United States Senate
WASHINGTON, DC 20510-0905

BILL NELSON
FLORIDA

August 31, 2004

The Honorable Michael Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Powell:

As a long-time advocate of consumer privacy rights, I am writing to express my concern about a potentially intrusive technology called Radio Frequency Identification (RFID), which currently is being deployed by businesses and the United States government.

RFID technology uses computer microchips and miniature antennae that are attached to physical objects such as consumer products or the cartons in which products are shipped or stored. When attached directly to products, these microchip "tags" can allow the surreptitious collection of consumer information, such as the cost, date of purchase, and even the color of an item. Without consumers' knowledge, information about their purchases can then be transmitted over low frequency radio waves to entities, such as businesses, which can then aggregate and analyze the data.

Several of the world's largest retailers are using or have proposed implementing RFID technology. These companies generally contend that RFID tags simply help them track inventory and will enhance efficiencies. However, published reports state that a major retailer and a leading product manufacturer reportedly partnered in a 2003 pilot program to sell customers packages of razor blades with RFID tags embedded. The companies allegedly ended the program only after customers learned that RFID tags were attached to the products they had brought home with them. Other major companies reportedly have embedded RFID tags in packages for products such as pet food, shampoo, and baby wipes. Further driving RFID usage, Wal-Mart has mandated that its top 100 vendors start placing RFID tags on all shipments of consumer goods by 2005.

If abused, RFID technology could pose a significant range of privacy and security risks. For example, if a consumer bought RFID-tagged products, then anyone with an RFID scanner could use the scanner to ascertain the products being carried. Thus, retailers may be able to instantly scan the contents of a woman's purse as she entered a store and then tailor sales techniques accordingly. In another scenario, if RFID tags are placed on medicine bottles, employers could possibly use scanners to secretly detect the types of medicines carried by employees. More disturbingly, anyone with powerful RFID scanners, including the government, potentially could use scanners to locate people in

crowds, assuming that the targeted person was carrying a product with an active RFID tag.

The complex privacy questions raised by RFID technology are troubling. In light of these issues, I would appreciate your timely response to the following questions:

(1) What jurisdiction does your agency have to regulate RFID technology;
(2) What actions has your agency taken and what actions does it plan to take to regulate RFID technology;
(3) Is your agency aware of incidents similar to the one described above (where companies have placed RFID tags on individual products purchased by consumers), have complaints regarding such incidents been filed with your agency, and if so, how has your agency responded?
(4) Has your agency taken any enforcement actions against companies that have abused RFID technology; and
(5) Does your agency compile any statistics about the use of RFID technology, such as which companies use the technology?

Thank you for your assistance with this matter. If you have any questions related to my requests, please contact Michael Sozan, a member of my staff, at 202-224-8749.

Sincerely,

Bill Nelson

Senator Bill Nelson