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November 30, 2009

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Mr. Hanft,

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

MasterCard’s publicly-posted “Rules” (rev. 3 June 2009) feature multiple provisions directly on point. For example, the Rules require that merchant web sites use the same names that appear on cardholder statements (rule 5.4) – whereas post-transaction marketers show a merchant’s name on a merchant’s web site, then subsequently post charges under the separate name of the post-transaction marketer. Moreover, rule 5.10.1 specifically prohibits sale, exchange, or other transfer of card account numbers – yet merchants brazenly provide card numbers to post-transaction marketers day in and day out.

MasterCard 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 MasterCard network. I look forward to MasterCard taking action to protect customers from these important problems.

Respectfully,

Benjamin Edelman