Why Parents Help Their Children Lie to Facebook About Their Age
COPPA and the Unintended Consequences of Age-Based Regulations

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Berkeley Law Privacy Forum
April 26, 2012
COPPA: A Well-Meaning Law

- Enacted in 1998; finalized in 2000 by FTC Rule
- Commercial websites that target children <13 or have actual knowledge of users <13
- Must obtain affirmative parental consent for data collection and use
User Agreement

Effective Date: January 19, 2011

Introduction

Welcome to Webkinz.com (the "Website"). This Website is owned and operated by Ganz, an Ontario partnership, which is located at One Pearce Road, Woodbridge, Ontario, Canada L4L 3T2. If you have any questions relating to this Website, they can be sent to the attention of our Customer Service Representative at this address. You may also contact Ganz by email at webkinzsupport@ganz.com.

Through this Website, you may register, care for and personalize your Webkinz pets ("Webkinz") and activate Webkinz-related products and services.

PLEASE READ THIS USER AGREEMENT (the "User Agreement") CAREFULLY. BY CLICKING THE "I ACCEPT" BUTTON BELOW OR THROUGH YOUR CONTINUED USE OF THIS WEBSITE, YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS USER AGREEMENT. IF YOU ARE UNDER THE AGE OF 18 OR THE AGE OF MAJORITY IN YOUR JURISDICTION, YOUR PARENT OR LEGAL GUARDIAN MUST AGREE TO THE TERMS OF THIS USER AGREEMENT BEFORE YOU MAY USE THE WEBSITE. IF YOU AND, IN THE CASE OF MINORS, YOUR PARENT OR LEGAL GUARDIAN, DO NOT AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS USER AGREEMENT, YOU ARE NOT PERMITTED TO USE OR ACCESS THIS WEBSITE. PLEASE PRINT A COPY OF THIS USER AGREEMENT FOR YOUR RECORDS.
Industry Responses to COPPA

4. Registration and Account Security

Facebook users provide their real names and information, and we need your help to keep it that way. Here are some commitments you make to us relating to registering and maintaining the security of your account:

1. You will not provide any false personal information on Facebook, or create an account for anyone other than yourself without permission.
2. You will not create more than one personal profile.
3. If we disable your account, you will not create another one without our permission.
4. You will not use your personal profile for your own commercial gain (such as selling your status update to an advertiser).
5. You will not use Facebook if you are under 13.
6. You will not use Facebook if you are a convicted sex offender.
7. You will keep your contact information accurate and up-to-date.
8. You will not share your password, (or in the case of developers, your secret key), let anyone else access your account, or do anything else that might jeopardize the security of your account.
9. You will not transfer your account (including any page or application you administer) to anyone without first getting our written permission.
10. If you select a username for your account we reserve the right to remove or reclaim it if we believe appropriate (such as when a trademark owner complains about a username that does not closely relate to a user’s actual name).
Industry Responses to COPPA

Report an Underage Child

If you believe there is a child under the age of 13 using Facebook, please use this form to file a report.

- **URL of the profile you'd like to report**
- **Full name of the person you'd like to report**
- **Email address listed on the profile**
- **Networks the person belongs to**
  (Ex: San Francisco, CA)
- **Actual age of the child**
- **Your relationship to the user**
Terms of Service

Last Updated: January 4, 2012

Ning, Inc. ("Ning", "we" or "us") is an online service provider that provides a set of services and technology applications that enable users to create their own Networks utilizing our technology platform (the "Ning Platform"). Ning is not involved in the management of Networks on the Ning Platform and is not involved in the decisions relating to the focus of Networks or the Content uploaded or published to Networks using the Ning Platform. These are your Networks and, as a Network Creator, you are responsible for managing them in all respects (including the actions, conduct, and Content of Your Members) in compliance with these Terms of Service ("Terms of Service" or "Agreement").

