FROM MICROTRENDS TO MACROHARMS:

RETHINKING PRIVACY PROTECTIONS FOR TEENS IN FASHION E-COMMERCE

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INTRODUCTION

In the fashion industry, few forces are as influential or fast-moving as teenage consumers.[1] From the Youthquake movement of the 1960s to today's viral TikTok microtrends, their reach extends well beyond purchasing power.[2] Teenagers drive trends, influence marketing strategies, and redefine how and why consumers shop online.[3] This influence is chiefly evident in the rise of social commerce, where platforms like Instagram and TikTok blur the boundaries between entertainment, advertising, and shopping.[4] Within these spaces, fashion has become increasingly data-driven. Brands deploy personalization tools and targeted content to foster deeper connections with teen audiences, delivering curated shopping experiences that feel both seamless and social.[5]

The structure of these digital marketplaces, designed to maximize user engagement, also shapes how users navigate, interact with, and respond to content.[6] Features such as limited-

1. Elodie Gentina, L.J. Shrum & Tina M. Lowrey, *Teen Attitudes Toward Luxury Fashion Brands From a Social Identity Perspective: A Cross-Cultural Study of French and U.S. Teenagers*, 69 J. BUS. RES. 5785, 5785 (2016) ("Teens are a very important market, both because of their current consumer spending power and their future spending as adults.").

2. Diana Vreeland, Vogue editor-in-chief, coined the term in 1965 "to emphasize the dramatic shift towards youth-centered media and culture that was happening across the globe." *See* Gianna M. Zanzi, *Colorful, Weird, and Wonderful: The Influences of Subculture on the Fashion of the 1960s* 2 (2021) (B.F.A. thesis, Portland State University), https://pdxscholar.library.pdx.edu/honorstheses/1080/ [https://perma.cc/X2TE-9RQL]; *see also* Diti Shah, *The Impact of Social Media on Fashion Trends: Instagram vs. TikTok*, FIBRE2FASHION (Nov. 2024), https://www.fibre2fashion.com/industry-article/10214/the-impact-of-social-media-on-fashion-trends-instagram-vs-tiktok [https://perma.cc/W8ZE-TC2V] [hereinafter *Fashion Trends*] (demonstrating that as of July 2024, TikTok's fast-paced algorithm-driven trend cycle encourages rapid fashion experimentation and fleeting viral styles).

3. Teenager will be used interchangeably with the terms "teen" and "adolescent" throughout the article. *See* Zephrin Lasker, *How Teens Win Brands and Influence Trends*, RETAIL MINDED (June 4, 2017), https://retailminded.com/how-teens-win-brands-and-influence-trends [https://perma.cc/MA2B-CZD6].

4. One of TikTok's most impactful contributions to the fashion industry is its ability to democratize style, as it allows users from all backgrounds to join challenges, showcase personal looks, and spark viral trends. The platform's algorithm rewards creativity and engagement over follower count, giving rise to micro-influencers and trendsetting everyday users. *See Fashion Trends*, *supra* note 2.

5. Maghan McDowell, *Instagram, Facebook, Snapchat, TikTok: The Social Shopping Race*, VOGUE BUS. (June 1, 2021), https://www.voguebusiness.com/technology/instagram-facebook-snapchat-tiktok-the-social-shopping-race [https://perma.cc/5LCG-UESP].

6. *Id.*; EvinceDev, *The Psychology of User Engagement: Designing Addictive Software Solutions*, MEDIUM (Feb. 1, 2024), https://medium.com/%40evincedevelop/the-psychology-of-user-engagement-designing-addictive-software-solutions-e99d3a61beac [https://perma.cc/R2DY-GJEY] (describing how user engagement plays a pivotal role in the success of software solutions, shaping user satisfaction, retention, and overall revenue performance).

time offers, streamlined checkout processes, and buy now, pay later (BNPL) options are engineered to encourage quick, frequent purchasing.[7] While effective at boosting sales, these design choices raise questions about how digital architecture influences younger users' decision-making.[8] The reliance on behavioral data and persuasive interface design undermines transparency, informed choice, and data privacy.[9] As fashion e-commerce evolves, it presents a timely opportunity to reassess regulatory frameworks and consider how they might better protect teen consumers navigating increasingly complex digital marketplaces.

Notwithstanding their central role in shaping online retail, teenagers are among the least protected groups in digital commerce.[10] Platforms such as TikTok Shop and Instagram Shop have introduced new modes of brand-consumer interaction that existing legal frameworks were not designed to anticipate.[11] The Children's Online Privacy Protection Act (COPPA), designed to safeguard the data of children under thirteen,[12] does not extend protections to teenagers, leaving them vulnerable to extensive data collection, targeted advertising, and algorithmic profiling

7. BNPL programs offer short-term, typically interest-free, financing by allowing consumers to split purchases into four equal payments, due every two weeks. *See* Zhu Wang, *Buy Now, Pay Later: Market Impact and Policy Considerations*, FED. RSRV. BANK RICHMOND ECON. BRIEF, No. 25-03 (Jan. 2025), https://www.richmondfed.org/publications/research/economic_brief/2025/eb_25-03 [https://perma.cc/FB6D-UCC8]; *see also* CONSUMER FIN. PROT. BUREAU, BUY NOW, PAY LATER: MARKET TRENDS AND CONSUMER IMPACTS 3 (Sept. 2022), https://files.consumerfinance.gov/f/documents/cfpb_buy-now-pay-later-market-trends-consumer-impacts_report_2022-09.pdf [https://perma.cc/N8A4-R45W] (finding that the number of BNPL loans originated in the United States by the five top lenders increased from 16.8 million to 180 million between 2019 and 2021).

8. Matt Ryan Webber, *Why Gen Z Consumers Prefer "Buy Now, Pay Later,"* INVESTOPEDIA (Nov. 1, 2022, 17:55 EDT), https://www.investopedia.com/why-gen-z-prefers-buy-now-pay-later-6823276 [https://perma.cc/LXP6-SRTX] (finding that approximately 60 percent of consumers, particularly younger consumers, report preferring BNPL over credit cards).

9. *See* Dan Milmo, *AI tools may soon manipulate people's online decision-making, say researchers*, GUARDIAN (Dec. 29, 2024, 19:01 EST), https://www.theguardian.com/technology/2024/dec/30/ai-tools-may-soon-manipulate-peoples-online-decision-making-say-researchers [https://perma.cc/6FWH-YQRE] (reporting on University of Cambridge research warning that AI tools could soon be used to manipulate online decision-making based on "intentional, behavioural and psychological data").

10. Elizabeth Denham, Lothar Determann & Jonathan Tam, *Kids' and teens' online privacy and safety: 8 compliance considerations*, IAPP (Aug. 28, 2023), https://iapp.org/news/a/kids-and-teens-online-privacy-and-safety-8-compliance-considerations [https://perma.cc/22F4-XAKR] (explaining that regulators globally have enhanced enforcement of privacy laws that protect minors online).

11. *Fashion Trends*, *supra* note 2.

12. Children's Online Privacy Protection Act (COPPA), 15 U.S.C. §§ 6501–6506.

techniques.[13] The Children and Teens' Online Privacy Protection Act (COPPA 2.0) seeks to expand privacy protections to older minors.[14] Questions persist, however, about whether existing frameworks adequately address challenges such as algorithmic targeting, AI-driven recommendations, and engagement-focused platform design.[15]

Using fashion e-commerce as a case study, the analysis that follows examines the economic significance of teen consumers, the privacy risks they face in digital retail environments, and the adequacy of current and proposed legal protections. Part I traces the emergence of teenagers as a distinct consumer group and examines how marketing strategies have increasingly targeted this demographic. Part II analyzes how data-driven tools, including algorithmic personalization and in-app shopping features, interact with adolescent cognitive development and influence consumer behavior. Part III evaluates the existing legal landscape, focusing on COPPA and COPPA 2.0, and identifies critical gaps in age coverage, enforcement, and applicability to modern technologies. Part IV proposes targeted regulatory reforms, including expanded age protections and enhanced age verification requirements. Part V examines the practical implications of these reforms, demonstrating how stronger privacy protections for teens can coexist with commercial goals. In doing so, this article contributes to broader policy discussions on adolescent data privacy and the evolving responsibilities of companies operating in youth-centered digital markets.

13. Experts have observed that teenagers are more inclined to take risks than younger children yet less equipped than adults to navigate online threats effectively. *See* Eric Reicin, *Teens Online: Responsible Data Considerations For Business Leaders*, FORBES (Aug. 25, 2022, 7:00 AM EDT), https://www.forbes.com/councils/forbesnonprofitcouncil/2022/08/25/teens-online-responsible-data-considerations-for-business-leaders/ [https://perma.cc/Z65Y-WFHR]; *see also* Kyle Fath & Alan Friel, *Trending: Teens' Data Subject to Heightened Restrictions Under Ten (and Counting?) State Privacy Laws*, SQUIRE PATTON BOGGS: PRIVACY WORLD (June 11, 2024), https://www.privacyworld.blog/2024/06/trending-teens-data-subject-to-heightened-restrictions-under-ten-and-counting-state-privacy-laws/ [https://perma.cc/CC96-93GD].

14. Children and Teens' Online Privacy Protection Act, S. 836, 119th Cong. (as passed by Senate, March 5, 2026); Press Release, Office of Sen. Edward J. Markey, *Senators Markey and Cassidy Reintroduce Children and Teens' Online Privacy Protection Legislation* (Mar. 4, 2025), https://www.markey.senate.gov/news/press-releases/senators-markey-and-cassidy-reintroduce-children-and-teens-online-privacy-protection-legislation [https://perma.cc/9CEP-L679] [hereinafter *Markey-Cassidy Press Release*] ("COPPA 2.0 is the tool that will give parents the peace of mind they need and keep their children's personal information secure.").

15. Jennifer Huddleston & Christopher Gardner, *Is COPPA 2.0 Just an Update for the 21st Century?*, CATO INST. BLOG (Mar. 19, 2026, 12:45), https://www.cato.org/blog/coppa-20-just-update-21st-century [https://perma.cc/26FC-YR2G].

I. BACKGROUND ON TEENS IN THE FASHION INDUSTRY

A. *The Rise of the Teen Consumer: A Historical Overview*

The concept of the teenager as a distinct social and economic group is a relatively modern development, emerging in the mid-twentieth century through a convergence of economic growth, media expansion, technological change, and shifts in education and labor.[16] This evolution built on earlier retail strategies that segmented childhood into marketable stages, with teens recognized as a discrete consumer group by the 1930s and 1940s.[17]

Before World War II, adolescence was not widely viewed as a separate life stage.[18] Individuals moved directly from childhood to adulthood, a transition evident in fashion norms, where children and teens wore scaled-down versions of adult clothing, reinforcing traditional roles and constraining self-expression.[19] Although some variations in children's clothing appeared by the late nineteenth century, no distinct teen market existed, nor was teen style recognized as a category.[20] With the rise of "pediocularity"—the commercial construction of the child's point of view—the industry began to treat youth style as autonomous and commercially viable.[21]

Postwar economic prosperity, driven by rising household incomes, expanded educational access, and greater job opportunities, prolonged adolescence and enabled teenagers to emerge as an independent consumer group.[22] With less pressure to

16. Thomas Hine, *The Rise and Decline of the Teenager*, AM. HERITAGE (Sept. 1999), https://www.americanheritage.com/rise-and-decline-teenager [https://perma.cc/5FPE-3CF9].

17. DANIEL THOMAS COOK, THE COMMODIFICATION OF CHILDHOOD: THE CHILDREN'S CLOTHING INDUSTRY AND THE RISE OF THE CHILD CONSUMER 37, 96 (2004).

