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FTC Approves iKeepSafe Program as COPPA Safe Harbor

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The Federal Trade Commission (FTC) has approved iKeepSafe as a self-regulatory “safe harbor” program under the Children’s Online Privacy Protection Act (COPPA). The FTC’s COPPA Rule requires, among other things, that online sites, apps, and services that knowingly collect personal information from children or that are directed at children under the age of 13 provide notice of their collection practices and obtain verifiable parental permission before collecting any information from users. The Rule’s safe harbor provision invites industry participants to design self-regulatory oversight programs, which may then be implemented after FTC review, as well as a public notice and comment period. The iKeepSafe safe harbor program is the seventh program of its kind to receive FTC approval.

To be approved, safe harbor programs must provide protections “equal or greater than” those contained in the COPPA Rule. They must also incorporate effective enforcement mechanisms for online operators participating in the safe harbor programs as well as “effective incentives for operators’ compliance with the guidelines” and “an adequate means for resolving consumer complaints.” While all online operators remain subject to the FTC’s enforcement authority, those that adhere to the guidelines of an approved

safe harbor program such as iKeepSafe are deemed in compliance with COPPA and essentially insulated from FTC enforcement action as long as they comply with program requirements. Participating operators are subject to the safe harbor program’s review, and those that fail to comply are first subject to the safe harbor’s disciplinary program rather than FTC investigation and enforcement actions.

Companies offering online services should seek guidance concerning COPPA compliance—even as to whether, as a primary matter, their site is “directed at” children for the purposes of the statute. While joining a safe harbor program reduces the risk of formal enforcement actions, companies need to ensure that they remain apprised of changes to the COPPA Rule and comply fully with both the law and safe harbor program guidelines.

For more information about data compliance strategies and using children’s information, contact [leuan Jolly](#) (212.407.4810) or [Nerissa McGinn](#) (312.464.3130).

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