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Dear Ms. Reding and Mr. Santucci,

We urge the European Commission to consider the potential benefits of RFID to increase consumer convenience, security and safety and revise its policy to reflect a consumer's right to opt out of RFID-enabled services.

AIM Global, as the industry association representing the providers of automatic identification and mobility technologies world wide, recognizes the importance of protecting the confidentiality and privacy of an individual's personal information, whether contained in machine-readable codes in documents, in machine-readable media, in personal correspondence, in corporate databases, or elsewhere.

AIM Global and its RFID Experts Group have devoted considerable effort to developing a policy statement on RFID and privacy. Input to the policy shown below was solicited and received from parties in Europe, the Americas, and the Pacific Rim.

### **AIM Global's Policy on RFID and Privacy**

AIM Global is dedicated to ensuring full compliance with all relevant personal privacy and security regulations and laws.

AIM Global is well aware of concerns regarding consumer privacy. AIM's members are working to address these concerns where RFID technology-based solutions are appropriate.

AIM Global believes that "best practice" policies and procedures should be put into place to ensure appropriate consumer privacy. Specifically, consumers should have the right to:

- Be informed, prior to purchase, whether an item or product contains an RFID tag
- Use, deactivate or remove RFID tags after purchase of an item

- Opt out of RFID-enabled services
- Be informed, at time of purchase or issuance, of what type of data is stored on an RFID tag on a product or card in their possession
- Be informed, at time of purchase or issuance, about when, where and for what purpose a tag in their possession would be read.

The AIM Global policy provides consumers with information about the benefits of "functioning" RFID tags in or on products they purchase and acknowledges their right to opt out of benefits or additional services provided by the RFID tag. Removal or deactivation of these tags may result in less efficient paper based processes for activities such as returns processing at a retail establishment, difficulty in obtaining warranty service, and impede the efficient identification of goods or products for which recall orders had been issued.

For example, a recent report observed that many tires that have been recalled for possible defects have not been located and are therefore still in service. These potentially defective tires pose a hazard not only to the owner and occupants of the vehicle but to the occupants of every other vehicle in its vicinity. Being able to identify these tires at government inspection and tire supply location in a non-contact way would greatly reduce the presence of these potentially dangerous tires. This example illustrates the difficulty of identifying the current ownership and use of common items, in this case tires. The use of RFID tags would greatly simplify this task.

AIM Global is particularly concerned about Section 7, Clauses 3 and 4 of the proposed EC Privacy Policy for RFID.

The requirement for the retailer to automatically and immediately deactivate a tag where there is a "significant likelihood of personal data being generated" places an unnecessary burden on the retailer and deprives the consumer of potential benefits.

The immediate concern is that assertions have been made that any unique code can be used to identify or track an individual. Such a definition would mean that virtually all tags would have to be deactivated upon purchase of an item and would, therefore, constitute a means to gather "personal information." The assertion does not take into account the fact that items are not always associated with the same individual. Unless there is a requirement to update a "registry" of codes associated with an individual when items are sold, lent, traded, lost or otherwise leave an individual's possession or control, a unique code cannot, with any certainty, be uniquely associated with a specific individual.

With regards to Article 7, the AIM Global RFID Experts group offers for your consideration:

- a) Where a RFID application processes personal data or the privacy impact assessment (undertaken in accordance with Art 3.1) shows significant likelihood of personal data being generated from the use of the application, the retailer has to follow the criteria to make the processing legitimate as laid down in directive 95/46 and to deactivate the RFID tag at the point of sale unless the consumer chooses to keep the tag operational.
- b) Where a RFID application does not involve processing of personal data and where the privacy impact assessment has shown negligible risk of personal data being generated through the application, the retailer must provide an easily accessible facility to deactivate or remove the tag.
- c) Deactivation or removal of tags should not entail any reduction or termination of the legal obligations of the retailer or manufacturer towards the consumer. Deactivation or removal of tags by the retailer should be done at a convenient location on the retailer's premises and free-of-charge for the consumer. Consumers should be able to verify that the action is effective.

Again we urge the European Commission to consider the important benefits of RFID as a means of increasing consumer convenience, security and safety and revise its policy to reflect a consumer's right to opt out of RFID-enabled services.

With warm regards!



Daniel P. Mullen, President  
AIM Global



Craig K. Harmon, Chairman  
RFID Experts Group