



April 2, 2012

National Telecommunications and Information Administration

U.S. Department of Commerce

1401 Constitution Avenue, N.W.

Room 4725

Washington, DC 20230

Re: Docket No. 120214135-2135-01

Via email: privacyrfc2012@ntia.doc.gov

Dear Mr. Burstein:

We hereby submit the attached comments in response to the NTIA's March 5, 2012 Request for Public Comments, "Multistakeholder Process To Develop Consumer Data Privacy Codes of Conduct."

Respectfully,

Sherri Sampson, General Counsel

Allen Brandt, Chief Privacy Official

Graduate Management Admission Council

The Graduate Management Admission Council® (GMAC®) is a not for profit organization not subject to existing Federal privacy statutes. We believe that legally enforceable consumer data privacy codes of conduct that an organization voluntarily chooses to adopt and announce publically, would offer further privacy protections to individuals, make the adopting organization's privacy practices more accountable, and build consumer trust and confidence for the organization. While most not for profit organizations are not subject to the jurisdiction of the Federal Trade Commission, many of these organizations are subject to the jurisdiction of one or more state Attorneys General, under whose authority such codes could be enforced similar to current state AG enforcement of unfair or deceptive trade practice violations against an organization. Similarly, should an organization be following a Consumer Data Privacy Code of Conduct, the organization should expect this to be seen favorably by any enforcement body in the event of an enforcement action. In recent months, the Attorneys General from both Virginia, where GMAC is based, and in Maryland, have written to the European Commission and stated publically that they could enforce privacy violations, including the Safe Harbor program, against most nonprofit organizations either based in those states or who target or complete transactions with Virginia or Maryland consumers.

According to the National Center for Charitable Statistics (NCCS), there are more than 1,500,000 tax exempt organizations in the United States as of August 2011, representing 9% of all wages and salaries paid in the US (BEA 2010) and reporting more than \$1.41 trillion in total revenues (NCCS 2009). This is a substantial base of organizations holding and processing personal data without the benefit of any standard regulations or guidelines.

A definable area of opportunity where these codes of conduct would be reviewed and implemented is in the area of not for profit organizations, many of whom are small, and hold vast amounts of personal and financial data from their donors, program recipients and stakeholders. An organization that is accountable to all of its stakeholders holds a higher level of consumer trust. This principle aligns directly with a nonprofit organization's mission. We respectfully request that NTIA consider nonprofit organizations as one of the early multistakeholder processes to be implemented.

GMAC recommends that the process start with transparency (notice, individual control and choice to the consumer), and then proceed to more substantive areas including data security, access and accuracy, focused collection and accountability.

We envision the following process: working with the NTIA and other organizations to announce a series of public sessions where organizations of all sizes could participate. We suggest inviting either a member from the European Commission to participate, in addition to perhaps one EU member state data protection representative. These sessions would be available in a number of in-person settings, through voice and video sessions, web chats and listservs, and would start with common standards for simplifying the organizations' privacy and security practices. The process should include local organizations offering

hosting facilities to allow a number of organizations to participate in the process locally, while being connected to the main group.

Participants would need to be reminded at multiple times during the process that participation is voluntary, as would be implementing any agreed code of conduct. Procedures should be implemented to insure that a small but vocal minority of organizations does not carry undue influence or weight in the process, and that later or future entrants can also offer suggestions to improve any agreed code as technology and society changes in the future.