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Comments Regarding B2B)
Electronic Marketplaces)

COMMENTS OF THE WORLDWIDE RETAIL EXCHANGE

Bruce D. Sokler
Thomas G. Krattenmaker
Fernando R. Laguarda
Amy L. Bushyeager
Ruth T. Yodaiken
Ghita Harris-Newton

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY & POPEO, P.C.
701 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 434-7300

Attorneys for the WorldWide Retail
Exchange, LLC

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transaction costs of both buyers (typically, retail establishments) and sellers (typically, suppliers of goods necessary to operate retail stores, such as light bulbs, copy paper, or carpeting as well as wholesalers of goods for resale to consumers). Reducing procurement costs will necessarily translate into more and better goods -- at lower prices -- for consumers. The WWRE's structure makes its success contingent upon its ability to stimulate competition among its members and between its members and their non-member rivals. The competition fostered by the WWRE will redound to the benefit of consumers.

The WWRE welcomes the efforts of the FTC to learn about the phenomenon of business-to-business electronic commerce ("B2B e-commerce") exchanges. The FTC was created almost a century ago precisely for such a purpose -- to study and educate firms and consumers about new means of conducting business and to help harness the power of the economy for the benefit of those whom it should serve, ultimate consumers.^{2/}

As the FTC knows, marketplaces have driven economic development and innovation from the earliest stages of human civilization. Marketplaces make it possible to put goods and resources to their highest valued use. Marketplaces make possible the specialization that increases productivity. Marketplaces open opportunities to entrepreneurs, newcomers and visionaries while empowering consumers to dictate what shall be produced and to locate the best quality, best price suppliers. In short, marketplaces create value and distribute that value to producers and sellers in accord with their contributions while rewarding consumers with the most efficient means of satisfying their needs.

^{2/} See Federal Trade Commission Staff, The FTC's First Five Years: Protecting Consumers Online, p. 7 (Dec. 1999) (noting the FTC's ability to challenge new online practices stems from its broad grant of jurisdiction under The FTC Act) (citing 15 U.S.C. §45(a)).

The WWRE cannot speak in detail about B2B e-commerce exchanges other than its own. Suffice it to say that the marketplace the WWRE is building is simply the latest (surely, not the last) effort of cost-conscious innovative purchasers and retailers to fashion additional marketplaces from new technologies. As the FTC knows, technologies such as the sailboat, the railroad train, the telephone and the computer all made possible the creation of new marketplaces; marketplaces that did not supplant but supplemented the old marketplaces; marketplaces that eroded entry barriers, drove down costs, and expanded geographic reach. By taking advantage of the latest developments in telecommunications technology, the WWRE's B2B marketplace will have the same effects.

I. THE WORLDWIDE RETAIL EXCHANGE

Seventeen diverse companies from around the world share a vision that open, robust, global marketplaces will enhance the value of their firms while also enriching their consumers. The seventeen founding members of the WWRE also believe that Internet protocol technology offers an opportunity to build such a marketplace. The WWRE founding companies, who have joined the Exchange for the limited purpose of streamlining and modernizing their individual procurement functions, are:

- **Albertson's Inc.**: Headquartered in Boise, Idaho, Albertson's operates combination food/drug stores, conventional supermarkets, free-standing drug stores and fuel centers, including convenience stores.
- **Auchan Group**: Auchan operates supermarkets, hypermarkets, and home improvement stores around the globe. These venues offer a wide range of merchandise, clothing, food, consumer electronics, and related services. Auchan is based in Villeneuve d'Ascq Cedex, France.
- **Best Buy Co. Inc.**: Best Buy is a specialty retailer offering personal computers and other home office products, consumer electronics, entertainment software, major appliances, and other related accessories, such as batteries, film, and blank audio and video tapes. The company is based in Eden Prairie, Minnesota.

