



**Written Testimony of  
Food Marketing Institute**

**“Combating Organized Retail Crime – The Role  
of Federal Law Enforcement”**

**U.S. House of Representatives  
Committee on the Judiciary  
Subcommittee on Crime, Terrorism, and Homeland  
Security**

**Thursday, November 5, 2009**

**ORGANIZED RETAIL CRIME**  
**THE FOOD MARKETING INSTITUTE**  
**EXECUTIVE SUMMARY - TESTIMONY**

Organized Retail Crime or ORC is a large nationwide problem that needs a federal solution. According to federal law enforcement officials and loss prevention experts, losses attributed to ORC activity are as much as \$30 billion annually.

Every segment of the retail community is being victimized by these sophisticated theft rings including supermarkets, pharmacies, specialty shops, and department stores among others.

ORC is not petty shoplifting. Rather ORC involves sophisticated criminal enterprises that move quickly from community to community and across state lines stealing large quantities of merchandise from retail stores.

The health and safety of consumers is at risk because ORC rings are engaged in the theft and resale of products that are regulated by FDA including infant formula, over-the-counter medicines and diabetic supplies. ORC rings often times will tamper with these types of products and modify or change their labels and expiration dates.

ORC gangs once relied exclusively on the black market and locations like flea markets and pawn shops to sell their ill-gotten goods. Now these criminal enterprises have embraced technology and are selling stolen merchandise on Internet auction sites.

Federal legislation needs to be enacted to combat ORC and deter the sale of stolen merchandise over the Internet. For this very reason, **FMI strongly supports legislation (H. R. 1166 – H. R. 1173) to address ORC more extensively from a federal perspective.**

H. R. 1166 and H. R. 1173 will not impose unreasonable burdens on the Internet. These initiatives simply call for a few modest transparency and recordkeeping requirements for Internet auction sites and high volume sellers. High volume sellers are individuals who conduct at least \$12,000 in sales over an internet auction site in a 12-month period.

H. R. 1166 and H. R. 1173 will not require more resources from federal law enforcement agencies if these initiatives are enacted into law. In fact, because the ORC legislation will discourage the sale of stolen merchandise on the Internet, federal law enforcement will be able to devote their limited resources on other priorities.

## INTRODUCTION

The Food Marketing Institute (FMI) on behalf of our supermarket retail and wholesaler members submits the following testimony to the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security in response to this oversight hearing relating to Organized Retail Crime (ORC). FMI commends Chairman Bobby Scott (D-VA) for his leadership on ORC and the supermarket industry also wishes to express appreciation and acknowledge the ongoing efforts of state and federal law enforcement to combat this serious criminal activity.

### ORGANIZED RETAIL CRIME - A \$30 BILLION PROBLEM

Organized Retail Crime or ORC is a large nationwide problem that needs a federal solution. According to federal law enforcement officials and loss prevention experts, retail losses attributed to ORC activity are as much as \$30 billion annually.

Every segment of the retail community is being victimized by these sophisticated theft rings including supermarkets, pharmacies, specialty shops, and department stores among others.

ORC is not petty shoplifting. Rather ORC involves sophisticated criminal enterprises that move quickly from community to community and across state lines stealing large quantities of merchandise from retail stores.

### ORC – HEALTH & SAFETY RISK TO CONSUMERS

The health and safety of consumers is at risk because ORC rings are engaged in the theft and resale of products that are regulated by FDA including infant formula, over-the-counter medicines and diabetic supplies. ORC rings will often tamper with these types of products and modify or change their labels and expiration dates endangering the health and safety of unknowing consumers.

### STATE BUDGETS ARE IMPACTED

State budgets are also impacted by these criminal enterprises. FMI estimates that of the 46 states that have a state sales tax, these jurisdictions are foregoing about **\$1.6 billion each year in lost sales tax revenue as a result of ORC activity.**

ORC gangs once relied exclusively on the black market and locations like flea markets and pawn shops to sell stolen goods. Now these criminal enterprises have embraced technology and are selling stolen merchandise over the Internet.

More than a dozen states have enacted laws that provide for more stringent penalties and fines to combat ORC, but these new laws cannot address the emerging trend of the sale of stolen merchandise over the Internet. Clearly, Federal legislation is needed to thwart and deter the posting and the sale of stolen products on Internet auction sites. **And that is**

**why FMI strongly supports legislation (H. R. 1166 and H. R. 1173) to address ORC more extensively from a federal perspective.** These initiatives go after both the off-line and on-line sale of stolen merchandise by ORC theft rings.

