

**Statement of Commissioner Julie Brill
In the Matter of Nomi Technologies, Inc.
Matter No. 1323251
August 28, 2015**

I vote to finalize the Nomi case, for the reasons articulated in the Majority Statement.¹

In her dissent, Commissioner Ohlhausen expresses concern that our order will deter companies from offering privacy choices in the marketplace.² I agree that, in approving our orders, we should always consider whether they provide the appropriate marketplace incentives. I believe this order provides companies with an incentive to periodically review the statements they make to consumers, and make sure their practices line up with those statements. In this case, we took issue with the fact that Nomi offered a deceptive choice to consumers for nearly a year. Our order today makes sure that this doesn't happen again. In addition, the concern that our order will deter companies from offering choices is belied by the fact that, like many of its competitors in retail mobile location tracking, Nomi continues to offer an online choice to consumers to opt-out of retail mobile tracking. However, as a result of our order, the company no longer offers a deceptive choice.

¹ Statement of Chairwoman Ramirez, Commissioner Brill, and Commissioner McSweeney, In the Matter of Nomi, Inc. ("Majority Statement") at 2-3(Apr. 23, 2015), *available at* https://www.ftc.gov/system/files/documents/public_statements/638351/150423nomicommissionstatement.pdf.

² Dissenting Statement of Commissioner Ohlhausen, In the Matter of Nomi, Inc., at 2 (Aug. 28, 2015).