

June 14, 2010

*Via electronic filing: [privacy-noi-2010@ntia.doc.gov](mailto:privacy-noi-2010@ntia.doc.gov)*

Internet Policy Task Force  
National Telecommunications and  
Information Administration  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Room 4725  
Washington, D.C. 20230

**Re: Comments in Response to Notice of Inquiry on the Information Privacy and Innovation in the Internet Economy**

Dear Internet Policy Task Force:

I appreciate this opportunity to provide comments in response to the Department of Commerce's Internet Policy Task Force's Notice of Inquiry on information privacy and innovation in the Internet economy (NOI).<sup>1</sup> We offer these initial comments and look forward to working with the Department as it explores this important issue with an eye toward progressive and responsible commerce that strengthens our nation's international economic standing.

By way of background, the Retail Industry Leaders Association (RILA) promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry – retailers, product manufacturers, and service suppliers – which together account for more than \$1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

RILA shares the Commerce Department's commitment to ensuring that the Internet remains open for innovation.<sup>2</sup> The present system has fostered an environment that encourages and enables our member companies to incorporate novel information applications into their practices, and they have pursued creative ways to deliver existing goods and services across the globe via the Internet. Our comments highlight some of the many positive contributions that the Internet has provided to the economy.

**I. Businesses and Consumers Have Greatly Benefitted from e-Commerce**

The retail industry is a vital player in the U.S. economy, and each day our members pursue

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<sup>1</sup> Notice of Inquiry, Information Privacy and Innovation in the Internet Economy, 75 Fed. Reg. 21226 (Apr. 23, 2010).

<sup>2</sup> 75 Fed. Reg. at 21227.

innovative ways to reach consumers, whether through brick-and-mortar stores or through other means, such as the Internet. As the NOI notes, even as the overall economy suffered during the recession, e-commerce continued to grow at an impressive rate.<sup>3</sup> We anticipate that e-commerce will only continue to increase in the future, with our member companies contributing to this important area of economic growth by adding new jobs to support their e-commerce practices. Such jobs include a variety of employment possibilities, from positions that focus on information technology to jobs in customer service, manufacturing and product distribution.

RILA members strive for excellence in serving their customers. In this competitive climate, our members gain and retain customers by fostering consumer trust in the transactions that take place online as well as offline. Our members protect the information that customers provide them and use it for a number of different purposes, ranging from product delivery to enhancing customers' online experiences. For example, many of our retailers collect information from customers to offer them loyalty and discount coupons for products they are likely to find useful. Our members also use customer information to complete product requests and to respond to customer service inquiries. Additionally, in the spirit of innovation, our members collect information to improve customers' e-commerce experiences by continually using such information to modify content presentation and offerings as well as to improve the efficiency of online transactions.

Much as catalogues have enabled consumers in remote locations to partake in commerce, e-commerce has also provided consumers with a new avenue to participate in the economy. Customers who are too busy to frequent shops in person or prefer the inventory of products available online also find value in e-commerce. RILA members have a vested interest in protecting the information provided by their customers because the retail industry is built on the business-to-consumer model.

## **II. Innovation Has Led to a Rise in Mobile Commerce**

As the NOI notes, mobile commerce is on the rise.<sup>4</sup> In addition to accessing the Internet through desktops and portable laptops, consumers increasingly now use mobile devices to access the Internet and engage in commerce. Encouraged by and supportive of this trend, many RILA members have begun to embrace mobile commerce. Retailers are exploring how to market and brand themselves on mobile devices. They are also experimenting with applications that enable consumers to make secure mobile payments.

Retailers are also beginning to explore integrating mobile technology into their brick-and-mortar stores. Applications are now in development that will enable consumers to scan product barcodes with their mobile devices while they are in stores and receive information delivered over the Internet that supplements their knowledge about a product. Additionally, retailers are using mobile devices to conduct inventory management.

To examine this new era of mobile commerce, RILA will be hosting the first-of-its-kind Retail Mobile Executive Summit this July 2010. The summit will explore the use of mobile technology

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

and address the challenges and opportunities presented by this progressive retail space. Our members are eager to explore this new innovative channel of commerce.

### **III. The Current Regulatory Structure Promotes Online Commerce**

The current regulatory environment has enabled RILA members to innovate in the e-commerce and mobile marketplaces. As Commerce Secretary Gary Locke stated at the Commerce Department's recent May 7<sup>th</sup> Privacy and Innovation Symposium, "we need to be careful to avoid creating an overly complicated economic and regulation environment."<sup>5</sup> Privacy concerns can be addressed while still promoting a regulatory structure that fosters global innovation.

Because of the Commerce Department's mission to promote progressive domestic growth, we welcome you to the privacy debate.

### **IV. Notice and Choice are Not Outdated Models**

We are concerned about the recent debate that notice and choice is an outdated or ineffective model. The fundamental construct of the U.S. economy revolves around consumer choice, with consumer protection being the regulatory protection against harmful practices. Retailers have a long history of managing consumer notice and choice options. As technology and marketing channels have evolved and expanded, retailers have reacted and adjusted their practices to meet the needs and wants of our customers.

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Thank you for the opportunity to contribute to the dialogue on this important subject and look forward to working with the Department. Should you have additional questions about these comments or the retail industry, please do not hesitate to contact Sarah Arbes at 703-600-2021 or [sarah.arbes@rila.org](mailto:sarah.arbes@rila.org).

Sincerely,



Casey C. Chroust  
Executive Vice President, Retail Operations

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<sup>5</sup> Gary Locke, Secretary, Commerce Dep't, Prepared Remarks at the Privacy and Innovation Symposium (May 7, 2010), *available at* [http://www.commerce.gov/NewsRoom/SecretarySpeeches/PROD01\\_009223](http://www.commerce.gov/NewsRoom/SecretarySpeeches/PROD01_009223).