

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 57b.
3. Venue is proper in the Northern District of Georgia under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b)-(c) and 1395(a).

DEFINITIONS

4. For purposes of this Complaint, the terms “child,” “collects,” “collection,” “Commission,” “delete,” “disclosure,” “Internet,” “online contact information,” “operator,” “parent,” “person,” “personal information,” “third party,” “verifiable consent,” and “website or online service directed to children,” are defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE

5. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by prohibiting the unauthorized or unnecessary collection of children’s personal information online by operators of Internet websites or online services. COPPA directed the Federal Trade Commission to promulgate a rule implementing COPPA. The Commission promulgated the Children’s Online Privacy Protection Rule, 16 C.F.R. Part 312, on November 3, 1999 under Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000.

6. The Rule applies to any operator of a commercial website or online service, or portion thereof, directed to children that collects, uses, and/or discloses personal information from children, and to any operator of a commercial website or online service that has actual knowledge that it collects, uses, and/or discloses personal information from children. Among other things, the Rule requires a subject website operator to meet specific requirements prior to collecting online, using, or disclosing personal information from children, including, but not limited to:
 - a. Posting a privacy policy on its website or online service providing clear, understandable, and complete notice of its information practices, including what information the website operator collects from children online, how it uses such information, its disclosure practices for such information, and other specific disclosures set forth in the Rule;
 - b. Providing clear, understandable, and complete notice of its information practices, including specific disclosures, directly to parents when required by the Rule;
 - c. Obtaining verifiable parental consent prior to collecting, using, and/or disclosing personal information from children;
 - d. Giving parents the option to consent to the collection and internal use of their children's personal information without consenting to the disclosure of that information to third parties;
 - e. Providing a reasonable means for parents to review the personal information collected from their children and to refuse to permit its

- further use or maintenance;
- f. Not conditioning children's participation in an activity upon the children disclosing more personal information than is reasonably necessary to participate in that activity; and,
 - g. Establishing and maintaining reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.
7. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

DEFENDANT

8. Defendant Jones O. Godwin is the operator of the child-directed social networking website www.skidekids.com. At all times material to this Complaint, Defendant has operated www.skidekids.com, which is transmitted worldwide on the Internet. At all times material to this Complaint, he formulated, directed, controlled, had the authority to control, or participated in the acts or practices alleged in this Complaint. Defendant Godwin resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district.

COMMERCE

9. The acts and practices of Defendant alleged in this Complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANT'S COURSE OF CONDUCT

10. Since at least October 2009, Defendant has operated www.skidekids.com, a social networking website directed to children. Promoting the website as the “Facebook and Myspace for kids,” Defendant permits children to register, create and update their profiles, create public posts, become friends with other members, play games, watch movies or videos posted by other children, and upload their own pictures and videos. *See* Exhibit A (Skid-e-kids home page). The Skid-e-kids website specifically courts “tweenage” children and their parents by promoting the site as “the social networking alternative for kids ages 7 to 14” where “parents are in charge.” *See* Exhibit B (About Skid-e-kids page).
11. Defendant requires children to register in order to use his website. When a child clicks on the Skid-e-kids’ registration icon or link displayed on the website’s landing page, a standard Skid-e-kids registration window appears. The child must first provide a birth date and gender, then click the “Proceed” button. Next, the child must provide a username, a password, and an email address. *See* Exhibit C (registration forms for Skid-e-kids). After these steps are complete, Skid-e-kids automatically registers the child on the website. The child is not asked to provide a parent’s email address, and Defendant makes no attempt to notify a child’s parent or obtain parental consent.
12. A child who registers on the Skid-e-kids website is able to create a profile by entering a first and last name, city and country, birth date, and gender, as well as freely type information in Defendant’s “about me” field. *See* Exhibit

D (Skid-e-kids profile page). In addition, a child is able to upload pictures and videos, search for and befriend Skid-e-kids members, and send messages to other members.

13. Defendant collects personal information from children through the operation of the Skid-e-kids website. Defendant has collected and maintained personal information from approximately 5,600 children. Defendant, therefore, is an “operator” as defined in the Rule.

