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July 2, 2014

VIA ELECTRONIC MAIL (FOIA@ftc.gov)

Freedom of Information Act Request
Office of General Counsel
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Freedom of Information Act Request

Dear Sir or Madam:

The Center for Digital Democracy (CDD), through its counsel, requests the following documents from the Federal Trade Commission (FTC) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552:

- All annual reports submitted by safe harbor programs as required by the Children's Online Privacy Protection Act Rule (COPPA Rule), 16 C.F.R. § 312.11(d)(1), including, for illustrative purposes, reports of the following safe harbor programs:
 - (1) kidSAFE Seal Program,
 - (2) Aristotle International Inc.,
 - (3) Children's Advertising Review Unit (CARU),
 - (4) Entertainment Software Rating Board (ESRB),
 - (5) Privacy Vaults Online, Inc. (PRIVO), and
 - (6) TRUSTe.

CDD asks that, if the reports are filed electronically, you provide the requested records to me in their electronic format as required under FOIA. 5 U.S.C. § 552(f)(2). If portions of the record must be provided in paper format and you estimate that fees will exceed \$25, please notify me before completing the request.

Request for Fee Waiver or Reduced Fees

CDD asks the FTC to waive all fees associated with this request because disclosure of the records is in the public interest. 5 U.S.C. § 552(a)(4)(A)(iii). Alternatively, CDD asks that any fees related to the request be limited to reasonable duplication fees because it is a noncommercial request by a member of the news media. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

CDD is entitled to a fee waiver under FOIA's public interest standard because disclosure of the annual reports will contribute significantly to educating vast segments of the public, including parents and other consumers, about issues regarding the protection of children online and self-regulatory COPPA oversight programs. Pursuant to § 312.11(d)(1), these reports must include "at a minimum, an aggregated summary of the results of the independent assessments conducted under paragraph (b)(2) of this section, a description of disciplinary action taken against any subject operator under paragraph (b)(3) of this section, and a description of any approvals of member operators' use of a parental consent mechanism, pursuant to § 312.5(b)(3)." CDD will use this information to help understand how the agency is protecting children's privacy online through these self-regulatory COPPA oversight programs. Without the information contained in these reports, it will not be possible to accurately inform the public whether these safe harbors are effectively protecting children's online privacy.

Should CDD's full fee waiver not be granted, it asks the FTC to limit fees from this FOIA request to reasonable duplication fees because it seeks the records as a member of the news media. CDD is a leading organization advocating for consumer protections in the digital age. CDD staff members frequently use their editorial skills to create original reports¹ and blog posts² from information they collect from industry,

¹ See, e.g., Jeff Chester & Edmund Mierzwinski, *Big Data Means Big Opportunities and Big Challenges*, U.S. PIRG EDUCATION FUND (Mar. 2014),

<http://www.centerfordigitaldemocracy.org/sites/default/files/2010-05-alcohol-marketing.pdf>; Jeff Chester, Kathryn Montgomery, & Lori Dorfman, *Alcohol Marketing in the Digital Age*, BERKELEY MEDIA STUDIES GROUP (May 2010), <http://www.centerfordigitaldemocracy.org/sites/default/files/2010-05-alcohol-marketing.pdf>; Jeff Chester & Kathryn Montgomery, *Interactive Food & Beverage Marketing: Targeting Children & Youth in the Digital Age*, BERKELEY MEDIA STUDIES GROUP (May 2007), http://drupal.digitalads.org/sites/default/files/publications/digitalads_digi_marketing_full.pdf.

² See, e.g., Hudson Kingston, *FTC told that iKeepSafe proposal on children's privacy will not ensure COPPA safeguards*, CENTER FOR DIGITAL DEMOCRACY (Apr. 22, 2014), <http://www.centerfordigitaldemocracy.org/ftc-told-ikeepSAFE-proposal-childrens-privacy-will-not-ensure-coppa-safeguards>; Jeff Chester & Hudson Kingston, *Marvelkids Website and Hello Kitty Carnival*

government, and other sources. Visit www.democraticmedia.org and www.digitalads.org for more examples of public reports and analysis created by CDD. Through these reports and blog posts, CDD provides information and expert analysis about vital current events to policymakers, journalists, and the public.

Duty to Segregate Non-Exempt Information

Should any of the information requested be exempt from release under FOIA, you are required to release the nonexempt records. 5 U.S.C. § 552(b). Agencies are not allowed to issue “sweeping, generalized claims of exemption for documents,” but must instead redact only the information that is truly exempt. *Mead Data Ctr., Inc. v. U.S. Dep’t of the Air Force*, 556 F.2d 242, 260 (D.C. Cir. 1977).

Thank you for your consideration of this request. As provided in 16 C.F.R. § 4.11(a)(1)(ii), CDD anticipates your response to this request within 20 working days. For questions regarding this request please contact me at (202) 662-9545 or egn7@law.georgetown.edu.

Sincerely,

/s/

Eric G. Null

Angela J. Campbell

Institute for Public Representation

Counsel for Center for Digital Democracy

Mobile App Charged with Violations of the Children’s Online Privacy Protection Act, CENTER FOR DIGITAL DEMOCRACY (Dec. 18, 2013), <http://www.centerfordigitaldemocracy.org/marvelkids-website-and-hello-kitty-carnival-mobile-app-charged-violations-children%E2%80%99s-online-privacy>.