18. *Id.* at 127; *see generally* Derek Thompson, *A Brief History of Teenagers*, SATURDAY EVENING POST (Feb. 13, 2018), https://www.saturdayeveningpost.com/2018/02/brief-history-teenagers/ [https://perma.cc/2QTL-WC6X] (explaining that the term "teenager" originated in the early 1900s but remained largely absent from the popular press until World War II).

19. *See* COOK, *supra* note 17, at 127–29; Jacklyn DeVito, *Mini Portraits: An Exploration of Childrenswear in the Nineteenth and Early Twentieth Centuries*, CORN. FASHION & TEXTILE COLLECTION (Apr. 4, 2018), https://blogs.cornell.edu/cornellcostume/2018/04/04/mini-portraits-an-exploration-in-childrenswear-of-the-nineteenth-and-early-twentieth-centuries/ [https://perma.cc/54AM-UZHP].

20. DeVito, *supra* note 19; *see* COOK, *supra* note 17, at 127–28.

21. COOK*, supra* note 17, at 96.

22. Tamim Bayoumi, *The Postwar Economic Achievement*, 32 IMF FIN. & DEV. 48 (1995); COOK, *supra* note 17, at 127–28; *see also* Ben Cosgrove, *The Invention of Teenagers: LIFE and the Triumph of Youth Culture*, TIME (Sept. 28, 2013), https://time.com/3639041/the-invention-of-teenagers-life-and-the-triumph-of-youth-culture/ [https://perma.cc/MQY7-NW77].

enter the workforce early and greater access to disposable income through allowances and part-time jobs, teenagers gained newfound financial independence and leisure time, helping drive spending on entertainment and fashion.[23] Unlike earlier generations, they used this autonomy to forge a distinct fashion identity, establishing adolescence as a critical stage of consumer culture.[24]

The fashion industry responded quickly, targeting teenagers in its marketing and tailoring products to their tastes.[25] In 1944, *Life* magazine documented teenagers as a social phenomenon, describing teen girls as "liv[ing] in a world all their own," an early recognition of youth as an emerging cultural and consumer force.[26] This momentum accelerated in the 1960s with the Youthquake movement, as young people began shaping fashion trends rather than following those set by couture houses.[27] Ready-to-wear styles surged in popularity, and London's street style influenced American retailers, who collaborated with British designers to introduce miniskirts, bold prints, and casual silhouettes.[28] Luxury brands increasingly turned their attention to younger buyers, while American department stores institutionalized "junior" fashion departments, creating spaces where teenagers were positioned as legitimate style authorities and economic agents.[29]

Throughout the late twentieth century, teenagers continued to shape fashion, with each decade introducing new aesthetics tied to subcultures and media.[30] The 1980s popularized "power dressing," marked by bold colors and shoulder pads, while the 1990s embraced a more relaxed, anti-establishment aesthetic influenced by grunge and streetwear.[31] By the early 2000s, the internet accelerated trend

23. COOK, *supra* note 17, at 128–29; Thompson, *supra* note 18; *see* Cosgrove, *supra* note 22.

24. COOK, *supra* note 17, at 143; *see also* DeVito*, supra* note 19 (describing how childrenswear illustrated the norms and value of the time).

25. *An introduction to 1960s fashion*, VICTORIA & ALBERT MUSEUM (Apr. 17, 2024), https://www.vam.ac.uk/articles/an-introduction-to-1960s-fashion [https://perma.cc/X7DD-UY6U].

26. Cosgrove, *supra* note 22.

27. Zanzi, *supra* note 2; Janet Hargrove, *The Birth of Teenage Fashion: Youth Culture in the 1950s and 60s*, TIMELESS FASHION HUB, https://timelessfashionhub.com/modern-fashion/20th-century/the-birth-of-teenage-fashion-youth-culture-in-the-1950s-and-60s/ [https://perma.cc/HHL5-DKMD].

28. *See An introduction to 1960s Fashion*, *supra* note 25.

29. ANNA CABIGIOSU, AN OVERVIEW OF THE LUXURY FASHION INDUSTRY, IN DIGITALIZATION, *in* THE LUXURY FASHION INDUSTRY: STRATEGIC BRANDING FOR MILLENNIAL CONSUMERS 12–13 (2020); *see also* Gentina, Shrum & Lowrey, *supra* note 1, at 5785 (noting that teenagers represent a significant force in the global luxury market, with U.S. adolescents alone spending over $220 billion annually, largely on clothing and fashion); COOK, *supra* note 16, at 129–36.

30. Hargrove, *supra* note 27.

31. Lilah Ramzi, *A 1980s Fashion History Lesson: Lycra, Power Suits, and Clothing as Concept*, VOGUE (May 20, 2024), https://www.vogue.com/article/1980s-fashion-

cycles, allowing teenagers to influence fashion in real time through online forums, early social media, and fast-fashion retailers.[32]

Today, teenagers remain central to the fashion industry, having evolved from consumers to trendsetters.[33] Digital platforms such as TikTok, Instagram, and YouTube allow teens to shape aesthetics instantaneously, fueling the rapid rise of microtrends.[34] Trends such as "Brat Summer," embracing a bold, chaotic Y2K-inspired style, and the "Clean Girl" aesthetic, with its emphasis on minimalism and quiet luxury, illustrate how youth-driven styles achieve global traction almost overnight.[35] Meanwhile, queer teens and younger men have championed aesthetics like "Soft Masculinity," blending feminine silhouettes, pastel tones, and expressive styling to challenge traditional gender norms.[36] In this

history-lesson [https://perma.cc/9JFB-ELNH]; Justine Carreon, *Talking With Self-Proclaimed 'Mall Rat' Carol Lim About Bringing Esprit Back to Opening Ceremony*, ELLE (Apr. 28, 2017), https://www.elle.com/fashion/shopping/a44819/opening-ceremony-esprit-collaboration-carol-lim-interview/ [https://perma.cc/M3QY-3QD3] (noting Espirit's bold color-blocking and pastel prints as hallmarks of '80s mall fashion that later gave way to more casual, accessible styles).

32. Luther Kington Nwobodo, *The Importance of Data Analytics in Modern Fashion Industry*, 1 (5) GLOB. J. ECON. & FIN. RSCH. 80 (2024) (discussing how the expansion of the internet and social media enabled faster trend cycles by allowing real-time tracking of consumer behavior and preferences); *see also A Vogue Runway 21st-Century Time Machine*, VOGUE (Jan. 3, 2025), https://www.vogue.com/article/vogue-runway-survey-of-fashion-in-the-21st-century [https://perma.cc/AK6D-6ZSN] (noting that Style.com's 2000 launch brought runway shows online, marking an early step toward democratizing access to designer fashion, after which Vogue Runway launched in 2015).

33. Alina Selyukh & Isabella Gomez Sarmiento, *Social media is deciding trends at breakneck pace, and it's fueling fast fashion*, NPR (Aug. 7, 2022, 8:17 AM ET), https://www.npr.org/2022/08/07/1116218375/social-media-is-deciding-trends-at-breakneck-pace-and-its-fueling-fast-fashion [https://perma.cc/P4X8-WPV5].

34. *Id.* (highlighting how platforms like TikTok have accelerated the fashion trend cycle, fueling the rapid rise and fall of microtrends and driving overconsumption).

35. Amy Francombe, *Micro-Trends Are Dead. Long Live the Vibe*, VOGUE BUS. (Jan. 28, 2025), https://www.voguebusiness.com/story/fashion/micro-trends-are-dead-long-live-the-vibe [https://perma.cc/JJC3-QU73]; Victoria Montalti, *Brat Summer Isn't Over: How To Achieve The Viral Fashion Aesthetic*, REFINERY29 (Aug. 8, 2024, 14:20), https://www.refinery29.com/en-us/charli-xcx-brat-girl-summer-style [https://perma.cc/9AWQ-3GM2]; Daisy Jones, *Why The Clean Girl Aesthetic Refuses To Die*, BRITISH VOGUE (Feb. 26, 2025), https://www.vogue.co.uk/article/clean-girl-aesthetic-trend [https://perma.cc/SCA3-9CWD]; *see also Fashion Trends*, *supra* note 2 (examining how TikTok's trend-driven nature accelerates the fashion cycle, enabling aesthetics like "cottagecore" and "e-girl fashion" to gain widespread popularity within weeks).

36. Tin Chun Cheung & Sun Young Choi, *Quantitative Study of Soft Masculine Trends in Contemporary Menswear Using Semantic Network Analysis*, 46 J. KOREAN SOC'Y CLOTHING & TEXTILES 1058, 1070 (2022) (finding that soft masculinity design features have gained measurable traction in high-end menswear, though traditional masculine aesthetics remain dominant); Chavie Lieber, *Gen Z Is Reimagining Masculinity. Brands Are, Too*, BUS. FASHION (June 22, 2021), https://www.businessoffashion.com/articles/marketing-pr/gen-z-is-reimagining-

landscape, teenagers not only set trends, but they also drive the fast-paced feedback loops that define modern fashion e-commerce.

B. Teenagers as a Critical Demographic in Fashion E-Commerce

Influenced by peer networks and social media, teen consumption patterns have become central to online retail strategies, elevating influencer marketing, accelerating shifts in brand loyalty, and exposing young, digitally immersed consumers to distinct risks.[37] In the United States, teenagers self-reported average annual spending of approximately $2,213 in Fall 2025, with apparel consistently ranking as their primary expenditure category, underscoring their financial significance to the industry.[38] Nearly one-third of Generation Z (Gen Z)[39] consumers report purchasing fashion items based on the latest trends, reflecting decades of commercial cultivation through age-specific marketing, segmented store departments, and peer-to-peer consumer practices.[40]

Unsurprisingly, e-commerce platforms, including those accessed through social media, have become teens' preferred

masculinity-brands-should-too/ [https://perma.cc/2S5W-M5JJ] [hereinafter Lieber, *Reimagining Masculinity*].

37. *Fashion Trends*, *supra* note 2 (comparing the distinct fashion cultures of Instagram and TikTok, arguing that Instagram's curated, aesthetics-driven content fosters aspirational and high fashion influence, while TikTok's spontaneous, user-generated format democratizes trend-setting through micro-influencers and everyday users); *see also* Emma Rayder, *What Forever 21's bankruptcy says about the future of fast fashion*, VOGUE BUS. (Mar. 27, 2025), https://www.voguebusiness.com/story/consumers/what-forever-21s-bankruptcy-says-about-the-future-of-fast-fashion [https://perma.cc/3PJW-DKPP] (discussing how younger consumers' preferences for social media discovery, algorithmic recommendations, and rapid micro-trends has pressured retailers to either move upmarket or accelerate production cycles).

38. *Piper Sandler Teen Survey (Fall 2025)*, PIPER SANDLER, https://www.pipersandler.com/teens [https://perma.cc/W2B4-M8JE] (reporting semi-annual survey data on U.S. teen spending patterns, finding Nike as the top clothing brand, Amazon as the preferred shopping destination, and TikTok as the most-used social media platform among 46 percent of respondents).

39. *See* Michael Dimock, *Defining generations: Where Millennials end and Generation Z begins*, PEW RSCH. CTR. (Jan. 17, 2019), https://www.pewresearch.org/short-reads/2019/01/17/where-millennials-end-and-generation-z-begins/ [https://perma.cc/S9Y7-69RS] (defining Gen Z as individuals born between 1997 and 2021, succeeding the Millennial generation).

