



RFID: What Does Congress Need to Know?

A major technological advance – radio-frequency identification tags – is poised to boost economic growth. The potential benefits to the economy and consumers are vast: RFID tags may facilitate dramatically reduced supply-chain costs, better inventory management, automated store checkout, reduced theft, more accurate and efficient product recall, improved counter drug prevention, and a host of other benefits. Yet despite its promise, some privacy groups have raised alarms of hypothetical RFID abuses in an attempt to mobilize opposition to RFID. As Congress examines the privacy implications of RFID, it is important to recognize that not only is RFID in its initial stages of deployment (at the pallet and box level), but that the privacy harms raised by RFID opponents are largely speculative. Any legislation related to RFID is therefore premature and could inadvisably limit RFID use.

Objections to RFID Technology are Unfounded: Myth #1: RFID enables the creation of massive databases. Reality: With respect to databases, RFID is no different from barcodes: both technologies let companies link product purchases to personally identifiable information if a consumer pays by credit card. Furthermore, at present, companies do not aggregate purchasing information in a massive cross-company database even though they could. Myth #2: RFID enables tracking. Reality: If tags are on products and still active after consumers leave the store, to identify the product would require considerable effort and close proximity, and the results would be largely worthless. Even if these worst-case scenarios were feasible, market forces make them exceedingly improbable as the easiest way for a company to lose business is to publicize personally identifiable information about their customers or to reactivate tags they have promised to “kill”.

Regulation of RFID is Not Costless: Regulations that ban, reduce the functionality, or require more complicated technology (like encryption or “kill” devices) of consumer-level RFID will lead to higher prices and reduced consumer convenience and services. Retailers will pass these costs to all customers, even the overwhelming majority who do not considerate RFID a threat to their privacy.

It's Too Early for Public Policy Action: The United States is the leader in information technology in part because Americans have accepted the benefits of innovation without trying to control the risks ahead of time. RFID is no different. If it's like past roll-outs of IT, the integration of RFID tags in the retail context will work out fine, with little harm to privacy. In fact, industry appears to be well on the way to addressing legitimate privacy issues through their efforts with EPCglobal, a member-driven organization of industry leaders using RFID, to develop voluntary guidelines so that consumers will be given clear notice of the presence of EPC (RFID) tags through the use of an EPC logo or identifier on the products or packaging. Consumers will be informed of the choice that they have to discard, disable or remove EPC tags from the products they buy. It is the national interest to speed the adoption of RFID, not hobble it. That's why Congress should take no steps to regulate RFID at this time. However, they Congress should monitor state legislative activities to preempt restrictive and conflicting RFID legislation and if necessary preempt such actions.

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