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VIA EMAIL: iotrhc2016@ntia.doc.gov

National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, NW
Room 4725
Attn: IOT RFC 2016
Washington, DC 20230

Re: DMA Comments on the Internet of Things

The Direct Marketing Association (“DMA”) submits the following comments in response to the Request for Comment (“RFC”) that the National Telecommunications and Information Administration (“NTIA”) issued on April 6, 2016 regarding the benefits of Internet of Things (“IoT”) devices, the challenges impacting the deployment of these devices, and the role of the government in fostering the advancement of IoT technologies. The DMA (www.thedma.org) is the world’s largest trade association dedicated to advancing and protecting responsible data-driven marketing. Founded in 1917, the DMA represents thousands of companies and nonprofit organizations that use and support data-driven marketing practices and techniques. DMA is the community that champions deeper consumer engagement and business value through the innovative and responsible use of data-driven marketing.

The DMA believes that a vibrant and innovative market for IoT products can be a source of tremendous benefits and opportunity for both consumers and the broader economy. Consumers will benefit from the introduction of a variety of new products that make their lives easier and can provide important safety benefits. At the same time, the DMA believes that the United States is well positioned to become a global leader in the market for IoT products. By creating an environment that fosters innovation and eliminates restraints on bringing new products to market, the government can support the continued growth in the market for IoT products and position American businesses to play a critical role in the market. As the market grows and matures, American businesses will be able to take advantage of substantial new sources of revenue which will result in the creation of new jobs for American workers. Innovation in the market for IoT products will also increase the free flow of data which supports the data-driven marketing economy.

Because the market for IoT products is just emerging and cuts across a number of industries, we believe that industry-led self-regulation is the appropriate approach to address data policy issues as they relate to the IoT. Industry-led self-regulation is more nimble than the legislative or regulatory processes and therefore is better suited to this fast-paced and constantly evolving market. Self-regulation is also more flexible, which allows for the adjustment of any requirements imposed on businesses to fit the sensitivity of the information being collected. This



flexibility is particularly important to the growth and development of the market for IoT products because overly strict requirements could limit innovation in this space. We believe that the government can best position American businesses to play a leading role in the growth and development of a market with such tremendous potential to benefit consumers and the broader economy by encouraging innovation, eliminating restraints on bringing new products to the market, continuing to make data available to the public, and supporting industry-led self-regulation.

I. Consumers Benefit from the Development of the IoT

Innovation in the market for IoT products benefits businesses and consumers by providing them with information and functionality that enables them to make more efficient decisions and allows them to both monitor systems remotely and act remotely. Improvements in efficiency save businesses and consumers time and money while the ability to monitor systems remotely and to act on them enables businesses and consumers to detect problems and to act on them more quickly, which can result in both cost savings and safety benefits. These benefits have appeared in a wide array of industries, including healthcare, automotive, energy, and fitness. For example, the use of IoT devices in the medical context has provided individuals who may have difficulty visiting a doctor with improved treatment options.¹ It also may provide doctors with better information on which they can base a diagnosis.² The integration of IoT devices into vehicles can also provide safety benefits to individuals by notifying the driver when maintenance is needed or contacting first responders when the airbags deploy.³ Beyond health and safety benefits, consumers will be able to manage their home energy consumption more closely through the use of connected thermostats and meters.⁴

Because the market for IoT products is so new, many products that could potentially benefit consumers have yet to be developed. The DMA believes that the development of the IoT market will result in tremendous future benefits for consumers as new products and new uses of data are brought to the market. To fully achieve these benefits, the government should promote an economic environment that encourages innovation by removing barriers for businesses to bring new products to market. By promoting growth in the IoT market, the government can support the development of a diverse range of IoT products that address specific consumer and business needs across a variety of industries.

A vibrant market for IoT products could also have significant benefits for the economy as a whole. At least one study estimated that the annual value of the market for IoT products could

¹ Federal Trade Commission, *Internet of Things: Privacy & Security in a Connected World* 7 (January 2015), available at <https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-staff-report-november-2013-workshop-entitled-internet-things-privacy/150127iortpt.pdf>.

² *Id.*

³ *Id.* at 9.

⁴ *Id.* at 8.



be between almost \$4 trillion and just over \$11 trillion by 2025.⁵ As businesses of all kinds seek to update traditional products with 21st century connectivity and to develop new offerings, consumers will benefit from an explosion of new products and services as well as new jobs that will be needed to support the businesses operating in the market for IoT products.

Innovation in the market for IoT products also benefits the data-driven marketing economy which is an important engine of economic growth. A recent study undertaken by Professors John Deighton of Harvard Business School and Peter Johnson of Columbia University indicates that the data-driven marketing economy provided \$202 billion in revenue to the U.S. economy in 2014, and fueled more than 966,000 jobs across the country.⁶ The study further illustrated that the real value of the data-driven marketing economy - \$202 billion in revenue and 966,000 jobs – depends on the ability of businesses to exchange data across the data-driven marketing economy.⁷ The DMA’s members in all verticals are already exploring ways to introduce connectivity into existing and new products, and investors are backing their efforts. The IoT is a nascent marketplace and with the right nurturing and encouragement, it will continue to grow. The DMA encourages the government to promote policies that will support such growth.

