

COMMENTS RE: COPPA RULE: PAPERWORK COMMENT, FTC FILE NO. P155408

Dear Commissioners,

The kidSAFE Seal Program appreciates the opportunity to comment on the Federal Trade Commission's (FTC) proposal to extend the current Paperwork Reduction Act (PRA) clearance for the Children's Online Privacy Protection Rule (COPPA Rule) for an additional three years.

As an FTC-approved COPPA Safe Harbor program, kidSAFE recognizes the importance of maintaining transparent and manageable compliance requirements for both industry participants and the Commission itself. However, we believe that the FTC's current estimate of 100 annual burden hours for conducting audits and preparing reports for Safe Harbor compliance gravely underestimates the actual time and resources required to fulfill these obligations effectively.

Safe Harbor Compliance: Revised Time Estimate

The FTC's PRA estimate indicates that each Safe Harbor program requires 100 hours annually to conduct audits and prepare the requisite reports. Based on our operational experience, this figure does not account for the robust efforts necessary to meet the Safe Harbor auditing and reporting requirements, including but not limited to:

1. Auditing Member Organizations:

- Each member must be reviewed for COPPA compliance annually, accompanied by randomized, year-round routine monitoring and compliance maintenance (including the fielding of consumer complaints).
- This effort requires approximately [REDACTED] hours per member annually.
- With [REDACTED] COPPA members currently under kidSAFE's purview (as of July 1, 2024), this amounts to at least [REDACTED] hours per year.

2. Producing Annual Reports to the FTC:

- kidSAFE devotes approximately [REDACTED] hours annually merely to prepare its comprehensive Safe Harbor report to the Commission.

These calculations result in a total annual burden far exceeding the 100-hour estimate per Safe Harbor program provided by the FTC.

Labor Cost Disparities

The FTC assumes a mean hourly wage of \$38.55 for compliance officers tasked with these activities. kidSAFE's actual cost, however, reflects the expertise and teamwork across multiple disciplines. Our professionals are compensated at an average rate of [REDACTED] per hour, given the complexity and regulatory specificity of COPPA compliance.

Recommendations

To ensure accurate and fair PRA compliance estimates, we respectfully urge the FTC to consider the following:

1. **Revise Annual Burden Hours:**
 - Adjust the estimated hours per Safe Harbor program to better reflect the realities of comprehensive compliance. A baseline estimate should account for the size and scope of member auditing obligations and the detailed recordkeeping requirements outlined in COPPA Rule §312.11(d).
2. **Reevaluate Labor Cost Assumptions:**
 - Update the mean hourly wage assumption to align with prevailing market rates for professionals conducting specialized regulatory audits.
3. **Clarify Assumptions in the PRA Analysis:**
 - The FTC should explicitly delineate the activities included in its estimates and preferably separate the estimates for auditing members from the estimates for reporting to the FTC. This will help ensure the estimates better align with Safe Harbor programs' obligations as described in §312.11 of the COPPA Rule and related guidance.

Closing Remarks

kidSAFE remains committed to collaborating with the FTC to advance the goals of COPPA, ensuring the protection of children's privacy in the digital ecosystem. We appreciate the Commission's efforts to collect input from stakeholders and look forward to continued dialogue on these critical issues.

Thank you for considering our comments. Please do not hesitate to contact us for further details or clarification.

Respectfully,



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