

COPPA Alert: Attractive Websites Beware!

In November 2004 we sent an advisory to remind clients and friends of the need to comply with the Children's Online Privacy Protection Act ([accessible by clicking here](#)). This is the federal law that prohibits the collection of personal information from children under age 13 without the informed consent of their parents. This law applies both to websites that target children under age 13, and to general audience websites that knowingly collect information from children under 13.

Recent government action reminds us all that the Federal Trade Commission is serious about this law and will punish offenders.

The Xanga Action

Xanga's social networking website contained a notice that children under 13 could not join. Despite this, Xanga allegedly collected, without proper parental consent, information from 1.7 million visitors whose submission indicated they were under 13. (Though these children checked a box stating they were over 13, they included a birth date that made it clear they were not.) In November Xanga agreed to settle a complaint filed by the FTC by paying a \$1 million fine.

COPPA Requirements

It is important to realize that even sites that do not target children under age 13 can be subject to COPPA, and risk big fines like that paid by Xanga, if they knowingly collect information from visitors under 13.

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Does your business' website comply with COPPA regulations by:

- ✓ posting a link to your privacy policy on the homepage and other pages
- ✓ posting a notice to parents regarding your site's collection of personal information from their children
- ✓ ensuring that a parent has received and consented to your privacy policy prior to collection of information from a child?

Read on for details about why and how to comply with COPPA . . .

Thus, COPPA liability is a particular risk to sites that might appeal to savvy youngsters, from information, mapping and flyby sites, to merchant and gaming sites.

If your website is subject to COPPA, how do you make sure that it complies?

Though you will want specific directions from your advisors, the basic requirements are the following:

- ✓ First, you will need to post a clear and prominent link to your privacy policy on your homepage and on every page at which information is collected.
- ✓ Second, you will also need to post a clear and intelligible notice to parents that informs them that your site desires to collect personal information from their child, that parental consent is required, and that parents can consent to collection of their child's personal data without agreeing that it can be disclosed to third parties.
- ✓ Third, you will need to make efforts to ensure that a parent has received and consented to your site's privacy policy prior to collection, storing or sharing any personal information from a child.

The above is meant as a short summary and is by no means a full description of all you must do to comply. For more information, please feel free to contact us or [click here](#) to read our earlier advisory on this subject.

The Morse, Barnes-Brown & Pendleton, PC, **Technology, Licensing & Intellectual Property Practice** counsels businesses of all sizes on creating, protecting and transferring IP assets, including advice on trademark, copyright, advertising, Internet and technology law.

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