



**Radio Frequency Identification (RFID) in Retail
Consumer Privacy Code of Practice**

Australian Retail Industry Guidelines

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1 Introduction

Radio Frequency Identification (RFID) technology within the Electronic Product Code (EPC) Network delivers benefits to retailers, manufacturers and consumers by creating greater visibility of information within supply chains. This leads to more accurate product recalls, greater supply efficiencies and fewer out of stocks on retail shelves.

The RFID in Retail Consumer Privacy Code of Practice (hereafter referred to as the Code of Practice) has been developed to ensure in the operation of RFID networks, including the EPC Network, the interests of consumers are protected. The Code of Practice is endorsed by GS1 Australia and the Signatories.

Under the Code of Practice, RFID enabled stores are required to ensure the privacy of consumers is protected by:

- Giving consumers clear **notice** of the presence of RFID tags on products which are actively used at retail Point Of Sale (POS).
- Providing details of the **retention, use and protection of specific data** gathered on purchased items by the use of the RFID technology.
- Allowing ready access to information to **educate** consumers about the technology and its capabilities within the scope of the retailers' operations.
- Providing **choice** for consumers during or after purchase of RFID labelled products. Choice involves the ability for consumers to discard, remove or disable the tag after purchase.

The implementation of the Code of Practice is a co-operative operation between retailers and their consumers.

The Code of Practice is administered by GS1 Australia and the signatories, supported by the retail sector, and provides the mechanism for the industry to self regulate in the context of general legislation such as the Trade Practices Act, Privacy Act and various state surveillance laws. Additionally, this Code of Practice is intended to alleviate concern consumers may have regarding the privacy aspects of RFID technology and provide confidence that signatories to this Code of Practice have addressed the concerns.

The Code of Practice includes a complaint resolution process should disputes or non conformance occur.

The Code of Practice specifically deals with the requirements of retailers and their relationship with consumers.

2 Definitions

Consumer	An individual who purchases or uses, or proposes to purchase and use goods or services.
Complaint	A formal notification by a consumer of an alleged breach of the Code.
Consumer Grievance	For the purposes of the Code is any unresolved complaint which remains pending after the complaints process has been followed.
Deactivation	Rendering an RFID tag unable to respond to a request from an RFID reader. For the purposes of the Code a tag, once deactivated, cannot physically be reactivated.
Hearing	Investigation of a grievance by an independent mediator.
EPC Network	The Electronic Product Code (EPC) Network. The EPC Network is administered by GS1 Member organisations globally. More detailed information can be found at www.gs1au.org .
RFID	Radio Frequency Identification. An automatic identification technique for identifying objects using radio frequency transmissions. An RFID system generally consists of a tag, reader, antenna and software.
Signatory	Third Party Association or retailer who is a signatory to the Code. An Association that is a signatory to the Code would have the capacity to handle complaints under the Code and make recommendations to its members about resolution of complaints prior to escalation to the Complaints Committee (for details on Complaints Committee see section Error! Reference source not found.).
Source Retailer	Retailer from which the original product was purchased.
Retail Store	Any retail business existing for the purposes of merchandising goods and services to the public

3 Code Coverage

3.1 Who is subject to the Code of Practice?

- 3.1.1 The Code of Practice covers retail stores operated by, or supplied by, members of the signatories, including franchisees and the signatories themselves who are actively using RFID reading systems within the consumer area of the store.
- 3.1.2 Signatories to the Code of Practice can be found at:
http://www.gs1au.org/products/epcglobal/privacy_code_practice/signatories.asp
- 3.1.3 Information on becoming a signatory to the Code of Practice can be found at
http://www.gs1au.org/products/epcglobal/privacy_code_practice/signatories.asp

3.2 What the Code of Practice Covers.

- 3.2.1 The Code of Practice applies within participating stores to merchandise labelled with RFID tags carrying EPC or equivalent product identification numbers and which are read within the store by RFID readers.
- 3.2.2 The Code of Practice deals with those aspects of EPC /RFID use specific to consumer privacy.