- **Casino Guichard - Perrachon**: Casino, based in Saint-Etienne, France, operates hypermarkets, supermarkets and convenience stores, as well as a warehouse grocery chain. The company also runs cafeteria restaurants, automobile service centers, food processing facilities, and wine-bottling plants.
- **CVS Corp.**: CVS is a retail and specialty pharmacy company that operates drugstores across the country. These stores also offer a broad assortment of consumer merchandise. CVS is based in Woonsocket, Rhode Island.
- **Delhaize “Le Lion” SA**: Delhaize is a transnational retail group specializing in self-service food sales. The company and its subsidiaries are involved in the distribution and retail sale of food, prescription drugs, and related products through supermarkets and combination stores in ten countries around the world, including the United States. Delhaize is headquartered in Brussels, Belgium.
- **The Gap, Inc.**: The Gap sells clothing in retail stores mostly in the United States, but also in parts of Europe and in Japan. Gap stores -- including Banana Republic, GapKids, babyGap, and Old Navy -- offer a variety of men’s, women’s, and children’s casual clothing. Some of the stores also offer restaurants. The company is based in San Francisco, California.
- **J.C. Penney Co.**: J.C. Penney operates retail department stores and catalog sales operations, as well as Eckard’s drug stores. The department stores sell women’s, men’s, and children’s apparel, accessories, and home furnishings. J.C. Penney also markets life, accident, and health insurance in the United States and Canada. J.C. Penney is based in Plano, Texas.
- **Jusco Co., Ltd.**: One of Japan’s premier retailers, Jusco operates superstores, supermarkets, discount stores, specialty stores and restaurants in eight countries, including the Talbots chain in the United States. The company is based in Tokyo, Japan.
- **Kingfisher plc**: Kingfisher is an international retailer operating a variety of store chains. Through Woolworth's (U.K.), Darty, MVC, and Castorama-B&Q, the company sells everything from home and family products to consumer electronics and do-it-yourself home repair. Kingfisher’s headquarters are in London, England.
- **Kmart Corp.**: Kmart operates general merchandise department stores that sell everything from vacuum cleaners and ceiling fans to bicycles, toys, and consumer electronics. Some stores also sell food and offer automotive services. Kmart also operates retail pharmacy stores. Kmart Corp. is based in Troy, Michigan.
- **Marks & Spencer plc**: Marks & Spencer, based in London, England, is an international retailer selling clothing, footwear, gifts, home furnishings, and foods. In the United States, the company owns the Brooks Brothers chain.
- **Royal Ahold N.V.**: Ahold is principally engaged in the operation of food retail supermarkets in Europe, the United States, and other parts of the world. Among its United States chains are Giant and Stop & Shop. Ahold is headquartered in Zaandam, The Netherlands.

- **Safeway Inc.**: Safeway operates retail supermarkets throughout North America, selling food and other high-quality consumer goods. The company is based in Pleasanton, California.
- **Target Corp.**: Target is a general merchandise retailer that also operates a leading, national direct marketing firm. Through Target, Mervyn's California, Marshall Field's, Hudson's, and Dayton's, the company sells a full range of consumer merchandise, clothing, and home electronics. Target is based in Minneapolis, Minnesota.
- **Tesco plc**: Tesco is a food retailer offering the full range of grocery, domestic, lifestyle, health and beauty products. The company also does some business in property development, and supplies clothing and international sourcing for a number of retailers. Tesco is headquartered in Hertfordshire, England.
- **Walgreens Co.**: Walgreens operates retail drugstores throughout the United States. Through its stores, Walgreens sells prescription drugs and a wide assortment of consumer products. The company is headquartered in Deerfield, Illinois.

The B2B e-commerce exchange that the WWRE is building will be open, on equal terms, to all -- suppliers and purchasers alike. User fees will be equal, regardless of any ownership position in the WWRE. Ownership of the WWRE will be dispersed across a wide variety of retailers with distinct needs. **No company has made or will make any promise to use the Exchange for any amount of its purchases.** No founding member of the WWRE is planning to abolish its procurement department or refuse to do business with any other exchange. The WWRE itself will be a stand-alone company, not operated by any retailer, and will be able to cover its costs and earn a profit only if it provides valuable services to firms around the world.

We describe in section III below how these aspects of the WWRE's structure and operating rules guarantee that the Exchange cannot create or exercise market power. First, however, we explain in greater detail the practical business functions of the WWRE.

II. THE MARKETPLACE OF THE FUTURE

The Commission has asked what business reasons explain “moving the marketplace” into the electronic arena.^{3/} The answer can be found in the history of trade and the advent of modern technologies. From simple beginnings when traders met face-to-face with goods on hand, the global marketplace has developed into a complex web of transactions that reach far back into the supply chain. The simple model in which a buyer informs potential sellers already well known to the buyer of its needs has become increasingly rare in international trade, and rarely describes the entire story.

Today, a large retailer seeking the best deal on an item usually goes through many layers of logistical hurdles. First, the company might expend significant time just to locate the full range of sellers, worldwide, that offer products meeting its specifications. A company then must ensure that potential vendors can deliver what they promise. In addition, a company is often faced with added complications of second and third-tier suppliers -- the buyers’ suppliers are likely to have suppliers whose efforts must be coordinated. The evaluation and purchasing processes often involve complex delivery details. A retailer buying products today that it expects to offer for sale in the future requires complicated terms involving delivery, warehouses, passage of title, warranties, and the like. At the same time, a company must account for its own product tracking and the timing of replenishment requirements. In addition, most transactions culminate in payment paperwork. Clearly, paradigmatic procurement efforts -- such as a multi-store supermarket’s effort to obtain a good deal on buying fluorescent light bulbs in the

^{3/} Workshop Notice, 65 Fed. Reg. at 30,121.

international market -- is a far cry from the ancient marketplace model in which a buyer might search through bins while haggling with sellers in a bustling village bazaar.