40. STATISTA, GENERATION Z FASHION IN THE UNITED STATES (2025); *see generally* COOK, *supra* note 17, at 129–31 (discussing how department stores began segmenting merchandise into adult, teen, and subteen categories); *see generally* Cagri Yalkin & Richard Rosenbaum-Elliott, *Talking Fashion in Female Friendship Groups: Negotiating the Necessary Marketplace Skills and Knowledge*, 37 J. CONSUMER POL'Y 301, 302 (2014) (examining how teenage girls build consumer skills and identities through peer interactions and friendship group talk centered on fashion consumption).

shopping destinations.[41] A majority of teenagers report favoring Amazon, followed by brands such as Nike.[42] The popularity of ultra-fast fashion retailers like Shein and Zaful demonstrates teenagers' demand for affordability and trend responsiveness.[43] According to a 2024 survey, nearly half of Gen Z consumers in the U.S. compared prices on Amazon before making a purchase, and just over a quarter sought items secondhand.[44] This demand, amplified by rapid social media trend cycles, has fueled patterns of overconsumption.[45] The rise of "haul culture"—in which influencers showcase large volumes of clothing in viral videos—encourages frequent purchases and high return rates; notably, 23 percent of Gen Z consumers report buying clothing they never wear.[46] These practices are reinforced by algorithmic design, which curates personalized shopping experiences based on consumers' prior purchasing behavior, browsing activity, and real-time online interactions, turning every digital engagement into a source of behavioral data and a site of targeted commercial influence.[47]

Influencers play a critical role in shaping teen shopping behavior and brand engagement.[48] As trusted figures within peer networks, influencers act as style arbiters and brand ambassadors, blurring the line between marketing and social interaction.[49] Many

41. *See* PIPER SANDLER, *supra* note 38; STATISTA, *supra* note 40; *see also* Rayder, *supra* note 37 (noting that younger consumers are more likely to discover fashion brands through social media, influencers, and celebrities).

42. *See* PIPER SANDLER, *supra* note 38.

43. Rayder, *supra* note 37 (noting that Shein's average stock keeping unit price is $14, compared to $26 at H&M and $34 at Zara).

44. STATISTA, *supra* note 40; *see also* Julia de Koning, Mariangela Lavanga & Wouter Spekkink, *Exploring the Clothing Overconsumption of Young Adults: An Experimental Study with Communication Interventions*, 467 J. CLEANER PROD. 1 (2024) (finding that young adults' clothing overconsumption is significantly driven by social media influence, habitual purchasing behavior, and the fast fashion industry's targeting of this demographic).

45. de Koning, Lavanga & Spekkink, *supra* note 44 (being heavily influenced by social media advertising and fast-changing trends, young adults are a major source of clothing overconsumption and a primary target of fast fashion companies).

46. Amy Francombe, *Haul culture is fuelling returns. What can brands do?*, VOGUE BUS. (Nov. 25, 2024), https://www.voguebusiness.com/story/consumers/haul-culture-is-fuelling-returns-what-can-brands-do [https://perma.cc/67GW-A4FD]; *see also Fashion Trends*, *supra* note 2 (noting TikTok fuels rapid trend cycles by promoting fast fashion through viral challenges and haul videos, with users seeking affordable, on-trend pieces showcased in hashtags like #SheinHaul and #ZaraOutfits); *see also* STATISTA, *supra* note 40 (reporting that 23 percent of Gen Z report buying clothes they never wear and only 14 percent report not purchasing fast fashion).

47. Nwobodo, *supra* note 32, at 82–83.

48. *Fashion Trends*, *supra* note 2.

49. *Id.* (noting that influencers act as style arbiters and brand representatives on both TikTok and Instagram, blurring the line between authentic peer interaction and commercial marketing to maximize reach and appeal across demographic groups); *see*

teen creators now serve as direct brand representatives, with young influencers like Demetra Dias earning around $20,000 per sponsored post and Charli D'Amelio—who rose to prominence as a teenage TikTok star—commanding $250,000 for single sponsored collaborations with brands such as Prada, Hollister, and Dunkin' Donuts.[50] These partnerships foster aspirational accessibility, encouraging followers to replicate influencer-driven styles in real time.[51] This model echoes earlier youth markets in which peer authority—rather than adult guidance—increasingly shaped consumer behavior, rendering today's teen marketplace a digitally amplified extension of midcentury commercial strategies.[52]

While teenagers are now indispensable players in fashion e-commerce, their engagement also renders them susceptible to heightened risks. Social media's normalization of overconsumption encourages a constant cycle of buying, generating financial, behavioral, and environmental costs that extend well beyond the individual purchase.[53] Personalized advertising, algorithmic recommendations, and dynamic pricing strategies further maximize engagement and spending among teens by leveraging behavioral data and platforms' understanding of youth consumption patterns to influence purchasing decisions.[54] As a result, teens' digital behavioral data is collected and monetized by platforms in ways young people often do not fully understand,

also Social Commerce Shoppers Pick Instagram for Apparel, TikTok for Beauty, PYMNTS (Aug. 9, 2024), https://www.pymnts.com/news/social-commerce/2024/social-commerce-shoppers-pick-instagram-apparel-tiktok-beauty/ [https://perma.cc/DU5X-F3XC] (noting that influencers are moving beyond product promotion toward storytelling that creates more genuine connections with audiences).

50. Chavie Lieber, *Teen Girls Are Spending Big. She Tells Them What to Buy.*, WALL ST. J. MAG. (July 31, 2024, 11:00 AM ET), https://www.wsj.com/style/fashion/demetra-dias-tiktok-shopping-hauls-c2efee91 [https://perma.cc/ZS6T-LVPL] [hereinafter Lieber, *Teen Girls Are Spending Big*]; Alexandra Sternlicht, *Charli And Dixie D'Amelio Turned TikTok Fame Into A Billionaire-Backed Personal Brand That Hinges On Their Personal Lives*, FORBES (Mar. 1, 2024, 18:25 EST), https://www.forbes.com/sites/alexandrasternlicht/2022/09/06/charli-and-dixie-damelio-turned-tiktok-fame-into-a-billionaire-backed-personal-brand-that-hinges-on-their-personal-lives/ [https://perma.cc/YR6S-WBEN].

51. *Fashion Trends*, *supra* note 2 (illustrating how creators like Nava Rose and Addison Rae use TikTok to share styling hacks, fashion DIYs, and fun outfit challenges that feel genuine and relatable to online teen users).

52. *See* COOK, *supra* note 17, at 131–36; Zanzi, *supra* note 2, at 2–4.

53. Giulia Kondort et al., *The Role of Fashion Influencers in Shaping Consumers' Buying Decisions and Trends*, 17 PROC. INT'L CONF. BUS. EXCELLENCE 1009, 1012–13 (2023); *see* de Koning, Lavanga & Spekkink, *supra* note 44, at 142970–71.

54. ANDRES LOMBANA-BERMUDEZ ET AL., YOUTH AND THE DIGITAL ECONOMY: EXPLORING YOUTH PRACTICES, MOTIVATIONS, SKILLS, PATHWAYS, AND VALUE CREATION 13–14 (2020); *see* Rayder, *supra* note 37.

raising concerns about how these systems influence what teenagers want, wear, and buy.[55]

II. DATA PRIVACY CONCERNS FOR TEENAGERS IN FASHION E-COMMERCE

A. *Adolescent Psychology's Impact on Teenaged Digital Consumer Behavior*

Adolescents occupy a unique position within the digital marketing ecosystem due to cognitive and psychological factors that influence their online behavior. Research indicates that the adolescent brain is still developing, specifically in regions responsible for impulse control, self-regulation, and long-term decision-making.[56] This neurological immaturity heightens sensitivity to short-term rewards and increases impulsivity, making adolescents more likely to engage with online platforms without fully evaluating the implications of their data-sharing or purchasing decisions.[57] Personalized marketing that capitalizes on these traits has thus become a defining feature of fashion e-commerce.

Brands and retailers increasingly deploy AI-powered tools to analyze consumer data and build detailed consumer profiles, enabling them to deliver personalized recommendations and targeted content based on individual shopping behavior and online interactions.[58] Given that teenagers are among the most active online consumers, adolescents are particularly exposed to this kind of data-driven, personalized marketing environment. AI-powered systems transform this behavioral data into marketing insights, predicting preferences and delivering personalized suggestions that mirror adolescent impulses toward novelty, peer influence, and instant gratification.[59] This enables brands to serve targeted

55. LOMBANA-BERMUDEZ ET AL., *supra* note 54, at 22.

56. Laura Marciano, Anne-Linda Camerini & Rosalba Morese, *The Developing Brain in the Digital Era: A Scoping Review of Structural and Functional Correlates of Screen Time in Adolescence*, 12 FRONT. PSYCHOL. 1, 2 (2021).

57. *Id.*; *see also* Nandita Vijayakumar & Jennifer H. Pfeifer, *Self-Disclosure During Adolescence: Exploring the Means, Targets, and Types of Personal Exchanges*, 31 CURRENT OP. PSYCH. 135, 136–37 (2020) (explaining that self-disclosure during adolescence is intrinsically rewarding, activating the same neural reward regions as other pleasurable stimuli and is driven by a developmental need for peer validation, identity, and social belonging).

58. Holger Harreis et al., *Generative AI: Unlocking the future of fashion*, MCKINSEY & CO. (Mar. 8, 2023), https://www.mckinsey.com/industries/retail/our-insights/generative-ai-unlocking-the-future-of-fashion [https://perma.cc/6RLB-VGE6].

59. *See generally id.* (describing how generative AI uses data to personalize fashion marketing).

advertisements and curated content based on a teen's digital footprint.[60] Platforms are similarly adept at deploying gamified features such as limited-time offers, "drop" culture, and countdown promotions to trigger adolescents' heightened reactivity to urgency and novelty.[61] These tactics create feedback loops that reinforce impulsive or habitual behaviors and invite scrutiny regarding teen autonomy and informed consent online.[62]

Social dynamics further compound these tendencies. Adolescents are especially attuned to social validation, interpreting visible feedback—likes, comments, or shares—as indicators of acceptance and popularity.[63] This drive for peer approval can prompt teenagers to disclose personal information more readily when such disclosures yield perceived social rewards, such as reposts or increased engagement.[64] Wish lists, loyalty programs, and personalized recommendations similarly encourage data sharing in exchange for customized experiences, appealing to adolescents' reward-seeking instincts and sustaining digital habits that prioritize quick access and personalized content.[65]

Social media platforms, by their very design, create environments where engagement and visibility naturally become

60. Valerie Verdoodt, *The Role of Children's Rights in Regulating Digital Advertising*, 27 INT'L J. CHILD'S RTS. 455 (2019); *see also* Lieber, *Teen Girls Are Spending Big*, *supra* note 50 (illustrating how brands strategically target teen consumers through influencer-driven content on social platforms).

61. Ouya Huang & Jihyun Kim-Vick, *Transformative Potentials of Drop Marketing and Drop Retail Strategies in the Fashion Industry*, 77 INT'L TEXTILE & APPAREL ASS'N ANN. CONF. PROC. (2020) (describing how drop marketing and drop retail strategies deploy scarcity and urgency to drive consumer engagement); *see* Verdoodt, *supra* note 60 (discussing gamified and interactive advertising formats designed to exploit children's limited critical processing capacity); *see also* Marciano, Camerini & Morese, *supra* note 56 (finding that adolescents exhibit heightened reactivity to novelty and reward-seeking stimuli due to neurological immaturity).

62. Anthonette Adanyin, *AI-Driven Feedback Loops in Digital Technologies: Psychological Impacts on User Behaviour and Well-Being* 2 (2024) (unpublished manuscript), https://arxiv.org/abs/2411.09706 [https://perma.cc/M4B9-368W] (finding that digital platforms employ real-time feedback mechanisms that unconsciously shape user behavior, often reinforcing compulsive engagement and reducing autonomy).

