

Global Data Privacy and Security Team

Credit Card Number Hot Potato: Passing Credit Card Numbers Between Merchants At A Glance

Online retailers often learn information about a consumer that may be used to help identify other products, services, or companies that may be of interest. For example, if a consumer purchases an airplane ticket to Washington DC, the consumer may want information about hotels that they might use, popular restaurants that they might visit, or amenities at the airport.

Although online retailers often strive to provide recommendations quickly, and to make a consumer's transition to a third party retailer seamless, the Restore Online Shoppers' Confidence Act ("ROSCA") generally prohibits one online merchant from transferring payment information (e.g., a credit card number) to a second online merchant.



Questions to consider when evaluating the data privacy issues involved in passing information between online retailers:

- Are consumers being presented with third party products or services when they visit a retailer's website?
- Are consumers being presented with third party products or services immediately after they visit a retailer's website?
- Are such items affirmatively selected by the consumer, or added automatically to the consumer's shopping cart?
- If the consumer decides to purchase such items, would they likely think that you, or the third party, is processing the transaction?
- Is the total cost of each third party product clearly and conspicuously disclosed?
- If the consumer indicates that they wish to buy a third party product or service, can the consumer easily change that decision?
- Is contact information being transferred from one retailer to another?
- Is payment information being transferred from one retailer to another?
- Is the third party offering a free trial offer? If so will the consumer be charged any money to participate and does the consumer need to take an affirmative act to prevent a charge after the trial period?
- Is the third party offering a continuity program or membership? If so are the terms of the program clearly and conspicuously disclosed?

Bryan Cave's Global Data Privacy and Security Team advises clients on industry-specific regulations and standards that govern the responsible use, collection, and management of their customers' personal information.

For more Information Contact:

David A. Zetoony Partner

david.zetoony@bryancave.com
1155 F Street, N.W.
Washington, D.C. 20004
T: +1 202 508 6000

One Boulder Plaza
1801 13th Street, Suite 300
Boulder, CO 80302-5386 USA
T: +1 303 444 5955

¹ <http://www.comscore.com/Insights/Press-Releases/2014/5/comScore-Reports-56-1-Billion-in-Q1-2014-Desktop-Based-US-Retail-ECommerce-Spending-Up-12-Percent-vs-Year-Ago>

² Enforcement actions reviewed as of July 2015.