The complexities of the modern marketplace are magnified by the expansion of markets across national borders. The global procurement process is made even more cumbersome because buyers and sellers arrive at the bargaining table with their own languages, methods, business forms, product codes and descriptions and technical capabilities. Fortunately, the advent of Internet protocol telecommunications technology, combined with the massive power of modern computers, makes it possible to manage the complexities of modern procurement systems in rational, cost-reducing ways. Large bricks-and-mortar firms are moving into the Internet market space in full force across every major industry sector. Consumers and manufacturers are reaping the benefits of retailers' direct access to distributors and suppliers. Similarly, retailers are creating new electronic ways to make their business dealings more efficient. As evidence of this, almost two thousand exchanges across seventy industries have been created or announced in recent months.

The WWRE can speak in particular only about its own exchange, which aims to allow any retailer that wishes to participate to simplify, rationalize and migrate its procurement process to the Internet. The WWRE will eliminate inefficiencies and drive down unnecessary costs for buyers and sellers alike, while creating accessible software programs that permit discourse across continents, across languages, across product codes, and across time. As a starting point, the WWRE will create an open technology platform where the businesses can interact through a neutral intermediary. This platform will allow exchanges to take place on either a one-to-one basis, or a multi-faceted transactional environment. Suppliers will gain access to more buyers, and buyers will have access to multiple suppliers. It will even succeed in connecting buyers and

suppliers, who in the past may have had trouble finding and reaching each other. Merchants participating in the WWRE will be able to form both short- and long-term relationships with partners.

In addition, because of real-time processing, the Exchange will facilitate improved planning and forecasting. Properly constructed exchanges can facilitate improved deployment of transportation fleets, warehousing management and procurement procedures. This can result in reduced cycle times for new product introductions, improved payment terms, and increased customization of product development. Moreover, the WWRE will facilitate smooth transactions by minimizing technical inconsistencies and reducing paperwork. By providing a standard approach for processes and communication of data, the WWRE will allow participants to reduce the gap between their internal needs of product replenishment and the logistical hurdles of meeting those needs in a timely fashion.

Inter-connection between all players in a transaction adds value for buyers and sellers in the form of lower transaction costs. The main objective of the WWRE is to lower costs and improve efficiency for participants through harmonization of procurement functions, not by some form of monopsonistic buying (a power WWRE members lack). Of course, the principal beneficiaries of these reduced costs will be the customers of the retailers who use the WWRE platform.

In sum, B2B electronic marketplaces hold the promise of allowing merchants to meet more potential partners, and to bring their partners' goods into the modern marketplace in a more efficient manner. This new paradigm will add to the value consumers derive from free, open, global markets.

III. WWRE AND COMPETITION POLICY

Most marketplaces are pro-competitive. The WWRE is no exception to that rule.

Although we do not have the capacity to comment on other B2B e-commerce exchanges, we believe the WWRE is a model of how an e-commerce marketplace might best be structured to assure that it furthers the competition policies embedded in U.S., European, and Asian antitrust laws.^{4/} Some of the salient structural features of the WWRE that assure its procompetitive purposes and effects include:

- The WWRE was founded by 17 retailers that collectively do not dominate any one market and, as a group, are more disparate than alike. The WWRE founders are important retailers in four sectors: food; drugs/chemists; textiles (apparel and home furnishings); and general merchandise. They also operate in distinct geographic markets. The WWRE's internal structure guarantees that the creation of market power cannot be a goal of its founders. To take only one example, Safeway is not interested in fostering a monopoly (or monopsony) in clothing, nor does the Gap desire to see food retailing monopolized. Further, both confront major rivals -- such as Sears, Walmart, and Kroger -- who have no ownership stake in this exchange but do have their own e-commerce platforms with which they seek to match the WWRE's efficiencies.
- The WWRE is completely non-exclusive. No firm -- founder or not, supplier or buyer -- is obligated to use the WWRE procurement platform to any extent. If there is a better marketplace than the WWRE's, everyone (including the WWRE's founding members) is completely free to use that platform and has every incentive to do so.

^{4/} The United States antitrust authorities have recognized the value of pro-competitive collaborations in modern markets:

“In order to compete in modern markets, competitors sometimes need to collaborate. Competitive forces are driving firms toward complex collaboration to achieve goals such as expanding into foreign markets, funding expensive innovation efforts, and lowering production and other costs.

Such collaborations often are not only benign but procompetitive. Indeed, in the last two decades the federal antitrust agencies have brought relatively few civil cases against competitor collaborations.”