63. *Id.*; *see also* Andrew Solomon, *Has Social Media Fuelled a Teen-Suicide Crisis?*, NEW YORKER (Sept. 30, 2024), https://www.newyorker.com/magazine/2024/10/07/social-media-mental-health-suicide-crisis-teens [https://perma.cc/89RS-QXUA] (connecting social media validation mechanisms to diminished self-worth, emotional distress, and, in the most devastating cases, teen suicide).

64. Vijayakumar & Pfeifer, *supra* note 57 (explaining that adolescents are motivated to disclose personal information by a desire for social approval and that such disclosure is perceived as socially rewarding).

65. Nicholas D. Santer et al., *Early Adolescents' Perspectives on Digital Privacy*, *in* ALGORITHMIC RIGHTS AND PROTECTIONS FOR CHILDREN 128–30 (2023); *see* Isabelle Bousquette, *How Tech Helped Levi's Ride the 'Baggy Jeans' Trend*, WALL ST. J. (Jan. 27, 2025, 6:00 AM ET), https://www.wsj.com/articles/how-tech-helped-levis-ride-the-baggy-jeans-trend-f290721d [https://perma.cc/NV5U-ABEE]; Nwobodo, *supra* note 32, at 82.

central to the user experience, conditions that are particularly heightened for teenagers whose developmental needs center on peer validation and social belonging. Peer-driven behavior extends into fashion discourse as well, where teens learn consumer cues and brand affiliations through discussions, peer feedback, and style-based micro-communities.[66] In this environment, influencer culture amplifies the effect, as teenagers develop one-sided emotional connections with online figures they follow, fostering trust in the content they endorse and rendering commercial promotions less like traditional advertising and more like personal recommendations from a familiar peer.[67]

This convergence of cognitive development and social pressures pushes adolescents to engage in online behaviors that expose their personal data, often without fully understanding the consequences.[68] Teenagers have accordingly become a distinctly valuable demographic for data collection in the fashion industry.[69] With online decisions driven by immediacy, convenience, and emotional gratification, adolescent users are particularly susceptible to immersive marketing techniques—prioritizing peer affirmation over deliberate evaluation of advertising content and remaining largely unaware of how their data is collected, stored, or used.[70] Content remains deeply engaging because it resonates on emotional and identity-driven levels.[71] This blurring of commercial messaging and peer-driven content means adolescents are no longer simply choosing brands; the brands are shaping them

66. *See* Yalkin & Rosenbaum-Elliott, *supra* note 40; *see also* Winona Monica Bahari et al., *The Role of Peers in Shaping Purchasing Decisions of Fashion Products Among Teenagers*, 2 JURNAL BISNIS DAN KOMUNIKASI DIGITAL 1, 5–7 (2025) (Indonesia) (examining the significant role of the social environment, including peers, family, and social media, in shaping teenagers' fashion purchasing decisions).

67. Chenyu Gu & Qiuting Duan, *Exploring the Dynamics of Consumer Engagement in Social Media Influencer Marketing: From the Self-Determination Theory Perspective*, 11 HUMANITIES & SOC. SCI. COMMC'NS 1, 2 (2024) (identifying that influencer-endorsed advertising has become a central and growing strategy in social media marketing by leveraging influencers' significant influence to deliver messages in a more natural and organic way than traditional advertising methods).

68. Santer et al., *supra* note 65.

69. Lasker, *supra* note 3; *see* Isaac Koenig-Workman, *Consumer Psychology*, DECISION LAB, https://thedecisionlab.com/reference-guide/psychology/consumer-psychology [https://perma.cc/YLY8-7BDQ].

70. When immersive marketing techniques are bundled with subtle advertisements or blurred disclosures, they may amount to stealth advertising. Stealth advertising is a form of advertising in which the audience is unaware that content contains advertisements. *See Stealth Advertising*, CAMBRIDGE DICTIONARY, https://dictionary.cambridge.org/us/dictionary/english/stealth-advertising [https://perma.cc/Z4GV-EAND]; *see also* Lasker, *supra* note 3 (illustrating that relevance depends on meeting teen expectations, so today's brands must prioritize affordability, speed, social shareability, and seamless online shopping to stay competitive in a trend-driven market).

71. *See* LOMBANA-BERMUDEZ ET AL., *supra* note 54, at 21.

through a process that entwines social identity with commercial logic.[72]

B. Blurring the Line Between Entertainment and E-Commerce

Social media platforms such as TikTok, Instagram, and Snapchat increasingly blur the line between entertainment and e-commerce by embedding in-app shopping features directly into user feeds.[73] While these features make purchasing more seamless, they also raise concerns about how commercial content is presented to younger users. The integration of shopping tools often obscures the distinction between organic posts and paid advertisements, making it more difficult for teenagers to recognize when they are being subjected to marketing.[74]

A particularly contentious issue is the use of "dark patterns"—interface designs that subtly steer users toward unintended actions, such as impulsive purchases.[75] The Federal Trade Commission (FTC or the Agency) has identified these tactics as ubiquitous and increasingly prevalent across digital markets.[76] Common examples include one-click purchasing, time-sensitive offers, and the proliferation of BNPL services.[77] Although these features are framed as conveniences, they often encourage overspending, particularly among adolescents whose financial decision-making skills are not yet fully developed.[78] The rise of

72. *Id.*

73. Anders Hjorth, *The Social Commerce Dream, and how Amazon, Facebook, Snapchat and TikTok are pursuing it*, INNOVELL (Nov. 2, 2021), https://www.innovell.com/the-social-commerce-dream-and-how-amazon-facebook-snapchat-and-tiktok-are-pursuing-it/ [https://perma.cc/866Z-37FP]; *see* Megan Nash, *Social Commerce: A Guide to Shoppable Features on Social Media*, IGNITE SOC. MEDIA (Oct. 2021), https://www.ignitesocialmedia.com/social-commerce/social-commerce-a-guide-to-shoppable-features-on-social-media/ [https://perma.cc/L6PM-PKP3].

74. Hjorth, *supra* note 73.

75. Jenn McMillen, *Who Uses Dark Patterns? A Breakdown Of E-Commerce Bad Practices*, FORBES (Mar. 27, 2024, 12:22 ET), https://www.forbes.com/sites/jennmcmillen/2024/03/27/who-uses-dark-patterns-a-breakdown-of-e-commerce-bad-practices/ [https://perma.cc/37WW-V63N].

76. *Id.*

77. Carol Moser, Sarita Y. Schoenebeck & Paul Resnick, *Impulse Buying: Design Practices and Consumer Needs*, in *Proceedings of the 2019 CHI Conference on Human Factors in Computing Systems* 1 (ACM 2019) (finding that top U.S. e-commerce websites commonly used features encouraging impulse buying); *see* Wang, *supra* note 7 (finding that BNPL disproportionately attracts younger, lower-credit consumers and may reduce price sensitivity, encourage overborrowing, and increase the risk of longer-term financial strain).

78. Moser, Schoenebeck & Resnick, *supra* note 77; *see* Alicia Adamczyk, *Buy-now-pay-later financing can create 'dangerous illusion' that purchases are cheaper than they actually are*, FORTUNE (June 8, 2022, 8:00 AM ET), https://fortune.com/2022/06/08/buy-now-pay-later-risks-to-young-consumers/ [https://perma.cc/2QL5-P6RY].

BNPL among teenagers illustrates this tension. While such services offer short-term flexibility, they may create a false sense of affordability and contribute to long-term financial strain.[79] Younger users are especially vulnerable, given their limited credit experience and greater susceptibility to the false sense of affordability that BNPL products create.[80]

These risks are further compounded by the role of data-driven advertising.[81] Social commerce platforms rely on extensive data collection to deliver personalized promotions, leveraging behavioral insights to trigger impulse buying.[82] While personalization can enhance the user experience, it also raises serious questions about fairness and transparency, especially when directed at minors. The FTC has noted that such strategies may prompt purchases without users fully understanding the financial consequences, underscoring the need for stronger consumer protections in youth-targeted digital commerce.[83]

C. How Fashion Brands Use Personal Data to Target Teenaged Consumers

Fashion brands are increasingly leveraging data analytics and AI to better understand and engage teenage consumers.[84] Through real-time tracking of user behavior and preferences, companies tailor their offerings with precision, matching product releases with the fast-evolving interests of younger shoppers.[85] Shein, for example, uses proprietary machine-learning systems to monitor consumer demand and emerging fashion trends, enabling it to adapt its supply chain rapidly and keep pace with online trend cycles.[86] For teen consumers, this produces a highly responsive, personalized shopping experience that mirrors the aesthetics and microtrends circulating across digital platforms.[87]

79. Adamczyk, *supra* note 78; Wang, *supra* note 7.
80. *Id.*
81. *See generally* Nwobodo, *supra* note 32 (noting that shifting consumer tastes and preferences have driven the fashion industry toward a data-driven, analytical approach); Hamed Azad Moghddam et al., *Scroll, Stop, Shop: Decoding Impulsive Buying in Social Commerce*, 182 J. BUS. RSCH. 1 (2024) (finding that social commerce platforms leverage algorithmic recommendations and personalized content to trigger impulse buying by gratifying consumer motivations including brand intimacy, entertainment, and channel advantage); Wang, *supra* note 7.
82. Moghddam et al., *supra* note 81, at 3; *see* Nwobodo, *supra* note 32, at 83–84.
83. *See* McMillen, *supra* note 75.
84. *See* Nwobodo, *supra* note 32, at 82.
85. *See, e.g.*, Astha Rajvanshi, *How AI Could Transform Fast Fashion for the Better—and Worse*, TIME (Sept. 20, 2024, 8:00 AM ET), https://time.com/7022660/shein-ai-fast-fashion/ [https://perma.cc/XY6U-VPQE].
86. *Id.*
87. *Id.*

Nike's SNKRS app illustrates a different data-driven strategy: using artificial scarcity to generate excitement and urgency.[88] By limiting the number of exclusive sneaker releases, Nike fosters a sense of competition and exclusivity.[89] While this approach deepens brand engagement, it also encourages quick purchasing decisions—sometimes without full consideration of financial consequences.[90] These practices reflect a broader shift in digital commerce, in which fashion brands increasingly function as cultural influencers and data aggregators, obscuring the line between content, community, and commercial intent.[91] Social media platforms such as TikTok further shape teenage shopping behavior through algorithmic recommendation engines.[92] The app's For You Page plays a significant role in popularizing niche trends and encouraging real-time adoption of new styles, and its integrated features facilitate seamless transitions from content consumption to product purchase.[93]

Although these marketing innovations reflect the growing sophistication of digital commerce, they also present new challenges for teenage consumers. Adolescents, who are still developing financial literacy and have limited experience with credit, may be particularly susceptible to persuasive design features such as one-click purchases, BNPL models, and hyper-personalized promotions.[94] While these tools are not inherently harmful, they can encourage impulsive spending and heighten financial risk when directed at younger users.[95]

Recognizing these dynamics, policymakers and industry stakeholders have begun exploring ways to better protect teen consumers. Strengthening age verification systems, increasing transparency around algorithmic recommendations, and promoting responsible advertising practices are among the potential steps toward a more ethical digital marketing framework.[96] As fashion

88. *See* Danni Santana & Matthew Kish, *Inside Nike's race to fix the SNKRS app and kill off bots before they drive away its most loyal fans*, BUS. INSIDER (Dec. 23, 2021, 9:50 AM MT), https://www.businessinsider.com/nike-making-snkrs-app-fairer-fighting-bots-2021-12 [https://perma.cc/4F4L-TGXT].

