



November 18, 2022

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Advance notice of proposed rulemaking on commercial surveillance; Docket FTC-2022-0053

Dear Chair Khan:

On behalf of FMI – The Food Industry Association, I write regarding the advance notice of proposed rulemaking (ANPR) on whether the Federal Trade Commission (FTC) should prescribe new trade regulation rules or other regulatory alternatives concerning commercial surveillance and data security practices (*Docket FTC-2022-0053*). FMI and its member companies are committed to maintaining and strengthening consumer trust, loyalty, and preferences for customized shopping experiences, and we welcome the opportunity to respond.

As the food industry association, FMI works with and on behalf of the entire industry to advance a safer, healthier, and more efficient consumer food supply chain. FMI brings together a wide range of members across the value chain — from retailers that sell to consumers, to producers that supply food and other products, as well as the wide variety of companies providing critical services — to amplify the collective work of the industry. Our food retailers, which range from independent operators to large national and international players, operate roughly 33,000 grocery stores and 12,000 pharmacies, ultimately touching the lives of more than 100 million U.S. households per week and an industry that employs over 6 million individuals.

Federal privacy and data security policies – developed and enacted by Congress and then implemented by federal agencies – should be feasible for businesses to comply with in an evolving economy that is adapting to dynamic consumer preferences of a customizable, curated shopping experience. For that reason, FMI collaborates and advocates with other consumer-facing industries as a member of the [Main Street Privacy Coalition](#) (MSPC). The MSPC is comprised of a broad array of national trade associations representing businesses that line America’s main streets and interact with consumers day in and day out. The businesses represented by the MSPC know that their success depends on maintaining trusted relationships with customers and clients: trust that the goods and services provided are high quality and offered at competitive prices; and trust that the information customers provide is kept secure and used responsibly.





FMI has joined MSPC in conveying feedback as the [U.S. Senate](#) and [U.S. House of Representatives](#) have been conducting their work to develop a federal privacy law. MSPC stands on the following [principles](#) in the development of federal privacy laws:

- *Comprehensive and Uniform Federal Standard.* There should be a comprehensive federal law on data privacy that protects consumers in a nationwide, uniform, and consistent way.
- *Transparency for Consumers.* Consumers should be informed of the categories of personal data that businesses collect and how that data is used by them.
- *Preserve Customer Services and Benefits.* A federal data privacy law should preserve the ability of consumers and businesses to voluntarily establish mutually beneficial business-customer relationships, including rewards and loyalty programs.
- *Responsibility for Own Conduct.* Any privacy law should make all businesses responsible for their own conduct. It should not expose them to liability for privacy violations by their business partners, including contractors, franchises, and other businesses.
- *Statutory Obligations for All.* Small businesses should not be forced to hold other businesses to privacy standards through contracts. All businesses that handle consumers' personal information should have direct privacy obligations under the law.
- *No Exemptions.* Every industry sector that handles consumers' personal information should have equivalent legal obligations to protect consumers' privacy under the law.

Over a decade ago, our industry developed and implemented Consumer Loyalty Card Privacy Guidelines to provide the shopping public with unwavering reassurance that the industry respects and is committed to the responsible protection of consumer privacy. The security of consumer, financial, and proprietary data and the security of the food supply chain remains paramount for our industry. FMI will continue to work with Congress on a uniform federal law regarding the privacy of Americans' sensitive data and legislation to address the data security needs of businesses as the threats from bad actors and cybercriminals escalate.

Sincerely,

A handwritten signature in black ink that reads 'Christine Pollack'.

Christine Pollack
Vice President, Government Relations