The Ning Platform is not directed to children younger than 13 and is offered only to users 13 years of age or older. If you are under 13 years old, please do not use the Ning Platform. Any person who provides their personal information through the Ning Platform represents to us that they are 13 years of age or older.
Industry Responses to COPPA

12. Ability to Accept Terms of Service
You affirm that you are either more than 18 years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms of Service, and to abide by and comply with these Terms of Service. In any case, you affirm that you are over the age of 13, as the Service is not intended for children under 13. If you are under 13 years of age, then please do not use the Service. There are lots of other great web sites for you. Talk to your parents about what sites are appropriate for you.
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Read Pandora's Privacy Policy

To make it a bit easier to digest our Terms of Use, we thought we’d start by highlighting in plain English some of the issues. This summary is not a legal document. Of course you'll want to read the complete Terms of Use, but here is what we think is important:

Terms:

- Because of the way our content licensing works, you have to live in the United States to use Pandora. You also have to be at least 13 years old. Pandora can only be used if you are in the United States.
- We expect you to keep your account password to yourself.
- Except as set forth below in Section 2.1, Pandora is for personal use only. That means you can't play Pandora for the patrons in your bar, coffee shop, etc.
- You can't use Pandora to steal music or other content, and you have to listen to it through pandora.com or on a device officially supported by Pandora.
- Do not use Pandora if you do not agree to the Terms of Use. Your use of Pandora means you agree to the Terms of Use.
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Welcome to the User Agreement for Change.org. This agreement applies to all users of our service. In order to become a member, you must agree to all of the terms and conditions of this agreement. In the event of any inconsistency between the Change.org Privacy Policy and these terms, the User Agreement shall control. Nothing in this Agreement shall be construed as a third-party beneficiary to this Agreement.

Eligibility

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A. ITUNES STORE TERMS AND CONDITIONS
B. MAC APP STORE, APP STORE AND iBOOKSTORE TERMS AND CONDITIONS
C. PRIVACY POLICY

A. ITUNES STORE TERMS AND CONDITIONS

THE LEGAL AGREEMENT BETWEEN YOU AND APPLE INC, (“APPLE”) SET OUT BELOW GOVERNS YOUR USE OF THE ITUNES STORE SERVICE (THE “ITUNES SERVICE”). TO AGREE TO THESE TERMS, CLICK “AGREE.” IF YOU DO NOT AGREE TO THESE TERMS, DO NOT CLICK “AGREE,” AND DO NOT USE THE SERVICE.

THE ITUNES STORE SERVICE

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REQUIREMENTS FOR USE OF THE ITUNES SERVICE

This iTunes Service is available for individuals aged 13 years or older. If you are 13 or older but under the age of 18, you should review this Agreement with your parent or guardian to make sure that you and your parent or guardian understand it.
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Industry Responses to COPPA

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BEYOND THE BOX BLOG

Charlie 13 Premieres on FUTURESTATES
posted yesterday

Bhutto Producer Mark Siegel Reflects on Benazir Bhutto

NOW SHOWING

TV (72)  Screenings (70)  Online (142)

Facing the Storm: Story of the American Bison
Premiering nationally
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Children under the age of 13 may not use the site and parents or legal guardians may not agree to these Terms of Use on their behalf. If we become aware that a child under 13 has provided or attempted to provide us with personal information, we will use our best efforts to remove the information permanently from our files.

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Industry Responses to COPPA
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CrunchBase General Terms of Use

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PLEASE READ THESE TERMS OF SERVICE CAREFULLY AS THEY CONTAIN IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS, REMEDIES AND OBLIGATIONS.

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A Tale of Two Internets
Children’s Responses to Industry
Children’s Responses to Industry

- Pew Research (2010): 46% of 12 y.o. on SNS
- Pew Research (2011): 45% of 12 y.o. on SNS
  - 44% of teens admit lying about age to access SNS
- EU Kids Online (2010):
  - 31% of 10 y.o. on SNS
  - 44% of 11 y.o. on SNS
  - 55% of 12 y.o. on SNS
Children’s Responses to Industry

  - 3.6 of Facebook’s 153 million monthly users <12
- *Consumer Reports* (2011)
  - Of 20 million minors who actively used Facebook in the last year, 7.5 million <13
- Raises serious ethical and legal questions
  - Normative propriety of regularly violating TOS
  - Potential civil and criminal liability under CFAA
Our Study: What about parents?