89. *See id.*

90. *Id.*

91. *See* LOMBANA-BERMUDEZ ET AL., *supra* note 54, at 13.

92. Freya Goodchild-Bridge, *The Future of Shopping: TikTok and WGSN on the Retail Trends Defining 2025*, WONDERLAND (Jan. 31, 2025), https://www.wonderlandmagazine.com/2025/01/31/tiktok-shop-wgsn/ [https://perma.cc/5EMK-74EC].

93. *Id.*

94. *See* Moser, Schoenebeck & Resnick, *supra* note 77, at 2; Moghddam et al., *supra* note 81, at 2–3; Adamczyk, *supra* note 78; Wang, *supra* note 7.

95. *See* Adamczyk, *supra* note 78; Wang, *supra* note 7.

96. *See generally* CLARE Y. CHO & LING ZHU, CONG. RSCH. SERV., R47298, ONLINE CONSUMER DATA COLLECTION AND DATA PRIVACY 18–19 (2022) (discussing transparency

brands continue to innovate in their outreach to teenagers, ensuring that such efforts are accompanied by appropriate safeguards will be essential to fostering a healthier digital shopping environment.

III. THE LEGAL FRAMEWORK: COPPA, COPPA 2.0, AND THEIR LIMITATIONS

A. A Brief Legislative History of COPPA

Congress enacted the Children's Online Privacy Protection Act (COPPA) in 1998 in response to growing concern that children were disclosing personal information to websites without understanding the associated risks and without parental knowledge or consent.[97] The law was designed to place parents in control of the information collected from children under the age of thirteen, recognizing both their limited cognitive capacity and the increasing prevalence of online marketing directed at youth.[98] COPPA's core purpose was to address the risks associated with inappropriate data collection by empowering parents to control the personal information collected from their children on websites, apps, and other online services.[99]

A 1998 FTC study found that 89 percent of children's websites collected personal information—often without disclosing it—and that only 10 percent offered any parental control options.[100] The report further found that online data collection practices posed "unique privacy and safety concerns because of the particular vulnerability of children, the immediacy and ease with which information can be collected from them, and the ability of the online medium to circumvent the traditional gatekeeping role of the parent."[101] In response to the Agency's findings and recommendations, as well as growing public apprehension, Congress sought to create a regulatory framework that balanced

requirements and age-based data protections as potential regulatory approaches to consumer data collection); Wang, *supra* note 7; *see* Enrique Dans, *Algorithmic age-verification: a magic bullet or surveillance creep?*, MEDIUM (Feb. 14, 2025), https://medium.com/enrique-dans/algorithmic-age-verification-a-magic-bullet-or-surveillance-creep-addf5ef42b54 [https://perma.cc/QT7Y-UL6A].

97. Children's Online Privacy Protection Act of 1998, Pub. L. No. 105-277, 112 Stat. 2681 (codified at 15 U.S.C. §§ 6501–6506); *see* FED. TRADE COMM'N, *Complying with COPPA: Frequently Asked Questions*, https://www.ftc.gov/business-guidance/resources/complying-coppa-frequently-asked-questions [https://perma.cc/DZ79-CY3H] [hereinafter *COPPA FAQ*].

98. 15 U.S.C. §§ 6501-6506; *COPPA FAQ*, *supra* note 97.

99. MARTHA K. LANDESBERG ET AL., FED. TRADE COMM'N, PRIVACY ONLINE: A REPORT TO CONGRESS 5–6 (1998) (highlighting concerns about children's exposure to online safety risks and the commercial collection and use of their personal information).

100. *Id.* at 31, iii.

101. *Id.* at 4–5.

the commercial interests of online platforms with the fundamental privacy rights of children.[102]

COPPA authorizes the FTC to promulgate and enforce rules governing the online collection of personal information from children under thirteen.[103] Under this authority, the FTC promulgated the COPPA Rule.[104] The Rule imposes six core obligations on operators of websites and online services directed at children: (1) providing direct notice to parents before collecting a child's personal information; (2) posting clear and comprehensive privacy policies detailing their data practices with respect to children; (3) obtaining verifiable parental consent before collecting, using, or disclosing personal information from children under thirteen; (4) making reasonable efforts to verify that the person providing consent is the child's parent or legal guardian; (5) allowing parents to review and delete their child's personal data; and (6) maintaining reasonable procedures to protect the security, confidentiality, and integrity of collected information.[105]

COPPA's core requirements rest on the foundational principle that children under thirteen warrant enhanced privacy protections because they often lack the capacity to understand online data collection practices and the risks those practices entail.[106] While all six requirements advance COPPA's broader goal of protecting children's digital privacy, some serve primarily procedural and informational functions. The privacy policy and direct-notice requirements, for instance, aim to promote transparency and ensure that parents are aware of a platform's data practices, thereby enabling more informed participation. Adequate notice must include the categories of personal information collected, the purposes for which it will be used, and whether it will be disclosed to third parties.[107] The rights of access and deletion, in turn, afford parents post-collection control over their child's data, while the security requirement imposes preemptive obligations on operators to implement procedures protecting the confidentiality, integrity, and security of children's information from the outset.[108] Together,

102. *Id.* at iii ("Congress [should] develop legislation placing parents in control of the online collection and use of personal information from their children. Such legislation would require Web sites that collect personal identifying information from children to provide actual notice to parents and obtain parental consent."); Lauren A. Matecki, *Update: COPPA is Ineffective Legislation! Next Steps for Protecting Youth Privacy Rights in the Social Networking Era*, 5 NW. J. L. & SOC. POL'Y 369 (2010).

103. 15 U.S.C. §§ 6501–6506; *see COPPA FAQ*, *supra* note 97.

104. Children's Online Privacy Protection Rule, 16 C.F.R. § 312 (2013).

105. *Id.* §§ 312.4(b), 312.4(d), 312.5(a), 312.5(b)(1), 312.6(a)(2), 312.8(a).

106. Ariel Fox Johnson, *13 Going on 30: An Exploration of Expanding COPPA's Privacy Protections to Everyone*, 44 SETON HALL LEGIS. J. 419, 422–24 (2020).

107. 16 C.F.R. § 312.3(a).

108. *Id.* §§ 312.6(a), 312.8.

these provisions establish a foundational compliance framework, but one that does not address the structural questions of how children and teenagers actually interact with digital environments.

B. Regulatory Gaps: COPPA's Age Cutoff and Parental Consent Model

The COPPA framework has two principal shortcomings that limit its effectiveness in today's digital environment: (1) its age threshold and (2) its reliance on the parental consent model. First, COPPA's age cut-off creates a strict boundary in regulatory coverage. While the statute provides privacy protections to children under thirteen, it leaves teenagers aged thirteen to seventeen without comparable safeguards, despite research showing that adolescents often lack the cognitive maturity necessary to fully understand privacy risks and online data practices, and to recognize commercial influence.[109] The FTC itself has acknowledged that teenagers are particularly susceptible to peer influence and persuasive design.[110] Because COPPA applies only to children under thirteen, companies may legally engage in targeted advertising and algorithmic profiling directed at teenagers without being subjected to COPPA's heightened parental consent requirements.[111] This creates a significant compliance gap and legal blind spot, given the outsized role that fashion, entertainment, and lifestyle platforms play in teenagers' digital lives.

For users under thirteen as well, COPPA's protections are increasingly misaligned with the realities of modern digital platforms.[112] The statute was designed at a time when Congress was focused primarily on preventing websites from directly collecting children's personal information without parental

109. Denham, Determann & Tam, *supra* note 10; *Children's Privacy*, EPIC, https://epic.org/issues/data-protection/childrens-privacy [https://perma.cc/MWP5-C5P5] (noting that COPPA's protections apply only to children under thirteen, leaving teenagers with fewer protections against targeted advertising and online data collection); *see* Matecki, *supra* note 102, at 373–75, 386–87 (arguing that COPPA is outdated and insufficient to protect minors' privacy, highlighting enforcement gaps and the rise of social media, and advocating expanded safeguards for teenagers and modern data practices).

110. FED. TRADE COMM'N, PROTECTING KIDS FROM STEALTH ADVERTISING IN DIGITAL MEDIA: STAFF PERSPECTIVE 1, 7–8 (2023), https://www.ftc.gov/system/files/ftc_gov/pdf/p214505kidsadvertisingstaffperspective092023.pdf [https://perma.cc/WMJ4-X94N] [hereinafter *FTC Stealth Advertising Report*].

111. *See* Johnson, *supra* note 106, at 424–25, 436–38.

112. *Id.* at 431–32 (explaining that, despite a "seismic shift in the technological landscape kids face" since COPPA's enactment, Congress has made "no real efforts" to meaningfully update the statute).

knowledge or consent.[113] As a result, COPPA does not account for the sophisticated forms of digital influence that now pervade online environments and shape user behavior in ways users are often neither fully aware of nor able to recognize.[114] In this respect, COPPA does little to address the ongoing manipulation of either teenagers, who fall outside its scope, or children, who remain vulnerable despite the nominal protection of parental consent.

Second, even within its intended scope, COPPA's effectiveness is undermined by its overreliance on the parental consent model.[115] The statute presumes that requiring parental authorization prior to the collection of children's data provides meaningful protection. To that end, COPPA envisions affirmative parental oversight through a range of verifiable consent mechanisms, including submitting a signed consent form by fax, completing a credit card transaction, calling a toll-free number staffed by personnel trained to distinguish adult from child voices, or using digital certificates to verify a user's age.[116] In practice, however, this model has proven costly and burdensome, weakening rather than strengthening enforcement.[117]

Parental consent is frequently obtained through systems that are easily circumvented, particularly by tech-savvy children or those with independent access to devices. Many platforms rely on self-declared age or email verification to trigger the parental consent requirement, but these tools' mechanisms are similarly bypassed with little effort.[118] Studies have found that a significant

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113. *Id.* at 422–23; *see* LANDESBERG ET AL., *supra* note 99, at 4–6.

114. *See* Matecki*, supra* note 102, at 372–73, 388–89 (describing how modern online platforms employ behavioral targeting and passive data collection practices not contemplated when COPPA was enacted); *see* LANDESBERG ET AL., *supra* note 99, at 3–5.

115. 15 U.S.C. § 6502(b)(1)(A) (requiring operators to provide notice of data collection practices and obtain verifiable parental consent before collecting, using, or disclosing personal information from children under thirteen).

116. 16 C.F.R. §§ 312.3, 312.5(b)(2); Matecki*, supra* note 102, at 377.

117. Dorothy A. Hertzel, *Don't Talk to Strangers: An Analysis of Government and Industry Efforts to Protect a Child's Privacy Online*, 52 FED. COMMC'NS L. J. 429, 441 (2000) (noting concerns that obtaining a verifiable parental consent could impose significant costs on smaller web operators); Zahra Takhshid, *Children's Digital Privacy and the Case Against Parental Consent*, 101 TEX. L. REV. 1417, 1457 (2023) (arguing that relying solely on parental consent to protect children's digital privacy is insufficient and ill-suited).

