

## Policy Efforts to Protect Children Online Take New Tack, Say Observers

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Industry needs to show legislators and regulators the progress it's making in creating technical tools for Internet users to protect their privacy, said Jules Polonetsky of the Future of Privacy Forum, in a Family Online Safety Institute discussion of online safety and privacy. Simply saying regulation will "break" behavioral advertising and expecting legislators not to legislate isn't going to work anymore, he said: "We need to give them some meat or we'll just be reacting." Frank Torres of Microsoft agreed the burden is on industry to show its efforts. But with states jumping in with their own privacy legislation, sooner or later one will pass a law that will break the Internet, he said.

In the wake of several task forces on online children's safety, there seems to be growing recognition of the downsides to age verification, said Adam Thierer of the Center for Digital Media Freedom at the Progress & Freedom Foundation. He said the first round of the "age verification wars" has ended, but the second phase has just begun, and it involves legislators who see the Children's Online Privacy Protection Act as a back door to require age verification. He sees more often the convergence at the state level of COPPA and COPA, the Child Online Protection Act thrown out by the courts. The problem, said Berin Szoka, director of the Center for Internet Freedom at PFF, is that COPPA works well now but it won't if the age range is raised or companies start feeling pressure to verify all users. Once the knowledge standard is changed, as Maine has done by passing a law that makes companies responsible, regardless of whether they know they're dealing with a minor or a Maine resident, the law becomes COPA, because companies will need to verify all users to identify those under 18, he said.

Denise Tayloe, CEO of Privo, which handles parental consent for Web sites and is a safe-harbor provider under COPPA, said she wants legislation that would make it illegal for adults to impersonate minors with the intent to cause harm. The identity hijacking legislation that has appeared has covered only posing as a real person, not creating a false persona, Szoka said. Tayloe said companies that want to offer sites for children face huge liability risks. Protecting children is a great expense for small companies that don't have the staff and expertise of a News Corp. or Microsoft, she said. Sites want to provide an advertising-free experience for children, because so many advocates fiercely oppose kids advertising, but moderating sites takes money and the few subscription members don't cover the many free ones. She also cautioned against making the "false sense of security" argument against age verification, saying it puts child-oriented Web sites in a no-win situation. Thierer said he has made the argument about a false sense of security but against across-the-board requirements of age verification. Small walled gardens can be reasonably secure, he said, but that principle won't extend to the entire Internet, and that's where the false sense of security comes in.

The discussion briefly took up the FTC's upcoming review of COPPA and virtual worlds. The lawyer who's the commission's point person on those subjects couldn't attend the session. In his absence, Szoka said he has heard speculation that there could be requirements to create special teen versions of social networking sites, much as Second Life has done. Alternatively, social networking sites could decide to assume that every user is a minor, unless the user chooses to verify himself as an adult, Tayloe said. -- Leslie Cantu