- danah boyd, Microsoft Research
- Eszter Hargittai, Northwestern University
- John Palfrey, Harvard Law – Berkman Center

- What do parents know?
- What do parents think?
- What do parents want?
### Findings

Table 4: Mean age when child joined Facebook, and parental awareness and assistance of account creation (among parents who report child with Facebook account).

*Note: N=506.*

<table>
<thead>
<tr>
<th>Child’s current age</th>
<th>10</th>
<th>11</th>
<th>12</th>
<th>13</th>
<th>14</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mean age child joined Facebook</td>
<td>8.9</td>
<td>10.0</td>
<td>11.1</td>
<td>12.1</td>
<td>11.7</td>
</tr>
<tr>
<td>Parent was aware when child signed up</td>
<td>95%</td>
<td>88%</td>
<td>82%</td>
<td>82%</td>
<td>88%</td>
</tr>
<tr>
<td>Parent helped create the account</td>
<td>78%</td>
<td>68%</td>
<td>76%</td>
<td>60%</td>
<td>47%</td>
</tr>
</tbody>
</table>
### Table 7: Parents’ willingness to allow their child to create an account in violation of the minimum age requirement.

*Note: N=1,007.*

<table>
<thead>
<tr>
<th>Reason</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, for any listed reason (net)</td>
<td>78%</td>
</tr>
<tr>
<td>Yes, for educational or school related purposes</td>
<td>54%</td>
</tr>
<tr>
<td>Yes, to communicate other family members</td>
<td>48%</td>
</tr>
<tr>
<td>Yes, to communicate with me</td>
<td>47%</td>
</tr>
<tr>
<td>Yes, to communicate with friends</td>
<td>22%</td>
</tr>
<tr>
<td>Yes, because their classmates use the service</td>
<td>9%</td>
</tr>
<tr>
<td>Yes, but only under supervision</td>
<td>50%</td>
</tr>
<tr>
<td>No, I would never allow it</td>
<td>22%</td>
</tr>
</tbody>
</table>
## Findings

### Table 9: Parents’ perception of appropriate age for a typical child to join Facebook.

Note: N=1,007.

<table>
<thead>
<tr>
<th></th>
<th>Child joined Facebook when under minimum age (N=363)</th>
<th>Child joined Facebook not under the minimum age (N=144)</th>
<th>Child 10–12, not on Facebook (N=400)</th>
<th>Child 13 or 14, not on Facebook (N=100)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appropriate age for a typical child to join Facebook</td>
<td>12.4</td>
<td>13.2</td>
<td>13.9</td>
<td>14.2</td>
</tr>
</tbody>
</table>
## Findings

### Table 11: Parents' opinion about who should decide whether or not a child can access Web sites and online services.

Note: N=1,007; Due to rounding, the percentages listed in this table add up to 101%.

<table>
<thead>
<tr>
<th>Who should have the final say about whether or not your child should be able to use Web sites and online services?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Parents</td>
<td>93%</td>
</tr>
<tr>
<td>Company providing the service</td>
<td>3%</td>
</tr>
<tr>
<td>Government</td>
<td>2%</td>
</tr>
<tr>
<td>The child</td>
<td>2%</td>
</tr>
<tr>
<td>Other</td>
<td>1%</td>
</tr>
</tbody>
</table>
Conclusions

- Parents value privacy but do not want their children’s online access restricted
- COPPA’s “bright line” age-based cut-off encourages sites to ban <13 kids
- Kids and parents must lie to gain access
  - In doing so, they give up COPPA’s privacy protections, perhaps even unknowingly
  - Result: data on millions of kids being collected and used without affirmative parental consent
Recommendations

- Do not legislation based on bright-line rules around age or any other demographic
  - FTC COPPA Rulemaking
  - Do Not Track Kids Act of 2011, H.R. 1895
- We all need privacy protection, not just kids
  - (Hoofnagle and King, 2008)
- Universal privacy protections w/o bright lines might avoid these unintended consequences
Q&A

Thank You!

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