3.3 What the Code of Practice Does NOT Cover.

- 3.3.1 The Code of Practice does not cover items which do not contain RFID tags, or which are offered for sale in a location where RFID technology is not used for the purposes of consumer service, such as a non "RFID enabled" retailer, or store.
- 3.3.2 The Code of Practice does not cover Electronic Article Surveillance (EAS) tags which are used exclusively for the purposes of security and do not carry identification numbers.
- 3.3.3 Other matters raised by the introduction of the EPC network and RFID technology in general may be referred to within the code of practice to the appropriate source responsible for dealing with them.
- 3.3.4 The Code of Practice does not address the retailer - manufacturer relationship.
- 3.3.5 Issues concerning the accuracy of scanned prices for RFID tagged items are not covered by this Code. These are covered by the Scanning Code of Practice for Computerised Checkout Systems (2004), for those retailers which are signatories to that Code.
- 3.3.6 The Code of Practice applies to the sale of goods within the participating retail sector and to the responsibilities of the participating retailers. It does not apply to the use of RFID technology elsewhere (e.g. bank notes, automated toll collection).

3.4 Retailer Responsibilities

- 3.4.1 Retailers undertake to apply appropriate ethical standards in endorsing the spirit as well as the letter of the Code of Practice in dealing with consumers.
- 3.4.2 The retailer is obliged to ensure that the privacy interests of consumers are protected by the development of in-house procedures. Procedures must comply with the provisions of the Privacy Act 1988 and/or applicable legislation relevant to the handling of personal information.
- 3.4.3 Store managers must be able to verify the application of the in-house procedures referred to in 3.4.2.
- 3.4.4 The retailer will provide the initiation and maintenance of staff training programs to make staff familiar with the provisions of the Code of Practice and to ensure that consumer enquiries or grievances about the Code of Practice are handled in a manner consistent with their undertakings under the Code.
- 3.4.5 The retailer will maintain supplies of Code of Practice information materials and stationery and provide consumers with an information brochure or leaflet about the Code of Practice on request.

4 Code of Practice Principles

4.1 Notice

- 4.1.1 Retailers must provide at least 28 Calendar days notice to consumers of the pending activation of RFID /EPC reading technology in the course of the sales of goods. Notice may be provided by way of in store signage or other written material provided to consumers upon entry into the store.
- 4.1.2 The retailer will display as a minimum EPCglobal approved signage that is clearly visible to consumers standing at the Point of Purchase to encourage the development of consumer awareness of the Code of Practice.

4.2 Education

- 4.2.1 Consumers will have the opportunity to easily obtain accurate information about RFID and the EPC Network, the applications as well as information about advances in the technology. Retailers should be able to refer consumers to relevant sources of this information.
- 4.2.2 Retailers should refer information requests concerning safe working and shopping environments for their staff and consumers to relevant health and safety information sources. Retailers should refer consumer concerns regarding Electromagnetic Radiation (EMR) outputs to appropriate information providers. Sources of information related to EMR can be found at http://www.gs1au.org/products/epcglobal/privacy_code_practice/more_info.asp

4.3 Record Use, Retention and Security

- 4.3.1 Retailers will use, maintain and protect records generated through EPC in compliance with applicable Australian Laws (eg Privacy Act 1998, Payment Card Industry Data Security Standards and National Privacy Principles for the Fair Handling of Personal Information).
- 4.3.2 Retailers will publish on their website(s) or other publicly available medium information on their policies regarding the retention, use and protection of any consumer specific data generated through their operations with respect to RFID use.
- 4.3.3 Retailers must be able to provide to consumers information (eg in the form of a brochure) regarding their policies on the usage of RFID in their store in relation to the consumer's personal information and privacy.
- 4.3.4 Retailers are not permitted to retain information from tags that are attached to products that have been obtained by consumers from other businesses.

