



October 27, 2017

The Honorable Maureen Ohlhausen  
Acting Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

Re: Informational Injury Workshop P175413 Request for Comment

Dear Acting Chairman Ohlhausen:

On behalf of the Retail Industry Leaders Association (RILA), I write to commend the Commission for hosting a workshop and requesting comment on informational injury and to highlight the care retailers take in the collection and use of customer information.

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

U.S. and global consumers are driving change in retail at an unprecedented rate. Ubiquitous internet access, and changing consumer values, preferences, and lifestyles, have led to unprecedented disruption in virtually every industry; retail perhaps more than any other. This digital revolution continues to transform the way customers buy and interact with retailers and products. And the pace and depth of these changes is both unprecedented and accelerating.

Retailers are adapting to this new consumer landscape through the pursuit of transformative innovation. The convergence of retail and technology ((R)Tech) means that the retail business model has fundamentally changed resulting in a business imperative to delight profoundly empowered consumers. To thrive in this era of (R)Tech, retailers must maintain and deepen customer trust relationships.

The Commission requests comment on how businesses evaluate the collection and use of information in light of potential injury. Retailers embrace the careful stewardship of customer data not only because maintaining customer trust is a core business imperative, but because it is the right thing to do. In designing data management systems, retailers think about the process from end-to-end. Retailers carefully consider a variety of elements to determine if to collect as well as the scope. Some of these elements include customer benefits, business purpose of collection, customer insights, transaction friction, sensitivity

and volume of data, parts of the business that need data, and retention period. Retailers also evaluate whether a business need can be accomplished by some other means. The business reality of (R)Tech is that any friction in a retail transaction or service will ultimately determine success or failure.

Retailers are deeply focused on providing a delightful customer experience which begins with providing the customer what they want, in the manner they want it, when they want it. Retailers care about customers and do everything possible to protect their data. Retailers are judicious about what data is collected, how it is used and stored, and with whom it is shared. But, retailers recognize the reality of modern cybersecurity that every sector of the economy is the target of sophisticated and coordinated cyber actors.

When attacks on consumer information are successful, retailers believe that the Commission should focus on consumer injury that is concrete. As the Acting Chairman has noted, financial injury, health and safety injury, as well as broken promises related to material terms are at the core of the privacy and data security cases brought by the Commission. Retailers believe that grounding Commission cases in this manner ensures that customers are protected from actual harm while providing rational guiderails for business risk. By focusing its enforcement on clearly articulable injury, the Commission ensures that its cases will have maximum impact to protect consumers while curbing activity that causes real harm.

Thank you for requesting comment on this important issue and RILA looks forward to the outcome of the Commission's Informational Harm Workshop in December. If you have any questions or RILA can provide any additional assistance, please feel free to contact me at 703-600-2065 or [nicholas.ahrens@rila.org](mailto:nicholas.ahrens@rila.org).

Sincerely,

*Nicholas R. Ahrens*

Nicholas R. Ahrens  
Vice President, Privacy and Cybersecurity

cc: Terrell McSweeney, Commissioner