

## FTC Approves Knowledge-Based Authentication As COPPA-Compliant Method of Verifying Parental Consent

On December 23, 2013, the Federal Trade Commission (“FTC”) announced that it accepted an alternative authentication method for obtaining verifiable parental consent in accordance with the recently amended Children’s Online Privacy Protection Rule (the “COPPA Rule”).

The COPPA Rule requires operators of certain websites and online services to obtain a parent’s consent prior to the online collection and use of personal information from a child under the age of 13.

In addition to the acceptable methods for obtaining verifiable parental consent (“VPC”) enumerated in the COPPA Rule—including provision of a consent form to be signed by a parent and returned by mail or fax, requiring parents to use a credit card in a transaction, having parents call a toll-free number, consent by video conference, and so-called “email plus”—, the COPPA Rule also allow entities to propose their own VPC method for approval by the FTC.

On September 9, 2013, Imperium, LLC (“Imperium”) submitted its knowledge-based authentication (“KBA”) VPC method, ChildGuardOnline, for FTC approval. Under Imperium’s KBA

system, a parent is required to provide answers to a series of multiple-choice challenge questions—which rely on so-called “out-of-wallet” information (*i.e.*, information not commonly available or typically found in a person’s wallet)—before his or her child is allowed to use a web or mobile site.

In its [letter](#) to Imperium, the FTC stated that Imperium’s KBA method is an acceptable means of obtaining verifiable parental consent as it is “reasonably calculated. . . to ensure that the person providing consent is the child’s parent.” In this regard, the FTC observed the widespread use of KBA as an authentication tool in the banking industry, and by various government agencies, including the FFIEC and the FTC itself.

According to the FTC, however, not all KBAs are created equal. To be deemed a COPPA-compliant VPC method, the KBA must be “appropriately implemented” and include the use of:

- dynamic, multiple-choice questions with a reasonable number of possible answers such that the probability of correctly guessing the answers is low; and

- 
- questions of sufficient difficulty so that a child age 12 or under in the parent’s household could not reasonably determine the answers.

(Given how tech-savvy our little tykes have become, common security questions like “What High School Did You Go To?” or “What Is Your Maternal Grandmother’s Maiden Name?” should probably be re-examined.)

It should be emphasized that the FTC’s approval of KBA is general, and is not limited to Imperium’s specific KBA implementation or proprietary system. In other words, other parties are similarly permitted to utilize identity verification procedures via KBA to achieve COPPA compliance.

Interestingly, this approval arrives only a month after FTC’s rejection of AssertID, Inc.’s “social-graph verification” as a COPPA-compliant method of verifying parental consent, which proposed using feedback from “friends” on social networks to verify the identity of the parent and the existence of the parent-child relationship. In its [letter](#) to AssertID, the FTC stated that AssertID “failed to provide sufficient evidence” that its proposal would ensure that the person providing consent is the child’s parent. In particular, the FTC cited a lack of “relevant research” and “marketplace evidence” demonstrating that social-graph verification is “reasonably calculated, in light of available technology, to ensure that the

individual providing consent is the child’s parent.”

## Key Takeaways

In comparing AssertID’s rejected social-graph verification method with Imperium’s approved knowledge-based authentication method, we can safely conclude that future proposed VPC methods are more likely to be approved if there is a history of widespread adoption and success, ideally in both the private and governmental spheres.

In the meantime, operators of websites, mobile apps, and other online services directed towards children under age 13 should make appropriate adjustments to their policies and practices to ensure ongoing COPPA compliance, including obtaining verifiable parental consent in an FTC-approved manner.

---

If you have any questions about this article, please contact:

Robert McHale, Esq.  
R | McHale Law  
9 West Broadway, Suite 422  
Boston, MA 02127  
Tel. 617.306.2183  
Email: [robert.mchale@rmchale.com](mailto:robert.mchale@rmchale.com)



*DISCLAIMER: The contents of this publication are not intended, and cannot be considered, as legal advice or opinion. The contents are intended for general informational purposes only, and you are urged to consult an attorney concerning your situation and any specific legal questions you may have.*