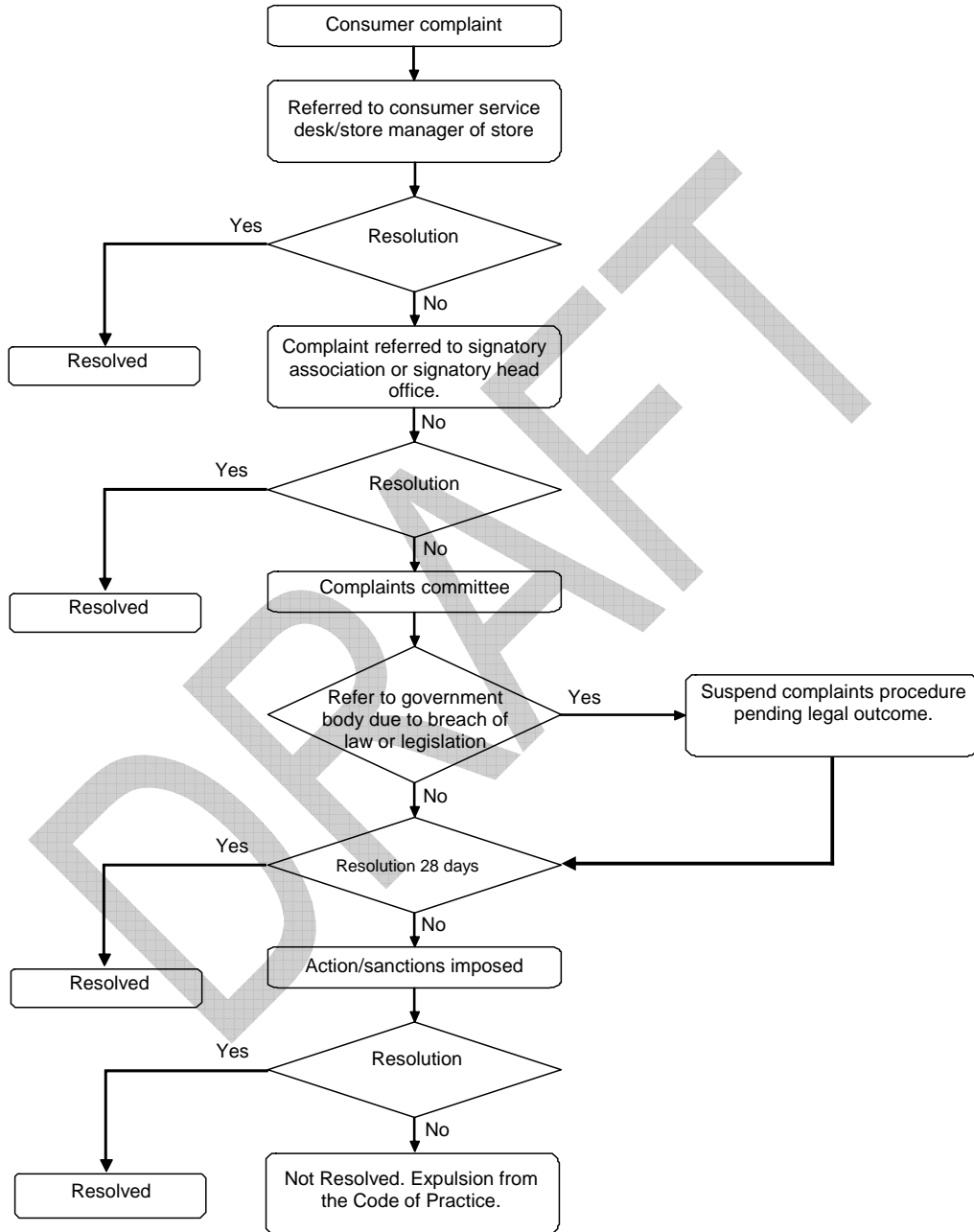
4.4 Consumer Choice on Deactivation

- 4.4.1 Consumers will be informed of the choice that they have to discard, disable or remove RFID tags from the products they purchase.
- 4.4.2 Deactivation options available to consumers will depend on the capability of the retailer, (size, physical layout and nature of the store), as long as the ability for the consumer to choose to remove or deactivate the tags remains intact.
- 4.4.3 Consumers can request deactivation of a tag by the original source retailer at any time after the purchase of the product. Where a consumer makes a request to have a tag deactivated after point of purchase, the retailer may request a consumer return the product to the original point of purchase for deactivation.
- 4.4.4 Where a consumer had a reasonable expectation the tag would be deactivated at point of purchase and becomes aware that deactivation has failed, the retailer is obliged to provide the consumer with a convenient and reasonable means to deactivate the tag.

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5 Complaints Procedure

If a dispute related to the Code of Practice cannot be resolved at retailer level, a consumer may lodge a formal complaint and have it heard by a committee including retailer and consumer standards body representatives.