118. *See COPPA FAQ*, *supra* note 97 (noting that self-declared age and basic email verification are easily circumvented and insufficient under COPPA's verifiable parental consent requirements); *see also* Comments of Hector H. Balderas, Att'y Gen., N.M. et al., to April Tabor, Acting Secretary, Fed. Trade Comm'n, *COPPA Rule Review*, Project No. P195404, 9–10 (filed Dec. 9, 2019), https://attorneysgeneral.org/wp-content/uploads/2019/12/2019.12.09-Comments-re-COPPA-Rule-Review.pdf [https://perma.cc/ML22-FA8E] [hereinafter *State AGs COPPA Comments*] (noting that many operators use non-neutral age-screening mechanisms that effectively encourage

number of children under thirteen successfully access social media platforms by falsifying their age, often encountering little resistance from existing verification systems.[119] Once misclassified as thirteen or older, these children may fall outside COPPA's protections and become subject to the same data collection and targeted advertising practices applied to adult users.[120]

Doubts about COPPA's age verification mechanisms surfaced almost immediately after the statute's enactment. As early as 2001, Jonathan Zuck, the president of the Association for Competitive Technology—a small business advocacy group—testified before Congress that the practical effect of the regulation was simply that "kids are just lying about their age on adult sites."[121] More than two decades later, those concerns have only intensified with the widespread adoption of social media. A 2022 study commissioned by Ofcom found that 77 percent of children aged eight to seventeen who use social media maintain their own profile, and that 60 percent of children aged eight to twelve are registered on platforms despite a minimum age requirement of thirteen.[122]

Many platforms treat the act of checking a box or entering an email address as sufficient to satisfy COPPA's verifiable parental consent requirements, even though children themselves can easily perform either step.[123] In practice, self-declared age tools are readily circumvented and often fail to ensure meaningful parental oversight, reducing the consent mechanism to a procedural formality rather than a substantive safeguard.[124] Moreover, COPPA is silent on circumstances in which a child has no parent or legal guardian available to provide consent—a notable oversight given the number of children in foster care, kinship care, or other non-traditional living arrangements.[125] In such cases, the statute

users under thirteen to enter ages above twelve, undermining COPPA's age verification requirements).

119. Fatmaelzahraa Eltaher et al., *The Digital Loophole: Evaluating the Effectiveness of Child Age Verification Methods on Social Media*, in *Proceedings of the 11th International Conference on Information Systems Security and Privacy* 213, 215 (2025) (finding that minors frequently circumvent social media age restrictions because current age verification methods rely heavily on self-declared age information).

120. *See* Denham, Determann & Tam, *supra* note 10; *Children's Privacy*, *supra* note 109.

121. Matecki, *supra* note 102, at 382–83.

122. OFCOM, CHILDREN'S ONLINE USER AGES QUANTITATIVE RESEARCH STUDY 1, 20 (2022), https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/online-research/keeping-children-safe-online/childrens-online-user-ages/children-user-ages-chart-pack.pdf?v=328540 [https://perma.cc/AHE8-K3E7].

123. Matecki, *supra* note 102, at 381, 384–85.

124. *Id.*; *COPPA FAQ*, *supra* note 97 (stating that COPPA does not prevent children from lying about their age to access general audience websites and online services).

125. 15 U.S.C. § 6502; *see generally* GENERATIONS UNITED, PATHWAYS TO SUCCESS: K-12 EDUCATION SUPPORTS FOR KINSHIP AND GRANDFAMILIES 4, 6 (2024) (finding that

offers no alternative mechanism to protect that child's data, exposing a critical flaw in its underlying assumption that every child has an accessible adult who can serve as a digital gatekeeper.[126]

In 2024, the FTC issued a Notice of Proposed Rulemaking to update COPPA in response to increasingly complex data practices and mounting criticism of how digital platforms collect and use children's data.[127] The final amendments established new requirements around the collection, use, and disclosure of children's personal information while providing parents with additional tools to control what data is shared with third parties—marking the Agency's most robust regulatory effort since the Rule's 2013 amendment.[128]

A central theme of the 2024 rulemaking was a clearer articulation of the data minimization principle, prohibiting platforms from collecting more data than is "reasonably necessary" to deliver the services requested by children.[129] This minimization requirement, however, is not a standalone principle within COPPA's statutory framework. Rather, it remains embedded within the statute's broader parental consent model and applies only after verifiable parental consent has been obtained.[130] COPPA thus does not independently restrict data collection in the absence of parental approval, leaving operators without affirmative privacy-by-design obligations outside that context.[131] The Final Rule also codified additional reforms, including enhanced transparency requirements for automated decision-making systems, new controls

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approximately 2.5 million children live with relatives or close family friends without a parent in the home).

126. 15 U.S.C. §§ 6501–6506.

127. Children's Online Privacy Protection Rule, 89 Fed. Reg. 2034 (proposed Jan. 11, 2024) (to be codified at 16 C.F.R. pt. 312).

128. FED. TRADE COMM'N, *FTC Finalizes Changes to Children's Privacy Rule Limiting Companies' Ability to Monetize Kids' Data* (Jan. 16, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/01/ftc-finalizes-changes-childrens-privacy-rule-limiting-companies-ability-monetize-kids-data [https://perma.cc/CH5M-D7HT] [hereinafter *FTC COPPA Final Rule Press Release*]; *see* Children's Online Privacy Protection Rule, 78 Fed. Reg. 3972 (Jan. 17, 2013) (codified at 16 C.F.R. pt. 312).

129. *See* Children's Online Privacy Protection Rule, 89 Fed. Reg. at 2062 ("These proposed modifications are intended to reinforce section 312.7's data minimization requirements, which prohibit an operator from conditioning a child's participation in a game, . . . or another activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity."); 16 C.F.R. § 312.7 (2025).

130. 16 C.F.R. §§ 312.3(d), 312.7; Daniel J. Solove & Woodrow Hartzog, *The FTC and the New Common Law of Privacy*, 114 COLUM. L. REV. 583, 603, 653 (2014) (explaining that the FTC has gradually incorporated substantive privacy limitations resembling "data minimization" into its privacy jurisprudence, even though many U.S. privacy statutes, including COPPA, traditionally emphasize notice and consent over direct limits on data collection).

131. 15 U.S.C. §§ 6501–6506; 16 C.F.R. §§ 312.5(a), 312.7.

on "nudging" tactics such as gamification and reward loops, and heightened consent requirements for third-party data sharing.[132]

Three amendments from the Final Rule are particularly relevant here. First, the Rule strengthened COPPA's data minimization requirements by prohibiting operators from conditioning a child's participation in an activity on the disclosure of more personal information than is reasonably necessary for that activity, while continuing to embed those limitations within COPPA's broader parental consent framework.[133] Second, the amendments expanded the range of verifiable parental consent mechanisms available to operators by introducing a "text plus" method, permitting operators to use mobile numbers to contact parents by text message to obtain consent, and by approving additional methods, including knowledge-based authentication and facial recognition tools capable of matching an adult with a government-issued identification document.[134] The Rule now also requires separate, verifiable parental consent before disclosing children's personal information to third parties for targeted advertising.[135] Third, the FTC codified neutral age-screening requirements for mixed-audience websites and online services, prohibiting platforms from using age-screening mechanisms that default users to older age classifications or nudge users to falsify their age to circumvent COPPA's protections.[136]

Collectively, these revisions reflect the FTC's growing recognition that modern privacy risks extend beyond discrete data collection events to encompass the broader persuasive architecture of digital platforms. The amendments now in effect represent meaningful progress in adapting COPPA to contemporary digital conditions, particularly in sharpening the specificity and enforceability of parental consent procedures. Nevertheless, they stop short of restructuring COPPA's foundational reliance on the parental consent model, as legal obligations continue to hinge on obtaining and verifying parental consent, leaving the statute's core framework intact.[137]

132. Children's Online Privacy Protection Rule, 90 Fed. Reg. 16918 (Apr. 22, 2025) (codified at 16 C.F.R. pt. 312) (FTC adopted final amendments to COPPA Rule in April 2025, which took effect on June 23, 2025); *FTC COPPA Final Rule Press Release*, *supra* note 128.

133. 16 C.F.R. §§ 312.5, 312.7.

134. *Id.* §§ 312.5(b)(2)(vi), (vii), (ix).

135. *Id.* § 312.5 (a)(2).

136. *Id.* § 312.2; *see also State AGs COPPA Comments*, *supra* note 118, at 8–9 (identifying non-neutral age-screening as a significant enforcement gap that the final rule address).

137. 15 U.S.C. §§ 6501–6506; 16 C.F.R. § 312 (2025).

C. COPPA Enforcement and Structural Limitations

Although COPPA grants the FTC authority to enforce data protections for children under thirteen—a boundary set by the statute—the enforcement framework does not extend to broader privacy harms or to adolescents between the ages of thirteen and seventeen, leaving a significant portion of minors outside its reach.[138] COPPA violations are treated as unfair or deceptive acts or practices under Section 5 of the Federal Trade Commission Act, authorizing the FTC to bring enforcement actions and seek civil penalties on a per-violation basis.[139] The Agency also relies on rulemaking authority to adapt COPPA's regulatory framework to evolving digital realities.[140]

While the FTC has recently taken steps to modernize the Rule through increasingly expansive exercises of its rulemaking authority, such efforts now face heightened judicial scrutiny. In *Loper Bright Enterprises v. Raimondo*, the Supreme Court overruled the *Chevron* doctrine, eliminating the deference courts previously afforded to agency interpretations of ambiguous statutory language and requiring courts to exercise independent judgment in resolving statutory questions.[141] In this post-*Loper Bright* environment, any attempt by the FTC to extend COPPA-like protections to teenagers over the age of thirteen—or to regulate digital practices not expressly authorized by the statute—risks being invalidated as exceeding congressional authorization.

These concerns were already apparent during the rulemaking process leading to the FTC's 2025 COPPA Rule amendments. Although the Agency characterized changes such as restrictions on nudging, new consent pathways, and age-screening requirements as clarifications of existing statutory authority, some stakeholders objected, contending that the FTC was exceeding the bounds of its delegated authority.[142] Commenters warned that certain proposals fell "outside the scope of the objectives that the COPPA statute was intended to address" and exceeded the Commission's statutory

138. 15 U.S.C. §§ 6501–6506.

139. Federal Trade Commission Act § 5, 15 U.S.C. § 45(a); 15 U.S.C. § 6505; *see also Children's Privacy*, *supra* note 109 (noting that COPPA violations are enforceable by the FTC as unfair or deceptive trade practices subject to civil penalties).

140. 15 U.S.C. § 6502(b); *see also* Children's Online Privacy Protection Rule, 90 Fed. Reg. 16918 (Apr. 22, 2025) (codified at 16 C.F.R. pt. 312) (illustrating the Agency's exercise of rulemaking authority to update COPPA's requirements).

141. Loper Bright Enter. v. Raimondo, 603 U.S. 369 (2024) (holding that courts must exercise independent judgment in interpreting statutes and may not defer to an agency's interpretation simply because a statute is ambiguous), *overruling* Chevron U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837 (1984) (which had directed courts to defer to a federal agency's reasonable interpretation of an ambiguous statute that the agency administers).

142. *See* Children's Online Privacy Protection Rule, 90 Fed. Reg. at 16933–34.

authority.[143] This critique underscores the tension between the FTC's enforcement mandate under COPPA and the growing legal pressure on the Agency to remain within the statute's original design.

The FTC has pursued enforcement actions against companies that fail to comply with COPPA's requirements. In *United States v. Musical.ly, Inc.*, for example, the Agency imposed a $5.7 million civil penalty for the company's failure to obtain verifiable parental consent before collecting personal data from users under thirteen.[144] Although that action represented a significant enforcement outcome, the FTC's authority remains largely confined to procedural violations—namely failures related to parental consent, notice obligations, or data security.[145] There are also notable discrepancies between COPPA's statutory requirements and their implementation in practice.[146] As a result, COPPA's structural limitations leave the Agency ill-equipped to confront the broader, design-based privacy risks that are most acute in data-driven industries such as fashion e-commerce.

