



February 18, 2011

**VIA ONLINE SUBMISSION**

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

**Re: A Preliminary FTC Staff Report on “Protecting Consumer Privacy in an Era of Rapid Change: A Proposed Framework for Businesses and Policymakers”**

Meijer is pleased to submit these comments in response to the FTC’s Report on “Protecting Consumer Privacy in an Era of Rapid Change: A Proposed Framework for Businesses and Policymakers”.

Meijer would look to maintain the use of first party marketing as an exception to the Commission’s rules because, within the retail industry, it is a commonly accepted practice. We believe that Meijer customers expect that we, in an effort to provide better and more relevant service levels, are collecting non-sensitive information regarding purchases. Use of this data can increase promotional opportunities for our customers and result in consumers spending less money, through the use of targeted coupons and savings.

However, we would request clarity regarding the definition of First Party Marketing. In fact, we would request the following definition;

First Party Marketing means collection and use of non- sensitive data [see definition of “sensitive data” below] from a consumer with whom the company interacts directly for purposes of marketing to that consumer where the company has the sole discretion to determine whether the consumer receives marketing irrespective of whether the funding or source of content for the marketing is provided by a third party and irrespective of whether the marketing is communicated in the same channel as where it was collected. Marketing within the control of or at the direction of the company who collected the information from the consumer is first party marketing.

We believe this definition protects the customers while allowing the relationship between the customer and the retailer to be maximized to the benefit of the customer.

In addition, collection of data offline is a commonly accepted practice (i.e. first party marketing) that consumers value and the cost to inform or employ opt-in/out mechanism as suggested within the draft report for on-line collection would be cost prohibitive. Therefore, Informing and/or employing opt-in/out mechanisms when there is a change in the privacy policy should be required only for data that is collected on-line.

In the case of on-line data collection, commonly accepted uses (i.e. first party marketing) should only require express notification on the first time new data is collected. If data is collected for a reason other than a commonly accepted use, the consumer should be informed of the policy change when the next new data is collected and should be given an opt-out. This again would maintain consumer protections while still meeting the expectations of customers.

Finally, with regard to consumer access to information, we believe a consumer's right to access data collected by a company should be limited to "sensitive data" that is collected. Sensitive data would then be defined as personal information that if used would present a financial harm to the consumer, including, but not limited to: financial data, account information, social security numbers, and passwords. Access to non-sensitive data would be cost-prohibitive to the retail community and might result in the inability of a retailer to collect the data necessary to provide customers with targeted and relevant savings opportunities, costing consumers at the check out.

Thank you for the opportunity to provide comment regarding the draft report. We request that our targeted comments be seriously considered in the development of the final report. We are available to answer questions from you or your staff.

Sincerely,

Stacie Behler  
Vice President Public Affairs