II. Self-Regulation is the Best Approach for Emerging Technologies and Practices

While we have already seen great strides in the development of IoT devices, the technology that supports these devices is very much in its infancy. As the NTIA’s request for comment notes, the term “Internet of Things” was coined in 1999, and as recently as 2003, there were only approximately 500 million connected devices.⁸ There are now more than 25 billion connected devices that offer consumers a wide array of benefits.⁹ The continued growth of this market depends on our nation’s innovators and entrepreneurs having the flexibility to experiment and develop new offerings. Protecting the benefits that consumers already enjoy and those that have yet to be achieved should be our top priority. The DMA believes that promoting self-regulation in the market for IoT products is the best approach to fully obtain the potential benefits for both the broader economy and individual consumers.

The speed with which self-regulation can be updated allows it to keep pace with consumers’ evolving expectations and preferences as the technology that they use constantly changes. Unlike self-regulation, legislative and regulatory action frequently takes significant time to accomplish. In fact, legislative and regulatory approaches take so much time to

⁵ McKinsey Global Institute, *The Internet of Things: Mapping The Value Beyond The Hype* 7 (June 2015), available at <http://www.mckinsey.com/business-functions/business-technology/our-insights/the-internet-of-things-the-value-of-digitizing-the-physical-world>.

⁶ Deighton, John and Johnson, Peter, *The Value of Data 2015: Consequences for Insight, Innovation & Efficiency in the U.S. Economy*, 16 (2015), available at <http://thedma.org/advocacy/data-driven-marketing-institute/value-of-data/>.

⁷ *Id.*

⁸ Request for Comments, 81 Fed. Reg. 19956, 19957 n.1. 2 (April 2016).

⁹ 81 Fed. Reg. at 19957 n.2.



implement that they could be obsolete by the time they become effective. Regulations that do not keep pace with innovation in the market can reduce such innovation by creating regulatory uncertainty and can fail to address consumers' concerns about privacy as the technology in the market outpaces the regulations.

Self-regulation is also appropriate in the context of the market for IoT products because it is more flexible. The market for IoT products cuts across a number of widely divergent industries and devices. A flexible approach is necessary where IoT devices include everything from medical devices and vehicles to fitness trackers and thermostats. The types of information collected, the intended uses of that information, the consumer's expectations, and the ability of the manufacturer to communicate with consumers vary significantly across industries and devices. Thus, the market for IoT products does not lend itself to a "one size fits all" approach. Instead, any restrictions placed on the market should be based on the type of data being collected and its use. We believe that self-regulation can provide the necessary flexibility to address consumers' privacy preferences across a number of industries resulting in controls that are more widely accepted and more effective.

The DMA has substantial experience with self-regulation through its work developing and enforcing the *Guidelines for Ethical Business Practice* ("DMA Guidelines"), which set forth guidance for how marketers may responsibly collect and use data for marketing purposes.¹⁰ The *DMA Guidelines* are updated regularly by DMA's Ethics Policy Committee to account for changes in the way consumers and marketers create and engage with data. For more than four decades, DMA has ensured that data is used responsibly through the robust enforcement of the *DMA Guidelines*. The DMA reviews complaints from several sources, such as consumers, member companies, non-members, and consumer protection agencies. Complaints are referred to the DMA's Ethics Operating Committee and are reviewed for potential violations of the *DMA Guidelines*. Penalties may be assessed, and some violations may be referred to the Federal Trade Commission or other appropriate law enforcement agencies.

The DMA also has experience with self-regulation through its efforts to help spearhead the creation of the Digital Advertising Alliance ("DAA"). The DAA has released self-regulatory guidance through its *Self-Regulatory Principles for Online Behavioral Advertising*, *Self-Regulatory Principles for Multi-Site Data*, and *Application of Self-Regulatory Principles to the Mobile Environment* (collectively, "Self-Regulatory Principles") to provide consumers with effective transparency and choice regarding the collection and use of web viewing data and data gathered from mobile devices including precise location data and personal directory data.¹¹ These programs effectively regulate marketing data practices, delivering enhanced transparency and control to consumers. Self-regulation has worked for more than forty years to ensure

¹⁰ Direct Marketing Association, *Guidelines for Ethical Business Practice* (Jan. 2014), available at http://thedma.org/wp-content/uploads/DMA_Guidelines_January_2014.pdf.

¹¹ Digital Advertising Alliance, *The DAA Self-Regulatory Principles*, available at <http://www.aboutads.info/principles>.



responsible use of marketing data for marketing purposes, while enabling the growth of a strong data-driven economy. The DMA is confident that the same approach will achieve a similar balance between innovation and respecting consumers' privacy preferences in the market for IoT products.

IV. Conclusion

We are witnessing an IoT market that is still in its infancy. The benefits that have already inured to consumers and to businesses in recent years only present a small sample of the potential that this industry has to offer. At this early stage, regulators should encourage marketplace incentives and industry self-regulation to address issues related to privacy rather than prescribing regulations. This approach will sustain consumer benefits from the technology, encourage innovation, and promote economic growth, while also addressing important privacy considerations.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Christopher Oswald'.

Christopher Oswald
Vice President, Advocacy

cc: Stuart Ingis, Venable LLP
Mike Signorelli, Venable LLP
Matt MacKenzie, Venable LLP