In sum, COPPA's enforcement regime reflects the inherent constraints of a framework built on parental consent as its operative foundation—one that confines the FTC to reactive, statutorily bounded actions. Absent legislative reform to expand the statute's coverage or redefine the scope of enforcement authority, these structural shortcomings will leave adolescent users inadequately protected in an increasingly algorithmic and immersive digital marketplace.[147]

D. Pending Domestic Frameworks and International Models: COPPA 2.0 and Beyond

More recently, lawmakers have proposed significant reforms to expand and modernize federal online privacy protections for minors. The Children and Teens' Online Privacy Protection Act (COPPA 2.0) proposes expanding protections to cover minors under the age of seventeen, replaces the existing parental consent requirement with a tiered verifiable consent framework under which parents' consent on behalf of children under thirteen while teenagers aged thirteen to sixteen consent directly, and prohibits

143. *Id.* at 16949.

144. United States v. Musical.ly, Inc., No. 2:19-cv-01439, 2019 WL 13413086 (C.D. Cal. Feb. 27, 2019).

145. Anita L. Allen, *Minor Distractions: Children, Privacy and E-Commerce*, 38 HOUS. L. REV. 751, 764–66 (2001) (describing COPPA's notice-and-consent framework and other primarily procedural privacy protections).

146. *Id.* at 767–69; Matecki, *supra* note 102, at 379.

147. *See generally* 15 U.S.C. §§ 6501–6506; Matecki, *supra* note 102, at 399–400; *Children's Privacy*, *supra* note 109.

operators from collecting or using personal information for purposes of individual-specific targeted advertising directed at children or teenagers.[148] It also establishes new rights, including an "eraser button" permitting minors to request the deletion of their personal information, and codifies data minimization rules prohibiting operators from collecting personal information that is inconsistent with the context of the transaction or service requested by the child or teen.[149]

While these provisions represent meaningful progress, significant regulatory gaps remain. The bill excludes seventeen-year-olds, who are no less susceptible to targeted and persuasive technologies than younger teenagers.[150] It also fails to address algorithmic content curation and recommendation engines—tools that shape user experience through personalized content feeds and influence teenage behavior in ways that are often subtle and difficult to detect.[151] Furthermore, although the bill targets advertising directly, it is largely silent on the persuasive design strategies embedded in platform architecture, such as infinite scrolling and social comparison features.[152]

Other legislative efforts are also underway to strengthen online safety for minors. The Kids Online Safety Act seeks to impose a duty of care on covered platforms, requiring them to protect minors from harmful content and to disable algorithmically "addicting" design features for minor users.[153] The bill further mandates that platforms provide minors with options to opt out of algorithmic recommendations and requires that minors' accounts be subject to high-privacy default settings.[154] A separate proposal, the Kids Off Social Media Act, aims to prohibit users under thirteen from accessing social media platforms, restrict the use of personalized algorithmic recommendation systems for users under seventeen, and limit social media use in schools.[155]

These legislative efforts indicate a growing recognition of the need to protect minors in digital environments, while underscoring the difficulty of crafting comprehensive policies that address the full spectrum of young people's digital engagement. Although these

148. Children and Teens' Online Privacy Protection Act, S. 836, 119th Cong. (as passed by Senate, Mar. 5, 2026).

149. *Id.*

150. *Id.*; *see* Matecki, *supra* note 102, at 386–87.

151. Children and Teens' Online Privacy Protection Act, S. 836, 119th Cong.; Ash Johnson, *Updated Children's Safety Bills Still Contain Serious Flaws*, INFO. TECH. & INNOVATION FOUND. (Mar. 6, 2024), https://itif.org/publications/2024/03/06/updated-childrens-safety-bills-still-contain-serious-flaws/ [https://perma.cc/N4XY-W22X].

152. Ash Johnson, *supra* note 151.

153. Kids Online Safety Act, S. 1748, 119th Cong. (2025).

154. *Id.*

155. Kids Off Social Media Act, S. 278, 119th Cong. (2025).

proposals differ in scope and approach, they confront the same underlying challenge of regulating a rapidly evolving digital environment without either overreaching or leaving critical gaps in protection. That challenge is further complicated by the limitations of domestic regulatory frameworks when applied to international platforms operating across jurisdictions and sharing data globally, which limits the ability of any single nation to enforce its regulations consistently.[156]

The European Union's General Data Protection Regulation (GDPR) offers a more expansive model in this respect.[157] While COPPA establishes the federal baseline in the United States, the GDPR recognizes that children under eighteen are entitled to special protections, permits member states to set the age of digital consent anywhere between thirteen and sixteen, and restricts automated profiling of minors.[158] The United Kingdom's Age-Appropriate Design Code—which governs how online services likely to be accessed by children must design their platforms and collect and process personal data under the UK GDPR—applies to all users under eighteen.[159] Parental consent is required for children under thirteen, and operators must apply age-appropriate protections calibrated to the child's age group.[160] Within the United States, California represents a notable exception to the federal baseline. The California Consumer Privacy Act (CCPA) extends enhanced privacy protections to older teenagers, distinguishing between parental consent for children under thirteen and direct consent for teenagers aged thirteen to fifteen.[161]

Although none of these frameworks is without shortcomings, they collectively demonstrate that more nuanced, tiered protections, ones that better reflect the developmental continuum

156. YASMIN AFINA ET AL., TOWARDS A GLOBAL APPROACH TO DIGITAL PLATFORM REGULATION: PRESERVING OPENNESS AMID THE PUSH FOR INTERNET SOVEREIGNTY (2024), https://www.chathamhouse.org/sites/default/files/2024-01/2024-01-17-towards-global-approach-digital-platform-regulation-afina-et-al.pdf [https://perma.cc/BZ3J-NVJV] (noting the absence of clearly established global norms or unified standards for digital platform regulation).

157. Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), 2016 O.J. (L 119) 1 [hereinafter GDPR].

158. GDPR, *supra* note 157, arts. 8, 22; *see, e.g.,* INFO. COMM'RS OFF. (ICO), AGE APPROPRIATE DESIGN: A CODE OF PRACTICE FOR ONLINE SERVICES (2022), https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/childrens-information/childrens-code-guidance-and-resources/age-appropriate-design-a-code-of-practice-for-online-services/ [https://perma.cc/WL8A-JUPJ].

159. ICO, *supra* note 158, at 13–16, 24.

160. *Id.* at 42–48; GDPR, *supra* note 157, arts. 8.

161. California Consumer Privacy Act of 2018, CAL. CIV. CODE §§ 1798.100–1798.199.100 (West 2018).

between childhood and adulthood, are both achievable and administrable.[162] An effective federal regulatory approach will ultimately need to account for the psychological, behavioral, and technological realities that shape how young people engage with digital platforms.[163]

IV. TARGETED RECOMMENDATIONS TO ADDRESS STRUCTURAL GAPS IN COPPA

While COPPA 2.0 represents an important step toward updating youth privacy protections, it does not resolve the statute's two most pressing shortcomings: (1) the age thirteen cutoff that excludes older adolescents from regulatory protection and (2) the continued overreliance on a parental consent model that is both easily circumvented and often ineffective in practice.[164] The following recommendations propose reforms that better reflect the developmental realities of today's young people and the technical sophistication of the digital platforms they engage with.

1. Extend Coverage to All Minors Under Eighteen.

COPPA's current age threshold leaves teenagers between thirteen and seventeen exposed to commercial data practices without requiring operators to implement any additional safeguards.[165] COPPA 2.0's proposed expansion to cover users under seventeen is a step in the right direction, yet it continues to exclude seventeen-year-olds who are no less susceptible to targeted and persuasive technologies than younger teenagers.[166] A unified standard protecting all individuals under eighteen would align with prevailing international models[167] and account for the commercial reality that teen-targeted content—particularly in fashion e-

162. *See e.g.,* ICO, *supra* note 158.

163. Alice Park, *Teens Are Stuck on Their Screens. Here's How to Protect Them*, TIME (Nov. 20, 2024, 15:28 MT), https://time.com/7177874/teen-video-viewing-guidance-apa/ [https://perma.cc/DS9K-GRF5] (quoting Mitch Prinstein, Chief Science Officer of the American Psychological Association, stating that "we are not doing enough . . . to prepare kids for how to live in the digital environment," and noting the APA's recommendations for stronger safeguards against algorithmic targeting and autoplay functions directed at teenagers); *see* Mark MacCarthy, *How Congress can protect kids online*, BROOKINGS INST. (May 4, 2023), https://www.brookings.edu/articles/how-congress-can-protect-kids-online/ [https://perma.cc/PT32-P2L5].

164. 15 U.S.C. §§ 6501(1), 6502(a)(1); *see* Matecki, *supra* note 102, at 382–87; *State AGs COPPA Comments*, *supra* note 118, at 9–10.

165. 15 U.S.C. §§ 6501(1), 6502(a)(1); *see* Matecki, *supra* note 102, at 386–87; *Children's Privacy*, *supra* note 109.

166. Children and Teens' Online Privacy Protection Act, S. 836, 119th Cong. (as passed by Senate, Mar. 5, 2026); *Markey-Cassidy Press Release*, *supra* note 14.

167. GDPR, *supra* note 157, arts. 8, 22; ICO, *supra* note 158; California Consumer Privacy Act of 2018, CAL. CIV. CODE §§ 1798.100–1798.199.100 (West 2018); *see* Park, *supra* note 163.

commerce and social platforms—shapes youth behavior and purchasing decisions well into late adolescence.[168]

2. Replace or Supplement Parental Consent with Tiered, Developmentally Appropriate Safeguards.

The parental consent model rests on the assumption that parents are consistently present, adequately informed, and capable of serving as effective gatekeepers—assumptions that frequently do not hold.[169] Children routinely bypass consent protocols by falsifying their age or self-authorizing consent without parental involvement.[170] To reduce reliance on this flawed model, Congress should consider a tiered approach incorporating: (1) privacy-by-default design requirements for platforms used by minors; (2) simplified, age-appropriate disclosures tailored to the cognitive capacities of different age groups; and (3) evolving consent frameworks that permit older teenagers to participate meaningfully in consent decisions. In cases where no parent or legal guardian is available or identifiable, the law should establish alternative privacy safeguards rather than leaving those users unprotected.

3. Mandate Robust, Privacy-Protective Age Assurance Methods.

Effective enforcement of age-based protections depends on reliable age verification. COPPA currently permits operators to rely on self-declared ages, creating a significant enforcement gap when children circumvent that process.[171] Congress should require the use of privacy-preserving age-assurance methods that verify age without collecting excessive personal information. Such requirements would strengthen the practical application of existing protections without introducing new privacy risks for the very users the statute is designed to protect.

4. Reevaluate Enforcement Authority in Light of *Loper Bright*.

The FTC's ability to interpret COPPA expansively through rulemaking has been meaningfully constrained by the Supreme Court's decision in *Loper Bright*.[172] To preserve effective enforcement, Congress must clarify, and where necessary expand, the Agency's statutory authority to address emergent digital harms and to regulate risks specific to teen users, including behavioral profiling and persuasive design practices. Absent clear

168. *See* Moghddam et al., *supra* note 81, at 2–3; Nwobodo, *supra* note 32, at 80.

169. Matecki, *supra* note 102, at 382–87; *State AGs COPPA Comments*, *supra* note 118, at 9–10; *Children's Privacy*, *supra* note 109.

170. *See* Eltaher et al., *supra* note 119, at 8–9; *COPPA FAQ*, *supra* note 97.

