

DANIEL K. INOUE, HAWAII
JOHN F. KERRY, MASSACHUSETTS
BARBARA BOXER, CALIFORNIA
BILL NELSON, FLORIDA
MARIA CANTWELL, WASHINGTON
FRANK R. LAUTENBERG, NEW JERSEY
MARK PRYOR, ARKANSAS
CLAIRE McCASKILL, MISSOURI
AMY KLOBUCHAR, MINNESOTA
TOM UDALL, NEW MEXICO
MARK WARNER, VIRGINIA
MARK BEGICH, ALASKA

KAY BAILEY HUTCHISON, TEXAS
OLYMPIA J. SNOWE, MAINE
JIM DEMINT, SOUTH CAROLINA
JOHN THUNE, SOUTH DAKOTA
ROGER F. WICKER, MISSISSIPPI
JOHNNY ISAKSON, GEORGIA
ROY BLUNT, MISSOURI
JOHN BOOZMAN, ARKANSAS
PATRICK J. TOOMEY, PENNSYLVANIA
MARCO RUBIO, FLORIDA
KELLY AYOTTE, NEW HAMPSHIRE
DEAN HELLER, NEVADA

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEB SITE: <http://commerce.senate.gov>

October 19, 2011

The Honorable Jon Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Leibowitz:

I was pleased to learn that the Federal Trade Commission (FTC) is planning to hold a workshop in December on the privacy and security implications of facial recognition technology. While there may be great potential for commercial, personal, and law enforcement uses of this emerging technology, its development also raises numerous questions about individual privacy. As you know, the Commerce Committee has focused a great deal of attention on privacy issues, conducting vigorous oversight and proposing legislation to protect consumers. I am pleased that the FTC is taking the time to examine this emerging technology, and I look forward to learning about the results of the workshop.

Recent press reports have demonstrated that facial recognition technology is already being put into use in a broad range of commercial areas. According to the *Los Angeles Times*, a new mobile application (or “app”) known as SceneTap uses facial recognition technology in bars to track the male/female ratio and age mix of the crowd so that potential bar patrons can use their mobile devices to get real time data on the scene at the establishment. Similarly, digital advertising displays at the Venetian Resort in Las Vegas can tell the approximate age and gender of people standing in front of the display and tailor the ads to those people. While these systems can only determine approximate age and gender, the technology exists to develop much more detailed identifications through facial recognition.

This summer, Facebook announced the release of “Tag Suggestions” which automatically suggests names of friends in photos as they are uploaded. Apple and Google have developed similar technology which can scan a user’s photos stored in either Apple’s iPhoto or Google’s Picasa and identify people in those photos. These programs only scan a small subset of photos to match identities, and all limit the scan to an individual’s existing contacts. But it is clear that the technology could reach much further. For example, I understand that Google built a facial recognition component into its “Google Goggles” app that would have allowed a user to take a photo of an individual and scan the entire internet for a match. Given the privacy concerns, this portion of the app was never released. The Chairman of Google, Eric Schmidt, was blunt about

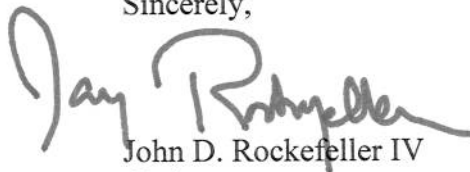
the reasons for stopping development of this application, stating: "As far as I know, it's the only technology that Google built and after looking at it, we decided to stop.... people could use this stuff in a very, very bad way as well as in a good way."

As in many fast growing and changing sectors, public policy has not kept pace with the development of this sort of technology. The privacy concerns are evident. As the Commerce Committee considers privacy legislation in the future, we will need to understand the capabilities of this technology as well as the privacy and security concerns raised by their development. I am hopeful that the FTC's workshop stirs a vigorous public debate about appropriate consumer protections in this area. Based on the FTC's announcement of the workshop, I am hopeful that the Commission will emerge with a strong understanding of the issue and with a range of policy recommendations. The FTC website includes six topics that may be considered at the workshop:

1. What are the current and future uses of facial recognition technology?
2. How can consumers benefit from the technology?
3. What are the privacy and security concerns surrounding the adoption of the technology; for example, have consumers consented to the collection and use of their images?
4. Are there special considerations for the use of this technology on or by children and teens?
5. What legal protections currently exist for consumers regarding the use of the technology, both in the United States and internationally?
6. What consumer protections should be provided?

Given the timeliness of this workshop, I ask that the Commission provide a report to the Senate Committee on Commerce, Science, and Transportation following the workshop, and that this report include potential legislative approaches to protect consumer privacy as this technology proliferates. Please provide a preliminary report to the Committee no later than February 8, 2012. If you have any questions about this request, contact Christian Tamotsu Fjeld or Anna Laitin of my Committee staff at 202-224-1270.

Sincerely,



John D. Rockefeller IV
Chairman
U.S. Senate Committee on
Commerce, Science, and Transportation