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Mr. Floum,

I write in regard to certain “post-transaction marketing” services which have attracted widespread public concern (including multiple class-action lawsuits, multiple state attorney general lawsuits, and a Senate investigation) for a combination of deceptive tactics, including:

- interrupting users’ check-out processes to display offers entirely unrelated to the purchases users requested, at a time when users reasonably expect to interact only with the specific sites they requested;
- promising “savings” or “cash back” for what is actually a paid membership club, where few if any users achieve any actual savings;
- claiming user consent from a large and prominent button, whereas an option to decline is far harder to find;
- presenting relevant disclosures in a location, format, and style where reasonable consumers will neither notice nor understand; and
- transferring users’ payment card numbers from affiliate merchants without users ever providing their card numbers to the specific companies that in fact charge users’ cards.

I recognize that Visa cannot police all improper charges that pass through the Visa network. But post-transaction marketers deserve special scrutiny from Visa for their haphazard treatment of users’ payment card numbers. In particular, if consumers cannot trust Visa merchants to hold their card numbers in confidence, consumers will be less inclined to pay by Visa. Moreover, if marketing ploys taint consumers’ experience with post-checkout prompts, consumer acceptance of Verified by Visa and similar systems will decline.

Visa’s publicly-posted “Rules for Merchants” feature multiple provisions directly on point. For example, the Rules indicate that card-not-present authorization must begin with a cardholder “provid[ing] the merchant with the account number” (p.7) – a step that is entirely skipped when a post-transaction marketer copies a card number from another source. To my knowledge, no posted Visa rule authorizes such skips or such copies.

Visa need not sit idly by the wayside while its rules are flouted, to consumers’ detriment and to the detriment of the trust and reputation of the Visa network. I look forward to Visa taking action to protect customers from these important problems.

Respectfully,

Benjamin Edelman