5.1 Introduction

- 5.1.1 This section sets out the obligations of retailers and the complaints committee (for details on Complaints Committee see section **Error! Reference source not found.**) in relation to resolving consumer complaints. A consumer may, at any time, choose to pursue other means of complaint resolution.
- 5.1.2 If a consumer removes, alters or otherwise interferes with an RFID tag prior to purchase, the consumer loses his or her right to coverage under the provisions of this Code of Practice.
- 5.1.3 Each retailer will ensure that approaches by consumers concerning any activities covered by the Code of Practice are handled courteously and expeditiously and that all complaints are addressed. At no point will a requirement to put a complaint in a specific form (writing, web form etc.) be used to block a consumer making a complaint.
- 5.1.4 Signatories, whether they are associations or individual companies, must have a specific resource assigned to deal with consumer complaints related to this Code of Practice, and this information must be made available to the consumer on request.

5.2 Store Level

- 5.2.1 A consumer's complaint should be referred to the consumer service desk, store manager or supervisor in the first instance and this is the course of action that should be advised to the Consumer.
- 5.2.2 Where a complaint cannot be resolved, the store manager or supervisor is required to inform the consumer of the dispute resolution procedures available under the Code of Practice.
- 5.2.3 In the case where the complaint is not satisfied at store level, the complaint should be documented and referred to the signatory association or the signatory head office.
- 5.2.4 The consumer, or the retailer on behalf of the consumer, may lodge the complaint either via the signatories' consumer complaint form or its' consumer service hotline. The consumer service hotline number must be listed on Code of Practice signs and in the consumer leaflet or brochure.
- 5.2.5 Regardless of the method of lodgement of the complaint, a signed copy shall be made available to both the consumer and store representative. Contact details for the signatory association or the store head office should be included on the copy of the complaint.

5.3 Signatory Association or Retailer Head Office

- 5.3.1 The signatory association or the signatory head office should make every effort to resolve all complaints related to their members or stores and that are not able to be resolved at a store level.
- 5.3.2 If the issue then remains unresolved, it will be referred immediately to the Complaints Committee (for details on Complaints Committee see section **Error! Reference source not found.**) if the consumer wishes the complaint hearing to proceed.

5.4 Complaints Committee

5.4.1 Complaints Committee Composition

- 5.4.1.1 A Complaints Committee of at least three persons shall be established to consider complaints by consumers against retailers.
- 5.4.1.2 A Complaints Committee normally shall be independently chaired by GS1 Australia and shall include a retail representative and a person representative of consumers. The Committee may seek opinions from independent experts with experience and knowledge of the RFID environment.
- 5.4.1.3 Each member of the Complaints Committee shall serve a maximum term of 3 years, the expiry of which will be deemed to create a vacancy. The representative may be re-appointed following the relevant Code of Practice procedures.
- 5.4.1.4 When a consumer or retail representative vacancy occurs on the Complaints Committee, the Steering Committee (for details on Steering Committee see section 6.1) shall invite an appropriate representative organisation (or organisations) to nominate suitable candidates. The steering committee shall then select one of these, providing they meet the conditions outlined below.
- 5.4.1.5 Such nomination(s) shall not be restricted to individuals from the nominating organisations and may include any suitable person, having regard to:
 - 5.4.1.5.1 The ability of the person to:
 - 5.4.1.5.1.1 be well informed and objective;
 - 5.4.1.5.1.2 negotiate and make appropriate compromises;
 - 5.4.1.5.1.3 exercise sound and fair judgment;
 - 5.4.1.5.2 The person having:
 - 5.4.1.5.2.1 a close interest in and commitment to looking at the issues of concern;
 - 5.4.1.5.2.2 an active interest in and understanding of consumer dispute resolution; and
 - 5.4.1.5.2.3 the confidence of a consumer or community or public interest group or from their industry association.
 - 5.4.1.5.2.4 should the consumer organisation(s) fail to nominate a suitable candidate within a reasonable time of the steering committee's request, the steering committee shall be free to make its own decision about community representation.

