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Sent: Tuesday, May 18, 2004 7:14 AM

To: rfidworkshop

Subject: FTC public workshop on RFID - 21 June

Dear Sir/ Madam,

I work at the National Consumer Council in the UK, a not for profit consumer policy and research organisation. We recently held a summit on the future of RFID in retail. We brought together key stakeholders in this debate, to discuss how widely the technology might be used, what it might be used for and what the potential benefits and risks to consumers might be. A report of the summit, and its background paper, can be found at <http://www.ncc.org.uk/technology/rfid.pdf>

We found that genuine concerns did exist. It was unclear whether existing law would adequately protect consumer privacy and there was concern about how RFID could be used to exclude some consumers from goods and services. Summit participants agreed that there was a strong likelihood of a consumer backlash against the technology.

Our report is a call to action for government, regulators and business. We argue that:

- \* Data protection authorities should investigate this technology and issue guidance on its use;
- \* Industry needs to provide convincing evidence of real benefits for consumers from the technology and develop RFID applications that work for consumers;
- \* Both industry and government must pay real attention to consumer concerns, by investing in deliberative processes to inform policy and build consumer literacy and trust.

If you would like any further information about this work, do not hesitate to contact me.

Kind regards,

Susanne.

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May 2004: 'A victory for common sense'

In response to NCC recommendations, the Treasury has made a U-turn and announced that home reversion plans will be regulated, along with other equity release schemes, by the Financial Services Authority.

# Key findings and challenges

## Recommendation 1

- It was unclear whether existing law would adequately protect consumer privacy. Some retail uses of the technology may worry consumers (for example, in-store RFID usage may trigger fear of unwelcome or covert surveillance) but not involve their personal data, so the Data Protection Act would not provide protection. Participants felt that there was a need to look at the potential uses of the technology and to determine how well regulation would cover these applications, not only in the UK but also in other EU and non-EU countries. While some participants felt that self-regulation could play a role here, others expressed scepticism about the efficacy of self-regulation, particularly in an international context.

⇒ The NCC calls on the Office of the Information Commissioner and the Department for Constitutional Affairs to investigate whether existing regulation adequately covers the use of RFID technology in different contexts and sectors. The Article 29 Data Protection Working Party within Europe should offer guidance in this area and the Organisation for Economic Co-operation and Development's input on an international level will also be extremely important. Information on our own work on self-regulation is included in the full report of the summit; at this stage, we have yet to see any emerging self-regulatory initiatives in this area that would meet our guidelines.

## **Recommendation 2**

- Summit participants agreed that there was a strong likelihood of a consumer backlash against the use of RFID technology in retail. Consumers had not been involved in the debate so far, though their reaction to it would greatly influence its future.

⇒ The NCC thinks consumers' interests must lie at the heart of decision-making.

The onus is on proponents of the technology to provide convincing evidence of real consumer benefits. The potential risks to consumers (including risks to privacy) must be discussed and addressed openly. The Department of Trade and Industry should fund research into consumers' perceptions of the technology at this early stage, as part of their research programme on RFID.

## **Recommendation 3**

- Most participants spoke of the importance of gaining consumers' trust in the technology. The history of genetically modified (GM) foods was mentioned as a cautionary tale with lessons for both supporters and opponents of RFID technology.

⇒ The NCC agrees that there is much to learn from the GM debate (about trust, communication, risk and consumer involvement) that has relevance here.

Industry and government need to build on this experience and pay real attention, not lip service, to consumer views by improving the quality of risk communication and investing in deliberative processes, to inform policy and build consumer literacy and trust.

#### **Recommendation 4**

- Concern was expressed about how RFID technology could compromise consumer privacy, and how the information it collected could be used to exclude some consumers from goods and services.
- ⇒ The NCC believes that RFID technology will pose significant challenges to consumer privacy, unless concerted action is taken now. The advent of common RFID tag standards and readers and the tagging of individual products have focused minds, but there are still opportunities to develop and implement the technology so that consumer interests and concerns are addressed. A strong lead from government is needed on this.

The use of information to more efficiently profile consumers and the impact that might have on disadvantaged consumers also raises complex policy issues which need to be fully explored. The NCC is currently working on these issues and will publish a book (called “The Glass Consumer”) on the personal information economy this autumn.

#### **Recommendation 5**

- There was disagreement on how widely RFID would be used in retail over the next five to ten years. Some consumer and civil liberty representatives felt that business was investing heavily in the technology and would want to make substantial use of it, but others argued that the technology was still in its infancy and there were significant barriers to its use.

⇒ The challenge for industry is to develop RFID applications which work for consumers. Privacy-protection must be built into the technology and its applications and must not be seen as an add-on luxury. Positive uses of the technology to enhance consumer privacy and decision-making should also be thoroughly explored.

### **Recommendation 6**

- There was consensus on the importance of taking this debate forward, widening out the discussion to bring in a broad range of people (including consumers) to tackle the challenging issues RFID raised.
- ⇒ Industry or government should organise a conference, bringing together a wide spectrum of people to discuss the issues. Government and industry should establish ongoing consultative processes to tap into the wide range of interests and expertise that could usefully contribute to this debate.