chevroncars.com/squirrel.html>

<sup>16</sup> Recently the site has been inactive, but the privacy policy can be found at <http://www.hasbro.com/home/privacy.html>.

Among other praiseworthy policies are those on MAMAMEDIA.COM and Kraft's privacy policy at LUNCHABLES.COM. Both are straightforward, well-organized and hit all the COPPA buttons. MAMAMEDIA.COM's policy speaks to kids as well as parents. LUNCHABLES.COM has a link at the top of the policy that goes directly to the section on children.

Many of the 90 policies we examined are quite a bit more complex and difficult to read than the Mamamedia, Hasbroidinteractive, and Lunchables privacy policies. Among the best-known names on the Web, AOL-Time Warner sites that we examined could have been a lot clearer in their statements than they were. KIDSWB.COM takes a much shorter approach than CARTOONNETWORK.COM or BATMANBEYOND.COM, for example. But all three policies use a small, tight font that is difficult to read. And none comes close to the exemplary way the Mamamedia, Hasbroidinteractive, or Lunchables present children's privacy information.

## Concluding Remarks

The Children's Online Privacy Protection Act is an important step in ensuring minimal protection for the release of data that can personally identify someone (a child, in this case). Because of the Act, website operators must request affirmative (or "opt in") permission from a parent if they try to get that information. The Federal Trade Commission has suggested ways that operators can acceptably meet that requirement at the point that the child wishes to make his or her identity known.

The FTC also recognized the importance of letting parents know before the child begins to interact with the site whether it will collect data; if so, what it will do with the data; and what rights the parent has with respect to those data. Requirements to provide this sort of notice were announced in the Commission's November 1999 Rule, and website operators have had substantially more than a year to not only post the proper links but to do so in ways that meet the spirit as well as the letter of the law.

Our research suggests that website operators perform both activities poorly in far too many cases. Previous Annenberg studies, as well as work elsewhere, indicate that most parents are concerned about the release of information on the web, do not have a high degree of web expertise, and typically are not familiar with privacy policies.<sup>17</sup>

In view of this predicament, why is it that websites typically post privacy policies where parents won't easily see them—at the scroll-down bottom of the home page? Why do they use fonts that may stand out from the background color but rarely (despite FTC exhortations) do much to call attention to themselves among other, stylistically more attractive, parts of the page?

One answer we have heard is that the "real estate" of a home page is valuable—it is a come-on for the entire site, after all—and so operators do not want to waste space with a privacy link. If this *is* a general argument against the clear and central display of a link, it suggests two responses. One is that a prominent privacy policy link on the home page may well inspire visitors to trust the site. That is a valuable resource well worth the space. Several website operators already recognize this possibility. The second response is simply that not having a truly prominent privacy link on a children's site runs counter to the spirit of the FTC Rule and to public policy in general. Companies that want to elicit information from children have an obligation to spend extra resources to do it right.

The need to do it right also applies to the privacy policies themselves. Some of them were so vague or complex, with the children's statements so entangled with jargon, that it seems natural to question whether companies expect or even want parents to read their policies. No parent can be expected to read policies as carefully as our coders did to learn what their rights are. What is more likely to happen is that parents who notice and read the policies will

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<sup>17</sup> See, for example, Joseph Turow and Lilach Nir, "The Internet and the Family 2000: The View From Parents, the View from Kids." A report from the Annenberg Public Policy Center of the University of Pennsylvania, May 2000, 35 pp.; and Joseph Turow, "The Internet and the Family: The View from Parents, the View from the Press." A report from the Annenberg Public Policy Center of the University of Pennsylvania, May 1999, 42 pp.

do it quickly and think they understand them even when they haven't thought through subtleties (such as the site's relationship with affiliates and third-party ad servers) and haven't gotten all the required COPPA information. Many might read only the first paragraph—typically a vague but friendly statement that tries to make parents feel at ease about privacy—and not go beyond it.

The readability situation may actually get worse, for some website operators' attorneys have argued that privacy policies should be treated as legal contracts between the consumer and the operator. If this perspective becomes the norm, privacy policies may become as dense to read as software license agreements.