5.4.2 Complaints Committee Deliberations

- 5.4.2.1 In considering the complaint, procedures to be followed will be at the discretion of the Committee, but the Committee shall:
- 5.4.2.1.1 conduct proceedings in accordance with the rules of natural justice;
 - 5.4.2.1.2 give each party full details of the complaint;
 - 5.4.2.1.3 give each party copies of any documents involved;
 - 5.4.2.1.4 give each party a reasonable chance to place arguments before it;
 - 5.4.2.1.5 reach a decision within 28 calendar days of the date of first receipt of the complaint, as outlined in clause 5.4.2.4.
- 5.4.2.2 If the complaints committee took the view that the matter may involve a breach of an Act of Parliament or applicable Law, they may refer the matter to the appropriate legal or regulatory authority.
- 5.4.2.3 If a complaint is referred to an appropriate legal or regulatory authority pursuant to clause 5.4.2.2 then the complaints committee shall notify the relevant parties and shall suspend its deliberations pending the outcome of that determination. After the outcome of that determination is known, the complainant shall be informed of the outcome and asked whether they still wish to proceed with the complaint in relation to a breach of this Code of Practice.
- 5.4.2.4 The Complaints Committee is required to reach a decision on a consumer complaint within 28 calendar days of its receipt (whether by a retailer or signatory). The Complaints Committee should use whatever means of communication is appropriate to allow its members to meet this deadline.
- 5.4.2.5 If the Complaints Committee is unable to reach a decision within 28 calendar days of its first receipt of the complaint, as outlined above, the chairperson must report the reasons for the delay to the CEO (or authorised representative) of the relevant signatory in writing within seven calendar days of the original deadline.
- 5.4.2.6 When a decision is reached, the Chairperson of the Complaints Committee shall, where appropriate, notify the CEO (or authorised representative) of the signatory of the Committee's decision and make a recommendation to the CEO (or authorised representative) as to a reasonable time frame for:
- 5.4.2.6.1 Resolving the original complaint to the satisfaction of the consumer.
 - 5.4.2.6.2 Rectifying any systemic issues, which may have caused the original complaint and may lead to future similar complaints.
- 5.4.2.7 The Chairperson of the complaints committee shall notify the consumer and the management of the retail company that is the subject of the complaint of the outcome of the investigation and of the avenues of appeal that are available (see section 5.5 for appeal procedures).

5.5 Appeal Procedures

- 5.5.1 Where a consumer or retailer involved in a complaint is dissatisfied with the decision or recommendations of the Complaints Committee, that the consumer or retailer may, within a period of 28 calendar days from the date of the correspondence sent to them by the Chairperson, submit an appeal in writing to the Chairperson asking for the matter to be decided by an independent mediator.
- 5.5.2 Where such an appeal is lodged, the Chairperson of the complaints committee will appoint mediator who is acceptable to the parties.
- 5.5.3 The hearing by the mediator shall be a review of the material as was presented to the complaints committee and not a review of the original procedure itself.
- 5.5.4 Procedures at the hearing will be at the discretion of the mediator, but the mediator shall:
 - 5.5.4.1 conduct proceedings in accordance with the rules of natural justice;
 - 5.5.4.2 give each party full details of the issue in dispute;
 - 5.5.4.3 give each party copies of any documents involved;
 - 5.5.4.4 give each party a reasonable chance to place arguments before him-her; and
 - 5.5.4.5 deal with the matter as expeditiously as practicable, but within 28 calendar days of the mediator's appointment to hear the appeal.
- 5.5.5 The mediator will immediately notify the parties of their findings and decision, and inform them that they may seek redress under any other legal rights they may have but that the signatory will follow the decision of the mediator.

5.6 Remedial Action

- 5.6.1 Should a complaint or grievance against a retailer be upheld, the Chairman of the complaints committee shall notify the retailer in writing of the decision and recommended remedial action. If, after the expiration of the period allowed for appeal or if an appeal has failed and the retailer has failed to comply with the remedial action recommended, such as:
 - 5.6.1.1 failing to satisfy the consumer complaint (see clause 5.4.2.6.1); and/or
 - 5.6.1.2 failing to provide undertakings to the Chairperson that systemic issues will be rectified within the agreed time frame (see clause 5.4.2.6.2), the retailer shall immediately be warned in writing by the CEO of the signatory that the retailer is in breach of the Code of Practice and shall be requested to take the remedial action set out in the warning within 28 calendar days of the date of the notification unless the retailer involved can show just cause as to why this time frame is not achievable or should be amended.

- 5.6.2 Upon the issuing of such a warning - and the failure of the offending retailer to agree to take the action set out, or any other immediate and appropriate action suggested, within the specified period - notification of the warning shall be published in the next available edition of the signatories' newsletter to retail members and, where possible, their website.
- 5.6.3 Should a retailer refuse to take remedial action within seven calendar days of the publishing of the warning in the signatories newsletter and website, or to comply voluntarily with the Code of Practice when so requested by the CEO of their signatory, the Complaints Committee shall recommend to the signatory's Board:
 - 5.6.3.1 Appropriate advertising by the other members of the signatory.
 - 5.6.3.2 Consider expulsion from the Code of Practice and subsequent advertising of the expulsion.

