



January 26, 2010



Special Alert: E-Commerce Retailers Agree to End Post-Transaction Marketing Practices

In response to the ongoing investigation of online marketing practices by the U.S. Senate Committee on Commerce, Science, and Transportation, led by Senator John D. Rockefeller, IV, several e-commerce marketers and retailers have agreed to cease engaging in post-transaction marketing, whereby they would share their customers' billing information with third-party marketers. Senator Rockefeller's interest in this issue arose from consumer complaints that third-party marketers engaged in post-transaction marketing do not provide consumers with adequate notice of the additional charges incurred.

Affinion Group, Webloyalty Inc., and Vertrue Inc., which are third-party marketers that have engaged in post-transaction marketing, have each informed Senator Rockefeller that they will now require consumers to enter their full 16 digit credit card number in order to enroll in a membership program online.

In addition, several major e-commerce retailers have informed Senator Rockefeller that they will no longer allow third-party companies to make offers to their customers during the checkout process on their Web sites.

While Senator Rockefeller appears pleased with these e-commerce retailers' initiatives, he said that "there are many other websites still engaged in practices designed to confuse and trick online consumers," and he pledged to "continue working until these practices have been stopped."

The e-commerce retailers that have changed their policies were all previously sent letters from Senator Rockefeller's office. In addition, several other companies not named in the Committee's recent announcement also received letters from the Committee. It is unclear whether these companies have not responded to the Committee's inquiry, have responded but did not provide the same assurances provided by the retailers named in the Committee's announcement, or if they simply were omitted from the announcement.



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The new company policies are the latest chapter in the ongoing saga of the Senate Committee's increased scrutiny of negative-option marketing. Since May 2009 the Committee has been investigating Affinion, Vertrue, and Webloyalty to better understand their online business practices. In November 2009 Senator Rockefeller issued "information letters" to 16 online retailers that allowed Affinion, Vertrue, and Webloyalty to present membership club offers to their customers and which passed on their customers' preacquired billing and account information. At that time, the Committee also published a staff report, titled "Aggressive Sales Tactics on the Internet and Their Impact on American Consumers," in which datapass marketing was heavily critiqued as a marketing tactic that misleads consumers.

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Newsletter Editors

[Jeffrey S. Edelstein](#)

Partner

jedelstein@manatt.com

212.790.4533

[Linda A. Goldstein](#)

Partner

lgoldstein@manatt.com

212.790.4544

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