Federal Trade Commission and U.S. Department of Justice, Antitrust Guidelines for Collaborations Among Competitors at 1 (April 2000) (“Joint Venture Guidelines”). See also, Anticipating the 21st Century: Competition Policy in the New High-Tech, Global Marketplace, Chapt. 10, p. 2 (May 1996) (reprinted in Antitrust & Trade Reg. Rep. (BNA) No. 1765 (June 6, 1996)) (“Anticipating the 21st Century”).

- The WWRE is open to everyone on equal terms. No buyer or seller will be prohibited from using the WWRE platform unless it violates the WWRE rules of conduct. Founding members are to be accorded no transactional benefits. Fees are to be equal to all users of the Exchange.
- The combination of these latter two factors -- the WWRE's non-exclusivity and its openness to all on equal terms -- guarantees that the Exchange cannot create entry barriers or confer on privileged firms benefits that rival firms cannot share. For that reason, the Exchange can succeed only if it economizes procurement functions better than firms or other exchanges can do for themselves.
- The WWRE will operate as an independent entity. It will have its own employees and its own mission. The WWRE shareholders (or principals, should a partnership form be chosen) will include founding members plus additional charter members and those who utilize the Exchange in its infancy. The Exchange will not be controlled by any member or any group of members with market power in a product market. Furthermore, the business plan for the WWRE does not call for it to make substantial profits. Its founders have expressly eschewed any goal of creating an "internet dot com" company. The WWRE's success, in its founders' eyes, will turn on its ability to lower retailers' and suppliers' costs, not on the WWRE's ability to make money itself.

As a wholly separate entity, the WWRE cannot benefit should food or drug or apparel retailing become monopolized. The WWRE will grow, and its employee operators will benefit, to the extent -- and only to the extent -- that it improves the procurement processes for retailers and their suppliers. In short, the WWRE will benefit only from increasing transaction volume, not from restricting output. For that reason, the WWRE can gain nothing from excluding any transactions for any qualified participants.

- The WWRE is a full-scope procurement platform. Although joint buying may occur on the WWRE, this is not its principal purpose. The WWRE is also designed to improve individual purchasing decisions, to upgrade supply chain management, and to facilitate and improve electronic catalog maintenance and ordering. The Exchange was not set up principally (much less solely) to seek to aggregate its members' buying power. The WWRE's founders are very well aware of the antitrust limitations here and abroad on group or collaborative purchasing among competitors. They are equally aware that the structure and visibility of the WWRE assures that, were some group of retailers to seek to buy monopsonistically, their buyers would immediately complain to the relevant authorities (as they should).
- The WWRE and each of its founding members, are very visible companies that are fully conversant with antitrust laws here and abroad.

The WWRE will structure its platform so that competitively sensitive information will not be disclosed to rivals. Candidly, it would be foolish to do otherwise; the law is clear^{5/} and the WWRE's policies will obviously be available for public inspection.

The WWRE will exclude no one, supplier or buyer, competitor of a founder or not, unless that firm violates competitively neutral rules of the Exchange. Whether any particular seller is otherwise qualified is up to purchasers using the WWRE's platform, not a matter for the WWRE to decide. The WWRE has adopted these principles because they make good business sense, but the Exchange would also follow these dictates out of a desire to be fully compliant with competition policies here and abroad. While the WWRE cannot speak for other B2B exchanges, it is quite firm in its own insistence that antitrust laws regarding exclusive dealing, group buying, information exchange and membership policies will be adhered to scrupulously. Within the framework of the WWRE, as it has been constructed by its founders, there simply is no "secret" or "hidden" or "unobservable" way to create entry barriers, to collude on input prices, or to raise rivals' costs.

^{5/} See United States v. Container Corp. of America, 393 U.S. 333, 337-38 (1969) (prohibiting price verification practices in concentrated industry); U.S. v. Airline Tariff Publishing Co., et al., Proposed Final Judgement and Competitive Impact Statement, 58 Fed. Reg. 3971 (Jan. 12, 1993), entered 836 F. Supp. 9 (D.D.C. 1993). See also David A. Balto, Assistant Director, Office of Policy and Evaluation, FTC Bureau of Competition, "Emerging Antitrust Issues in Electronic Commerce," speech before the 1999 Antitrust Institute (Nov. 12, 1999).

CONCLUSION

In conclusion, the WWRE looks forward to the Commission's Workshop and the opportunity to demonstrate its members' commitment to the benefits of robust competition and innovation in the dawning age of Internet B2B commerce.

Respectfully Submitted,



Bruce D. Sokler
Thomas G. Krattenmaker
Fernando R. Laguarda
Amy L. Bushyeager
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Ghita Harris-Newton

MINTZ, LEVIN, COHN, FERRIS,
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