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BY ONLINE SUBMISSION TO PRIVACYNOI2010@NTIA.DOC.GOV

Mr. Lawrence E. Strickling
Assistant Secretary for Communications
and Information and Administrator
U.S. Department of Commerce
National Telecommunications and Information Administration
1401 Constitution Avenue, NW
Room 4725
Washington, D.C. 20230

RE: (Docket No. 101214614-0614-01) RIN 0660-XA22

Commercial Data Privacy and Innovation in the Internet Economy: A Dynamic Policy Framework

Dear Mr. Strickling:

On behalf of the Retail Industry Leaders Association (“RILA”), I offer the following comments in response to the Department of Commerce’s notice and request for public comments on its recently released green paper, *Commercial Data Privacy and Innovation in the Internet Economy: A Dynamic Policy Framework*. RILA appreciates the opportunity to comment on the report and encourages Commerce to continue to seek and review comments from a broad spectrum of stakeholders.

RILA is the trade association of the world’s largest and most innovative retail companies. RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs and more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

The report is quite comprehensive and covers many issues in the continuously developing privacy debate; however, we would like to comment only on a few key points. **First, RILA members support self-regulatory models, and accountability mechanisms and we feel these measures continue to be the appropriate and most effective framework for privacy protection.** The retail industry stands ready to assist Commerce in its development of voluntary, enforceable codes for privacy protection. It is our hope that Commerce will support and encourage industry in what we have already accomplished and continue to provide.

Secondly, RILA understands and appreciates the need for privacy protections in the international economy. RILA supports Commerce’s continued efforts to insure global interoperability. Privacy guidelines can help industry to achieve this goal. Commerce has provided a reasonable framework on which to continue to build and address privacy issues as the global economy changes and as technology

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and business models change as well. Again, RILA believes this approach provides the necessary flexibility needed to assure the continued movement of goods and services domestically and internationally while appropriately protecting consumers' privacy.

As mentioned before, retailers are keenly aware and are focused on the consumers' wants and needs, including privacy. We feel that we are properly protecting consumers' information and have developed trusting long-lasting relationships with them.

Thirdly, RILA supports Commerce's efforts to harmonize security breach notification requirements via a federal security breach notification law. However, without preemption of existing state breach notification laws retailers will continue to be subject to inconsistent notification requirements that add unnecessary complexity to the notification process and do nothing to aid consumers.

In addition we would encourage Commerce to support a federal law requiring notice only in those incidents where there is risk to the individual of identity theft or other tangible consequence, or notice letters would not seem to have purpose. Care should be taken as well when crafting enforcement mechanisms or liability provisions. Otherwise there is a risk of inadvertently creating draconian or strict liability sections, particularly for any bill that is coupled with broad security program requirements.

RILA appreciates the opportunity to share its comments with the Department of Commerce. We would be pleased to discuss RILA's views with you further at your convenience. You may reach me at doug.thompson@rila.org or 703-600-2065.

Respectfully submitted,



Doug Thompson
Vice President, Government Affairs

