

January 27, 2011

National Telecommunications and Information Administration  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, D.C. 20230

RE: Commercial Data Privacy and Innovation in the Internet Economy: A Dynamic Policy Framework  
(Docket # 101214614-0615-1)

Walmart is pleased to respond to the Commerce Department's green paper entitled "Commercial Data Privacy and Innovation in the Internet Economy: A Dynamic Policy Framework" (Framework). We commend the Department for producing a thoughtful report that will help advance a healthy and informed debate about this important policy issue. We greatly appreciate the inclusion of a variety of stakeholders, and we encourage the Department to continue to engage a broad range of interests. Continued engagement will help to provide necessary context in this ongoing discussion.

Retailers are particularly dependent on the trust and goodwill of our customers and that extends to all facets of our business, both online and offline. The high degree of contact we have with our customers also gives us a unique perspective on what customers want and expect. Keeping in mind the continuing evolution of the privacy landscape, we think the characterization of the Framework as a *Dynamic* Policy Framework is especially appropriate. Although the Framework covers a number of issues, we focus on a few overarching themes.

We applaud the Department's focus on privacy principles as the bedrock for protecting consumers, preserving innovation, and supporting the global economy. We believe that a focus on underlying principles, rather than potential distinctions in regulatory schemes, would provide considerable impetus for a more robust and flexible method for protecting consumer privacy. We think this is the right path to finding privacy solutions. It would also help promote global interoperability and facilitate the education of consumers and industry on their privacy rights and responsibilities. Finally, it would also serve to provide domestic guidance to reduce a multitude of well-intentioned laws, federal or state, that provide an uneven and uncertain environment for consumers and business alike.

We also appreciate the Department's focus on global cooperation. Business is becoming increasingly global. As industry develops privacy approaches, many companies will need to take a global approach into account, and the Framework's description of the challenges inherent in differing privacy regimes perfectly illustrates this point. We think the paper lays out a great path to address these challenges, and this approach provides the basis for working toward much greater interoperability.

In addition, we support the Department's examination of how to implement principles and foster accountability, while preserving flexibility and stakeholder engagement. The types of hybrid

regulatory mechanisms discussed in the Framework would support the implementation of privacy principles in multiple contexts. A specific example is the proposal to develop “voluntary, enforceable codes of conduct that enable continued flexibility in rules that can evolve with new technologies and business models,” which could be enforced by the Federal Trade Commission (FTC). Another example is the suggestion for industry to adopt Privacy Impact Assessments (PIAs). These types of mechanisms provide flexibility for industry to adjust to rapidly changing market and technological changes while still providing for appropriate accountability. It would also help foster a cooperative relationship between stakeholders.

On this important point, we commend the Department’s focus on stakeholder engagement across the spectrum of interested parties, including policy-makers, industry, and consumer groups. The creation of a Privacy Policy Office within the Department would provide an additional outlet for policy discussion and a complement to the extensive work being done by the FTC. We do recommend that the Department ensures it engages a wide range of stakeholders who can fully inform the debate. Retailers are an excellent example of a group that has deep knowledge about consumer behavior, and interact directly and frequently with consumers across every channel and technology. As noted above, retailers are particularly focused on maintaining consumer trust and are very sensitive to what consumers expect where their privacy and other interests are concerned. We look forward to participating with other stakeholders in this area.

We would like to thank the Department of Commerce for the opportunity to comment in this process. Please feel free to contact Zoë Strickland, Vice President and Chief Privacy Officer, at [zoe.strickland@wal-mart.com](mailto:zoe.strickland@wal-mart.com) with any questions or comments.