



**FEDERAL TRADE COMMISSION
Washington, D.C. 20580**

**Comments of the
National Retail Federation
regarding the Federal Trade Commission's
request for comments regarding
"Face Facts: A Forum on Facial Recognition"
Project Number P115406**

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Introduction

The National Retail Federation (“NRF”) appreciates the opportunity to respond to the Federal Trade Commission’s (“Commission”) request for comments regarding facial detection and facial recognition technology.

As the world’s largest retail trade association and the voice of retail worldwide, NRF and our Shop.org and NCCR divisions represent merchants of all types and sizes, including chain restaurants and industry partners, from the United States and more than 45 countries abroad. Retailers operate more than 3.6 million U.S. establishments that support one in four U.S. jobs – 42 million working Americans. Contributing \$2.5 trillion to annual GDP, retail is a daily barometer for the nation’s economy. Facial detection technology and facial recognition technology, as with any new technology, present a host of opportunities and challenges. While the issues raised merit serious and careful examination, as with any new advance we should resist the temptation to allow speculation as to the technology’s challenges to foster regulatory restrictions that could significantly undermine important benefits.

Distinguishing the Uses of the Technology

If we are to think carefully and critically about the technologies’ potential, it is important to consider key distinctions between facial detection technology and facial recognition technology. Facial detection is far less specific and is used to make generalized assessments of characteristics such as age and gender. We note that during the Commission’s Facial Recognition Workshop, some hypothetical’s shifted between facial detection technology and facial recognition technology without a clear examination of the differences. The disparity in actual use between facial detection technologies and facial recognition technologies warrants a clearer distinction than it is sometimes given.

Facial Detection

In the retail environment, facial detection currently is envisioned as a tool for managing delivery of advertisements, collecting macro crowd analytic data, and assisting in other aspects of store operations. Facial detection software does not by itself allow individual identification. Popular consumer products, such as digital cameras and webcams, have seamlessly integrated facial detection technology into their product offerings. For example, they facilitate the cameras’ focus on faces or optimize flash or exposure settings for faces. Similarly, commercially-oriented products are beginning to be used by stores to distinguish people from other objects in the vicinity. For example, technology might be used to “wake up” a self-service kiosk when a person is facing it, allowing it to go into an energy savings mode at other times.

Currently, this technology has not been widely adopted across the retail industry. However, in the future, facial detection technology could allow, for example, the delivery on electronic displays of ads for men’s jeans to men and women’s tops to women. From the consumers’ standpoint, they are receiving increased personalization of their experiences within a store. Alternatively, companies could use the technology to assess popularity of offerings, aisle attractiveness, and determine over time general statistics about the experiences of consumers

visiting the store to improve layout design and display design. Ultimately, customers would be provided a more comfortable and efficient shopping environment due to improvements in store design encouraged by new technologies. None of these uses should suggest special treatment for facial detection technology.

Facial Recognition

Compared to facial detection, retail use of facial recognition, is barely nascent. Facial recognition technology provides the ability to connect facial data with additional data sets. Because it can recognize an individual with a substantial degree of certainty, it is possible to envision situations where it could be used to provide personalized services or prevent particularized harms. For example, it is possible to envision the technology being used to provide benefits for regularly returning customers in retail stores or other service environments. This technology could provide consumer benefits or offers based on the customer's prior shopping history and preferences. In practical terms, the technology could allow stores to provide environments more like those experienced with an attentive sales person: the barista who recognizes and orders a coffee club member's preferred drink when she walks in the door, or allowing a frequent flyer to print his boarding pass from a kiosk without presenting a credit card. The same types of devices may alert loss prevention departments to the presence of repeat shoplifters. In instances where facial recognition technology is used, it might be desirable to provide generalized notice, comparable to that used in conjunction with some current loss prevention environments.

Conclusion

Facial detection and facial recognition technology are fascinating areas. But, like cell phones from twenty years ago, the technology is still in its infancy. As with phones, rather than adopting rules that might inadvertently reduce the likelihood that ordinary phones might someday become "smart phones" the Commission should move cautiously and consider the long term consequences of potential new regulations. Speculative harms should not trump evolving benefits.

NRF would like to thank the Commission for the opportunity to comment and is happy to meet with the Commission to discuss this issue.