



## New Law Gives Enforcers Added Power Against Online Marketers

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In the waning days of 2010, the lame-duck Congress passed, and President Obama signed, a law that is almost certainly going to have major effects on the affiliate marketing industry.

The FTC is poised to begin enforcing the “Restore Online Shoppers’ Confidence Act,” which is intended to protect consumers from deceptive online sales tactics – but in doing so, imposes new requirements on the entire industry. State attorneys general also have the power to enforce this law.

As detailed in a guest blog post by Bill Rothbard, a former FTC official, [on the influential Shoemoney blog](#), online merchants are now prohibited from passing along a consumer’s billing information, such as a credit card number, to a third-party merchant whom the consumer did not contact. Consumers need to re-enter their billing information. The idea is that in this manner, they will clearly have consented to the new transaction and won’t be victimized.

In addition, an Internet company is not allowed to charge a for a third-party online transaction unless the seller has disclosed all material terms and then only with the consumer’s express informed consent.

Congress was clearly concerned about “mystery charges” on credit cards from companies that the consumer didn’t ever plan to buy from – charges that reflect unscrupulous sales tactics.

Still, everyone in the online marketing industry needs to be aware of this law and to set up a compliance program. Online affiliate sales are clearly on the radar screen of the FTC and of state attorneys general.

*FTC Beat is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.*

*The commentary and cases included in this blog are contributed by Jeff Ifrah and firm associates Rachel Hirsch, Jeff Hamlin, Steven Eichorn and Sarah Coffey. We look forward to hearing your thoughts and comments!*