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# United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEB SITE: <http://commerce.senate.gov>

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May 13, 2011

Mr. Jonathan Zuck  
President  
Association for Competitive Technology  
1401 K Street, NW  
Washington, DC 20005

Dear Mr. Zuck:

I write this letter to inquire about the commercial practices of the members of the Association for Competitive Technology (ACT) with regard to children's privacy. While recent media attention has focused on iPhone and Android mobile devices storing location data, less scrutiny has been focused on ongoing commercial practices that may be in violation of current federal law. Specifically, very little is publicly known about mobile applications that collect and use information about children in possible violation of the Children's Online Privacy Protection Act or "COPPA."

In effect since 2000, COPPA prohibits certain online companies from collecting "personal information" from children 12 years old and younger without express consent from their parents. The law's prohibition applies to any "operator of a website or online service directed to children" under the age of 13. Presumably, many, if not most, software applications available for mobile devices qualify as an "online service," and some of these applications are directed towards children, even toddlers. In sum, many of the applications available for the iPhone, Android smartphones, and other mobile devices are covered by the mandates of COPPA and the law's implementing regulations, also known as the "COPPA Rule."

In order to comply with the parental consent requirements under COPPA, the COPPA Rule requires a covered application developer to comply with numerous requirements that fulfill the law's intent to provide parents with notice and consent. At its most basic, COPPA requires children's applications to, among other things, (1) provide conspicuous notice on what personal information is being collected and how it is being used, (2) receive explicit, verifiable parental consent, and (3) provide parents with access to all information being collected. A violation of any of these provisions constitutes a violation of a rule promulgated under Section 18 of the

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Federal Trade Commission Act, which defines an “unfair or deceptive act or practice.” Such violations are subject to civil penalties and other equitable remedies.

Given the mandates of COPPA and prevalence of applications for mobile devices that are intended for children under the age of 13, I am writing to ask you to answer the following questions:

- Are applications produced by your members that target children under 13 compliant with COPPA?
- Do any of the mobile platform operators such as Apple, Google, RIM, or Microsoft require application developers to be in compliance with COPPA?
- Does ACT inform its application developer members about their obligation to be compliant with COPPA?
- What policies does ACT have in place to encourage compliance with COPPA’s mandates by application developers?

I plan to address these issues at the Senate Commerce, Science and Transportation Committee hearing on mobile privacy on May 19. Therefore, I would appreciate you or your representative being prepared to discuss the matter at the hearing. Should you have any questions, please do not hesitate to contact me or contact Alex Hoehn-Saric on my Committee staff at (202) 224-1270.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Rockefeller". The signature is fluid and cursive, with the first name "Jay" being particularly prominent.

John D. Rockefeller IV  
Chairman  
Senate Committee on Commerce, Science  
And Transportation