

Congress Passes Bill to Limit Sharing of Consumer Information

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The “[Restore Online Shoppers’ Confidence Act](#)”, which would ban online sales companies from enrolling consumers in services without their consent and bring an end to the practice of “data pass,” was passed by Congress yesterday. Senate Commerce Committee Chairman Jay Rockefeller (D-W.Va.) introduced the bill in May after a year-long investigation into the practices of certain online “negative option” plans. In these programs, retailer websites were sharing customers’ billing information, including credit and debit card numbers, with third parties who would enroll the customers in membership programs with monthly fees billed to the same credit or debit cards. Consumers were required to contact the third party companies to cancel their memberships in the programs.

In a [statement](#) released by the FTC today, Chairman Liebowitz said, “We’re pleased Congress passed this legislation...Consumers should be able to make informed decisions, so the terms and conditions of any offer must be disclosed clearly and conspicuously.” The Act requires the following:

1. Online sellers of goods and services who market on the site of a merchant after a consumer has initiated a transaction are prohibited from charging a consumer unless the material terms of the transaction are clearly and conspicuously disclosed and the seller has obtained the consumer’s consent before charging his or her credit or debit card. Consent requires that the consumer provide the seller with full and complete credit or debit card information.
2. Online sellers are prohibited from transferring consumer credit or debit card information to third parties.
3. Sellers are prohibited from charging under a negative option plan unless the material terms are disclosed, consent is obtained, and consumers are provided a simple means of cancellation.

Online retailers should take care to review their current billing policies in light of the requirements contained in this bill.