FMI firmly believes H. R. 1166 and H. R. 1173 will not impose unreasonable burdens on the Internet. These initiatives simply call for a few modest transparency and recordkeeping requirements for Internet auction sites and “high volume” sellers. High volume sellers are defined as individuals who conduct at least \$12,000 in sales over an Internet auction site in a 12-month period. The legislation’s minimal transparency provisions call for the posting or record retention of each high volume seller’s name, address and phone number similar to what is already required in Great Britain by the EC Directive Regulations of 2002.

H. R. 1166 and H. R. 1173 will not require more resources from federal law enforcement agencies if these initiatives are enacted into law. In fact, because the ORC legislation will discourage the sale of stolen merchandise on the Internet, federal law enforcement agencies will be able to devote their limited resources on other priorities.

### **STOLEN GOODS SOLD OVER THE INTERNET**

To illustrate the magnitude of the problem regarding stolen products being sold over Internet, FMI wishes to bring the following cases to the Subcommittee’s attention:

In 2008, an enormous organized retail crime ring was broken up in **Polk County, Florida**. What began as a single shoplifting investigation turned up a sophisticated enterprise that stole up to \$100 million in medicine, health and beauty aids. Operating for at least five years, the ORC ring operated out of two warehouses, three flea markets and **two websites**.

In June of 2008, state and federal law enforcement broke up two ORC rings in the **San Jose / San Francisco Bay area**. Seventeen individuals were arrested and over \$5.5 million worth of stolen merchandise was recovered including razor blades, infant formula, teeth whitening strips and otc medicines that were being resold through storefronts, flea markets and **the Internet**.

Sensitive stolen military technology including expensive night vision equipment and F-14 components was being illegally sold on **E-Bay and Craig’s List according to a recent Government Accounting Office Report (GAO-08-6447) released in the Spring of 2008**.

In 2008, the Federal Trade Commission received a record number of complaints, some 160,000, related to Internet fraud linked to losses of \$200 million. Half of the complaints involved **online auctions**.

An **Atlanta, Georgia** couple was prosecuted recently for selling at least \$150,000 worth of fraudulently obtained gift cards on an **Internet auction site**.

A couple in **Chicago, Illinois**, sold about \$3 million worth of stolen merchandise on an **Internet auction site** before being stopped by the Federal Bureau of Investigation (FBI) and local police.

In February of 2008, seven individuals were indicted in **Kansas City, Missouri** for selling \$1.2 million worth of stolen merchandise on an **Internet auction site**.

In November of 2005, eleven individuals were indicted in **Chicago, Illinois** by a federal grand jury for selling more than \$2 million worth of stolen merchandise through an **Internet auction site**.

In August of 2009, more than a dozen individuals who were pawn shop employees were arrested in Connecticut by local law enforcement for selling stolen merchandise through **an online auctioneer**.

Two individuals were arrested for selling more than \$6 million in pirated software **over the Internet** between late 2002 through October 2005.

In September of 2008, the head of an ORC ring was arrested in **Queens, New York**, for selling \$80,000 worth of stolen Victoria Secret lingerie on an **Internet auction site**.

Forty nine individuals operating a multistate ORC network were federally prosecuted. The investigation led to the seizure of more than \$3 million in stolen merchandise and \$950,000 in cash. The suspects told federal investigators they resold much of the stolen product on an **Internet auction site because of the anonymity assured by the site**.

A U. S. Postal Service employee in March of 2009 was charged with stealing more than \$600,000 in postage stamps. The individual sold the stolen stamps for less than their face value on an **Internet auction site** starting back in 2000.

## CONCLUSION

Clearly, Internet auction sites need to be held more accountable for what is being posted and sold on their platforms. Allowing Internet auction sites to sit idly by while making a profit on the posting and sale of stolen merchandise is simply wrong and should not be tolerated. For this very reason, **FMI and our supermarket members support and urge the enactment of H. R. 1166 and H. R. 1173**.

To conclude, FMI appreciates the opportunity to provide testimony for the record and we urge the Subcommittee to act expeditiously in favor of the pending legislation that provides for long overdue federal solutions to the problems relating to Organized Retail Crime.