5.7 Complain Reporting Procedures

- 5.7.1 The signatory shall maintain a record of all formal complaints under the Code of Practice and the manner of their resolution for a period of not less than five years for each complaint.
- 5.7.2 The signatories shall report annually on the operation of the Code of Practice, including summaries of formal complaints received and subsequent action by said signatory, Complaints Committee and mediators to resolve the disputes or rule on them.
- 5.7.3 The signatory shall make the report available to the steering committee (for details on Steering Committee see section 6.1), government agencies and organisations having an interest in the Code of Practice and its operation.

6 Administration of the Code of Practice

6.1 Steering Committee

- 6.1.1 The Code of Practice shall be administered nationally by a steering committee chaired by the GS1 Australia and including representatives from each signatory and other invited parties.
- 6.1.2 The Steering Committee shall meet within a year's cycle. It shall supervise the implementation of the Code of Practice nationally and make necessary changes to the Code of Practice or the issuing of guidelines.
- 6.1.3 The Steering Committee shall consider applications made by Associations or retailers to become Signatories under the Code of Practice.

6.2 Review and Evaluation Procedure

- 6.2.1 The Steering Committee shall review the Code of Practice no less than 3 yearly.
- 6.2.2 Amendments will be made to the Code of Practice only after an appropriate inquiry.
 - 6.2.2.1 Inquiries may be held into the Code of Practice at any time at the initiative of the Steering Committee, which may invite appropriate interested parties to make submissions, written, oral or both, on the issues under review and make such other inquiries as the steering committee sees fit.
- 6.2.3 The Steering Committee will vote on the adoption of each recommendation and, if accepted by a simple majority of members, the recommendation shall be incorporated in the master copy of the Code of Practice held by the GS1 Australia.
- 6.2.4 GS1 Australia shall notify appropriate individuals and organisations of the changes to the Code of Practice.

7 Useful Information

Additional resources include:

- The Efficient Consumer Response Australasia (ECRA)
 - <http://www.ecraustralasia.org.au>
 - From Bar Code to EPC -
- The Global Commerce Initiative (GCI)
 - <http://www.globalcommerceinitiative.org/>
 - EPC Roadmap –
- Privacy Commission
 - <http://www.privacy.gov.au>
 - Privacy Act
- Australian Competition and Consumer Commission
 - <http://www.accc.gov.au/>
 - Trades Practice Act

8 Contacts

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100/45 Gilby Road
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gs1aust@gs1au.org

GS1 Australia a not-for profit association who are the local administrators of the internationally recognised GS1 System of standards, which includes the EPC Network, bar coding, numbers and eMessaging.

GS1 Australia is the facilitator of this Code of Practice and supports the signatories in their role as administrator of the Code of Practice to their members.

9 Signatories

Information on signatory companies can be found at

http://www.gs1au.org/products/epcglobal/privacy_code_practice/more_info.asp

10 Acknowledgements

To ensure the Code of Practice addressed all the facets of the retail industry, representatives from the following community were involved in the development of the Code of Practice.

Consumer Associations

Retailers

Suppliers

Industry/Association Bodies

Auto-ID Labs

Solution Providers

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Appendix A– Possible deactivation implementations.

- 1 It is envisaged that for many products particularly bulky goods or those sold in a few items at a time, the RFID tags will be part of disposable packaging or will be otherwise able to be discarded.
- 2 For items or situations where the RFID tag is unable to be easily or conveniently discarded, a provision to deactivate the tag must be provided by the retailers in such a way that the consumer is not significantly inconvenienced or deterred from deactivation. Possible alternatives for tag deactivation include
 - 2.1 Default deactivation of all products crossing a point of sale with the ability to not deactivate at the consumer's request.
 - 2.2 Default non-deactivation of all products crossing a point of sale with the ability to deactivate at the consumer's request.
 - 2.3 A mix of POS lanes within a store, some of which deactivate all tags at Point of Purchase and some which do not. The consumer would choose which lane to use based on personal preference. Retailers would clearly label the lanes to ensure consumers could make an informed decision.
 - 2.4 Stand alone "kiosks" or "deactivation points" where consumers could easily deactivate the tags.