171. 16 C.F.R. §§ 312.5(d) (2025); *COPPA FAQ*, *supra* note 97; Matecki, *supra* note 102, at 382–83; *State AGs COPPA Comments*, *supra* note 118, at 9–10.

172. Loper Bright Enter. v. Raimondo, 603 U.S. 369 (2024).

congressional authorization, these practices will continue to evade regulatory scrutiny regardless of the Agency's enforcement posture.

5. Coordinate Federal Reform with International and State Models.

Finally, any federal reform to COPPA should be informed by existing frameworks, including the EU GDPR, UK GDPR, and the CCPA, that already provide more tiered protections and broader privacy rights for minors.[173] Coordination with international and state-level frameworks will help prevent fragmented protections and facilitate cross-border enforcement against global platforms that would otherwise exploit jurisdictional gaps.[174]

In sum, these recommendations aim to bring COPPA into closer alignment with the complex digital ecosystems that minors now navigate, emphasizing proactive, developmentally appropriate, and enforceable protections that move beyond the statute's outdated assumptions about age, consent, and platform responsibility.

V. THE FEASIBILITY OF PRIVACY-FORWARD STRATEGIES IN FASHION E-COMMERCE

Although teenagers engage extensively with digital platforms, many remain unaware of how their personal data is collected and used. A 2021 survey conducted by Common Sense Media found that 88 percent of teenagers between the ages of thirteen and eighteen had a smartphone, and 57 percent of children between eight and twelve had a tablet.[175] Additionally, 94 percent of families with children between the ages of eight and eighteen owned at least one smartphone in the home, and 74 percent owned a tablet.[176] On average, children aged eight to twelve spent approximately 5.5 hours per day on entertainment screen time, while teenagers aged thirteen to eighteen spent close to 8.5 hours per day.[177]

A 2023 Gallup study found that U.S. teenagers aged thirteen to nineteen spent an average of 4.8 hours per day on social media, with usage peaking at 5.8 hours per day among seventeen-year-olds.[178] Girls spent nearly an hour more on social media than

173. *See supra* Part III.
174. *See supra* Part III.
175. *FTC Stealth Advertising Report*, *supra* note 110, at 3 (citing VICTORIA RIDEOUT ET AL., COMMON SENSE MED., THE COMMON SENSE CENSUS: MEDIA USE BY TWEENS AND TEENS, 2021 (2022), https://www.commonsensemedia.org/sites/default/files/research/report/8-18-census-integrated-report-final-web_0.pdf [https://perma.cc/8NSJ-2HNF]).
176. *Id.*
177. *Id.*
178. Jonathan Rothwell, *Teens Spend Average of 4.8 Hours on Social Media Per Day*, GALLUP (Oct. 13, 2023), https://news.gallup.com/poll/512576/teens-spend-average-hours-

boys.[179] Despite this level of engagement, teenagers often lack a meaningful understanding of how or why their personal information is collected and monetized. For instance, 60 percent of teenagers believe they have little or no control over the personal information that social media companies collect about them.[180] In the e-commerce environment—where personalized advertising and data collection are ubiquitous practices—this disconnect leaves teen users receptive to tactics that exploit insecurities about appearance, popularity, and self-worth.

Parents express similar concerns. A 2012 survey found that 81 percent of parents of online teenagers worried about advertisers tracking their child's online behavior, with nearly half describing themselves as "very concerned."[181] While that data is now more than a decade old, it reflects longstanding parental anxiety about children's digital privacy. More recent evidence suggests that the problem persists. A 2023 survey found that 85 percent of Americans were concerned about advertisers using data on children's online activity to target ads at them.[182] This parallel gap in awareness among both teenagers and adults underscores the need for robust privacy protections that do not depend solely on user vigilance.

At the same time, advertising remains a vital engine of business growth, particularly in fashion e-commerce. Eighty-four percent of small businesses report using at least one major digital platform to communicate with customers, and 75 percent advertise their products and services through tech platforms.[183] As of 2026, approximately 32,253 fashion design businesses operate in the United States, many of which are small enterprises for which

social-media-per-day.aspx [https://perma.cc/3TBJ-F9EC]; *see also* VALERIE VERDOODT & EVA LIEVENS, MANIPULATIVE DIGITAL MARKETING PRACTICES TARGETED AT CHILDREN AND YOUTH ONLINE: RIGHTS AND RESPONSIBILITIES UNDER THE EXISTING EU LEGAL FRAMEWORK 27 (2024), https://better-internet-for-kids.europa.eu/sites/default/files/documents/167024/0/AdWiseOnline_Research.pdf [https://perma.cc/J4UJ-42UF] (discussing research indicating that many older adolescents still demonstrate limited understanding of persuasive tactics and the data processing practices underlying targeted advertising).

179. Rothwell, *supra* note 178.

180. Monica Anderson et al., *Connection, Creativity and Drama: Teen Life on Social Media in 2022*, PEW RSCH. CTR. (Nov. 16, 2022), https://www.pewresearch.org/internet/2022/11/16/connection-creativity-and-drama-teen-life-on-social-media-in-2022/ [https://perma.cc/M46S-69TS].

181. Mary Madden et al., *Parents, Teens, and Online Privacy*, PEW RSCH. CTR. (Nov. 20, 2012), https://www.pewresearch.org/internet/2012/11/20/parents-teens-and-online-privacy/ [https://perma.cc/MM6B-BRQV].

182. Michelle Faverio, *Key findings about Americans and data privacy*, PEW RSCH. CTR. (Oct. 18, 2023), https://www.pewresearch.org/short-reads/2023/10/18/key-findings-about-americans-and-data-privacy/ [https://perma.cc/DU2A-6CHU].

183. Tom Quaadman, *How Technology Enables Small Business*, U.S. CHAMBER OF COM. (July 29, 2020), https://www.uschamber.com/technology/how-technology-enables-small-business [https://perma.cc/W6TA-5W37].

platforms such as Instagram and TikTok serve as essential storefronts, offering cost-effective alternatives to traditional advertising channels.[184] The United States e-commerce market's revenue is projected to grow by approximately 37 percent between 2025 and 2029, reaching a record $1.8 trillion by 2029 and continuing a decade-long trend of annual expansion.[185] This growth reinforces the central role of digital marketing in sustaining businesses of all sizes in the fashion industry.

Business advocates frequently warn that privacy regulations can impose disproportionate burdens on smaller firms. Following the GDPR's implementation, a 2019 survey found that more than half of European small businesses spent between €1,000 and €50,000 on compliance, with many reporting uncertainty about fundamental requirements such as the lawful bases for data processing.[186] Research further indicates that companies subject to the GDPR experience an average decline of 8 percent in profits and 2 percent in sales, with effects falling disproportionately on small and medium-sized enterprises.[187] These findings have fueled calls for regulatory simplification and raised legitimate concerns about the risk of stifling innovation.

Nevertheless, stronger privacy protections for teen users are both necessary and compatible with effective, sustainable business strategies. Contextual advertising—which delivers ads based on the content a user is currently viewing rather than tracking behavioral data—offers a privacy-conscious alternative to more invasive targeting.[188] This approach has gained traction in markets operating under stringent privacy regulations. Value-driven marketing offers another viable path. Patagonia's "Don't Buy This Jacket" campaign, which foregrounded sustainability over consumption, was followed by a substantial increase in sales in the year after the advertisement ran, demonstrating that ethical

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184. BEN KEMPENICH, FASHION DESIGNERS IN THE US, IBISWORLD 3 (2026); *Benefits of Social Media Marketing for Small Businesses*, OREGON SMALL BUS. DEV. CTR., https://oregonsbdc.org/how-small-businesses-can-leverage-social-media [https://perma.cc/67G6-DSJ8].

185. *Revenue of the e-commerce industry in the United States from 2017 to 2029*, STATISTA, https://www.statista.com/statistics/272391/us-retail-e-commerce-sales-forecast/ [https://perma.cc/93C3-6S7S].

186. GDPR.EU, 2019 GDPR SMALL BUSINESS SURVEY (2019), https://gdpr.eu/wp-content/uploads/2019/05/2019-GDPR.EU-Small-Business-Survey.pdf [https://perma.cc/Y3K5-NE4U].

187. Giorgio Presidente & Carl Benedikt Frey, *The GDPR effect: How data privacy regulation shaped firm performance globally*, CTR. ECON. POL'Y RSCH. (Mar. 10, 2022), https://cepr.org/voxeu/columns/gdpr-effect-how-data-privacy-regulation-shaped-firm-performance-globally [https://perma.cc/UZ6F-TXNA].

188. Brook Shepard, *The New Rise Of Contextual Advertising*, FORBES (July 22, 2021, 7:20 AM EDT), https://www.forbes.com/councils/forbesagencycouncil/2021/07/22/the-new-rise-of-contextual-advertising/ [https://perma.cc/K2EW-JNEC].

marketing can resonate with consumers and drive meaningful commercial results.[189] Such strategies align with the preferences of Gen Z, research consistently indicating that this demographic favors brands that reflect their values, including commitments to sustainable practices and respect for privacy.[190]

From a regulatory standpoint, adopting privacy-conscious practices positions businesses to anticipate and respond to an increasingly assertive enforcement environment. Public concern about the algorithmic targeting of minors has grown substantially and is now actively shaping expectations for greater corporate digital responsibility.[191] Businesses that adapt early will be better positioned to reduce regulatory exposure and cultivate lasting relationships with a consumer base that increasingly demands transparency, autonomy, and control over personal data. The reforms proposed in this article do not seek to eliminate advertising. They seek, rather, to reshape industry practices to support fair and developmentally appropriate participation in the digital economy.

CONCLUSION

As fashion e-commerce continues to evolve, teenage consumers remain both its primary drivers and its most vulnerable participants. Platforms and brands increasingly leverage behavioral data, AI-driven personalization, and persuasive design features to influence teen behavior, often without full transparency or genuine consent. Despite recent updates and legislative proposals, the existing regulatory framework remains ill-equipped to address the complex privacy risks that adolescents face today. The continued reliance on age cutoffs and parental consent models fails to account for the ways in which modern digital ecosystems exploit cognitive vulnerabilities, blur the line between entertainment and commerce, and commodify adolescent identity for profit.

Protecting teenage consumers in this environment requires more than incremental statutory revision. It demands a

189. *See, e.g.*, BRAND HOPPER, *A Case Study on Patagonia's 'Don't Buy This Jacket' Campaign* (Sept. 10, 2025), https://thebrandhopper.com/case-studies/a-case-study-on-patagonias-dont-buy-this-jacket-campaign/ [https://perma.cc/J5P2-HZAT] (reporting that Patagonia's revenue increased substantially in the year following the campaign, reaching $543 million in 2012, and attributing the growth in part to the brand's authentic commitment to environmental responsibility).

190. Johnny Wood, *Gen Z cares about sustainability more than anyone else – and is starting to make others feel the same*, WORLD ECON. F. (Mar. 18, 2022), https://www.weforum.org/stories/2022/03/generation-z-sustainability-lifestyle-buying-decisions/ [https://perma.cc/DM7Z-K89W].

191. Faverio, *supra* note 182.

comprehensive recalibration of privacy laws to account for adolescents' distinct developmental needs and the sophisticated data practices shaping their online experiences. Extending protections to all minors under eighteen, strengthening age-assurance mechanisms, establishing privacy-by-design standards, and regulating algorithmic targeting are necessary steps toward that goal. At the same time, privacy-conscious innovation is both achievable and increasingly important to the fashion industry's long-term commercial sustainability. A digital marketplace that respects autonomy, transparency, and the developmental needs of young people will better serve consumers and businesses alike—and is essential to building a more equitable digital future.