



CONCERNS WITH PROPOSED COPPA AMENDMENT

The Main Street Privacy Coalition (MSPC)¹ is comprised of 19 national trades that represent more than a million American businesses—a broad array of companies that line America’s Main Streets. From retailers to REALTORS®, hotels to home builders, grocery stores to restaurants, gas stations to travel plazas, self-storage to convenience stores, including franchise establishments, MSPC member companies interact with consumers day in and day out. Our members’ businesses can be found in every town, city and state, providing jobs, supporting our economy and serving Americans as a vital part of their communities.

Collectively, the industries that MSPC member associations represent directly employ approximately 34 million Americans and constitute over one-fifth of the U.S. economy by contributing \$4.5 trillion (or 21.8%) to the U.S. gross domestic product (GDP). Our success depends on maintaining trusted relationships with our customers and clients: trust that goods and services we provide are high quality and offered at competitive prices; and trust that information customers provide to us while we are serving them is kept secure and used responsibly. For these reasons, our associations are actively engaged in the discussions by policy makers surrounding data privacy protections in U.S. legislation and regulations.

Regarding text proposed for inclusion in omnibus legislation that would amend the Children’s Online Privacy Protection Act of 1998 (COPPA), we have significant concerns with the proposed ban on advertising and its impact on all commercial businesses, including those whose products, services, websites, and mobile apps are not directed at minors or children. We appreciate your consideration of the significant economic harm this very broad ad ban with a low bar for liability would have on legitimate, consumer-serving businesses.

As an initial matter, the bill would create a new category of “directed to minors” websites, for which any user must be assumed to be a minor. Because many general audience sites could be found to satisfy this standard, an enormous number of adults on sites would have to be treated as minors. And because the bill prohibits targeted advertising of minors, businesses would be forced to cease wholly legitimate, targeted ads that would otherwise reach adults. This would have a profoundly negative impact on a critical means of reaching consumers in a cost-effective manner.

Likewise, subsection (2)(G) of section 2 of the bill (p. 4, l. 20-24) would use a constructive knowledge standard to determine whether individuals on any other site are minors. This establishes a *new* liability standard in COPPA for this *new* advertising ban that differs from the existing law’s “actual knowledge” standard. The FTC could then allege that every consumer-facing website or app accessible on a device that displays ads “should know” they may be viewed by those under 17, *even if* companies are not directing their products, services, websites, mobile apps or any of the ads on them to minors or children. The bill also defines targeted ads to include those served based on first party data, a significant change from how the term has traditionally been defined.

We share Congressional efforts to address harms to minors raised in recent hearings, but this new ban on ads to general audiences over-reaches in capturing many legitimate consumer-serving businesses’ ad practices. We believe that Congress can enhance protections for minors, while preserving legitimate ad practices critical to serving adults.

¹ The Main Street Privacy Coalition website and member list may be accessed at: <https://mainstreetprivacy.com>.