To stop the privacy-policy regulations of COPPA from becoming irrelevant and to encourage parents' involvement in their kids' web activities, the FTC must help parents on two fronts.

- 1) Parents need to be able to find out if a site conforms to COPPA (that is, if the site is truly a children's site) without having to first read the site's privacy policy.
- 2) Parents need to be able to read a site's privacy policy quickly to compare it with other sites and see if it recognizes all of their rights under COPPA.

Carrying out these two goals is not difficult. We suggest two directions:

- **The FTC should require all sites that that need or want to abide by COPPA to place the same distinctive “K”—for kids—on the home page in a specified place near the top (for example, at the top right corner).** That way a parent could tell a child to interact only with sites that have “the fancy K” on them. The K can also become the required (and universally recognized) link to the privacy policy.
- **The FTC should encourage children's websites to work together to create a standard presentation of the required privacy information that allows for quick, straightforward presentation of a site's information-collection practices and parents' rights.** The Commission might even work with operators to create a couple of standard templates and test them for readability among parents and kids. Perhaps some kind of “safe harbor” agreement can be worked out so that companies that follow the model policy do not have to worry about creating a contract with more legalistic language.

There is one surefire way for website operators to have no difficulty dealing with privacy policies or COPPA. That way is not to collect any personal identifiable information at all from children. Urging operators who collect information to do away with the practice ought to be a priority for people concerned about family privacy in the twenty-first century. Short of that goal, however, websites that appear to be directed toward children should be held to the highest level of COPPA requirements.

## Appendix – The List of Examined Sites (all end with .com)

3do	gamegenic	planetnamek	wonka
acclaim	games	playcenter	x-men
actionace	gamesdomain	playhere	yahooligans
adfy	generationgirl	ploids	youruleschool
agirlsworld	girlfriends-la	pmhq	yucky
alfy	girlslife	pojo	zeeks
aliendance	goldenbooks	poke-gym	zelda
americangirl	groovygames	pokemasters	zelda64
americangirlstore	gundamofficial	pokemon	zeldagames
ant	hamsterdance	pokemon-and-cards-	
applejacks	hasbrointeractive	cheats-codes-	
archiecomics	headbone	downloads	
armadillo dance	hotgames	pokemoncrater	
askjeevesforkids	hugem	pokemonfactory	
asylum	humongous	pokemonsnap	
barbie	jimpokecenter	pokemonstadium	
batmanbeyond	kiddonet	popsicle	
bigidea	kidscom	powerpuff	
blackberrycreek	kidswb	psypoke	
bonus	kidzonks	purple-moon	
boogieblocks	kirby64	quia	
buffy	larry-boy	ratdance	
buildabear	lego	rockyandbullwinkle	
candystand	legomindstorms	rollercoastertycoon	
captaincrunch	leprechaundance	sanrio	
cartoonnetwork	limitedtoo	searchopolis	
cheatcity	lisafrank	sega	
cheatindex	lizarddance	shamu	
cheatplanet	lunchables	sikids	
chevroncars	mamamedia	simthemepark	
claires	mary-kateandashley	smashbrothers	
clevermedia	mary-	snapcracklepop	
cornnuts	kateandashleyolsen	starwars	
cowdance	mattelmedia	starwarskids	
crayola	moonprincess	stickmandance	
cupcakeparty	myecamp	stupid	
cyberkids	n64-cheats	surfmonkey	
dbzcardgame	nabiscoworld	switchinggoals	
dbzhomeland	nancydrew	thegia	
donkeykong	neopets	tonythetiger	
dragonballz	nick2k	toonami	
eetandern	nickjr	topsitelists	
ezone	nikolai	toucansam	
fantasyanime	nintendo	toyboutique	
fishydance	nintendopower	turtledance	
foxxkids	nintendosports	ty	
freezone	noggin	upnetwork	
frogger	p2kthemovie	upperdeck	
funbrain	pccgameworld	virtualdog	
funimation	pepsiworld	warioland3	
game	petz	weirdal	
gameboy	pikachudance	wizards	





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