**DEFENDANT’S INFORMATION COLLECTION, USE,
AND DISCLOSURE PRACTICES**

14. Defendant’s online privacy policy states in pertinent part:

The Skid-e-kids.com website requires child users to provide a parent’s valid email address in order to register on the website. We use this information to send the parent a message that can be used to activate the Skid-e-kids account, to notify the parent about our privacy practices, to send the parent communications either about the parent’s and child’s Skid-e-kids accounts or about features of our Web site, and for the other purposes described in this Privacy Policy. This email address is correlated with the account user name.

Exhibit E (Skid-e-kids Privacy Policy).

15. Contrary to the statements made in Defendant’s privacy policy, as set forth in Paragraph 14 above, Defendant never asks for a parent’s e-mail address, and he activates the child’s account without notifying the parent or obtaining prior parental consent. As a result, Defendant collects personal information from children and enables them to publicly disclose their personal information, including online contact information, through Defendant’s personal profile postings and in his member messaging system.
16. Defendant’s online notice of his information practices does not clearly,

completely, or accurately disclose all of Defendant's information collection, use, and disclosure practices for children, as required by the Rule.

17. Defendant does not take the steps required by the Rule to provide parents with a direct notice of his information practices prior to collecting, using, or disclosing children's personal information.
18. Defendant does not take the steps required by the Rule to obtain verifiable consent from parents prior to collecting, using, or disclosing children's personal information.
19. In approximately 5,600 instances, Defendant has collected, used, and/or disclosed personal information in violation of the Children's Online Privacy Protection Rule.

COUNT I

DEFENDANT'S VIOLATIONS OF THE CHILDREN'S ONLINE PRIVACY PROTECTION RULE

20. Since 2009, Defendant has operated the Skid-e-kids website or online service through which he has collected and maintained personal information from children under age 13.
21. In numerous instances, in connection with the acts and practices described above, Defendant has collected, used, and/or disclosed personal information from children in violation of the Rule by:
 - a. Failing to provide sufficient notice on Defendant's website or online service of what information he collects online from children, how he uses such information, his disclosure practices, and all other required content, in violation of Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b);

- b. Failing to provide direct notice to parents of what information Defendant collects online from children, how he uses such information, his disclosure practices, notice of any material change in the collection, use, and/or disclosure practices, and all other required content, in violation of Section 312.4(c) of the Rule, 16 C.F.R. § 312.4(c); and,
- c. Failing to obtain verifiable parental consent before any collection, use, and/or disclosure of personal information from children, in violation of Section 312.5 of the Rule, 16 C.F.R. § 312.5(a)(1).

Therefore, Defendant has violated the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312.

COUNT II

DEFENDANT'S VIOLATIONS OF THE FTC ACT

- 22. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce." Misrepresentations constitute deceptive acts or practices prohibited by Section 5(a) of the Act.
- 23. Through the statements made in the privacy policy referenced in Paragraph 14 above, Defendant has represented, expressly or by implication, that he collects a parent's online contact information in order to notify the parent of a child's registration, to permit the parent to activate the child's account, and to notify the parent of Defendant's privacy practices.
- 24. In truth and in fact, Defendant has registered children without ever collecting a parent's email, sending the parent a notice of their information practices, or providing parents with a means to assent to their children's

participation. Therefore, the representation set forth in Paragraph 23 was false and misleading.

25. Defendant's false and misleading representation, as set forth in Paragraph 23 above, constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THE COURT'S POWER TO GRANT RELIEF

26. Defendant violated the Rule as described above with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).
27. Each collection, use, or disclosure of a child's personal information in which Defendant violated the Rule in one or more of the ways described above, constitutes a separate violation for which Plaintiff seeks monetary civil penalties.
28. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$16,000 for each such violation of the Rule on or after February 10, 2009.
29. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction against Defendant's violations of the FTC Act, as well as such ancillary relief as may be just and proper.

PRAYER

WHEREFORE, plaintiff United States of America, pursuant to Sections 5(a)(1), 5(m)(1)(A), 13(b) and 16(a) of the FTC Act, 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b) and 56(a), and the Court's own equitable powers, requests that the Court:

- (1) Enter a permanent injunction to prevent future violations of the FTC Act and the COPPA Rule by Defendant;
- (2) Award Plaintiff monetary civil penalties from Defendant for each violation of the Rule alleged in this Complaint; and
- (3) Award such other and additional relief as the Court may determine to be just and proper.


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