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Payment Card Redress and Protections

Consumer confidence in making purchases online depends in part on payment card liability limits and redress mechanisms. Consumers in countries with extensive payment card rights are more likely to complete purchases online. Only half of Internet users complete purchases online. Polls indicate widespread consumer concern about loss or theft of credit card numbers, especially among Internet users who do not transact business online.

Protections and redress rights for certain credit, debit, and other payment cards are provided as a matter of national law and per contract with card companies. Protections are most extensive in the United States for credit cards with laws that limit consumer liability for lost or stolen cards, that provide for dispute resolution for billing errors, and that provide redress for undelivered or unsatisfactory purchases. EU countries have a variety of laws that apply to payment cards, with liability limits the most common. In the US card companies voluntarily advertise “zero liability limits” for both credit and debit cards to foster confidence in card use online. Card companies, by contract with member banks, provide chargeback arrangements in Europe.

Credit card companies use the term “chargebacks” to describe technical arrangements between issuing and acquiring banks. For consumers, “chargebacks” is the shorthand term that encompasses the exercise of credit and debit card redress for unauthorized transactions, undelivered or unsatisfactory purchases and/or billing error correction. The cardholder notifies her card-issuing bank which “charges back” the disputed amount to the merchant’s acquiring bank. Chargebacks are a valuable form of redress for trans-border electronic commerce because of the lack of jurisdictional questions. The consumer deals with the issuing bank in his own country. E-commerce transactions are generally considered to take place at the consumer’s home, similarly to telephone or direct mail sales.

Payment card liability limits and redress protections vary by type of card and the type of protection. In the United States, credit card protections provide greater protection than debit card rights, with no laws on stored value cards. A key difference between countries that provide chargebacks as legal protection and

those that rely on contractual arrangements with card companies is the level of consumer awareness of payment card rights and procedures.

Chargebacks as a consumer confidence measure for electronic commerce is under study by the Organization for Economic Cooperation and Development. The EU Commission to the Council and the European Parliament on E-Commerce and Financial Services recommends legislative backing for a refund system that establishes a right to, and basic conditions for, refunds in electronic payments when problems occur. Consumer groups in the United States support upward harmonization of card protections, especially in cases where the same card can be used through both credit and debit processes without a unique personal identifier.

RESOLVED:

The European Union and the United States should strengthen and harmonize payment card consumer protection to improve consumer confidence in cross-border electronic commerce, to engage the influential card companies in improving the security and reliability of payment mechanisms online, and to use payment card protections to redress online disputes.

1. Payment card protections should be a matter of law or regulation to provide legal certainty and consistent minimum rights for all consumers.
2. The EU and the US should work with the OECD to adopt Guidelines for Payment Card protections to guide countries of the world in establishing baseline legal protections and redress rights for consumers.
3. Payment card redress protections should be comprehensive and provide for liability limits for unauthorized use, correction of billing errors, recourse for late delivery or non-delivery of goods and services, and a framework for asserting claims and defenses when purchases are unsatisfactory.
4. Payment card protections should be consistent across card types, including credit cards, debit cards, stored value cards and other forms of electronic payment. Inconsistent laws should be harmonized upward; for example, the US \$50 liability limit on credit cards should apply to debit cards. Chargeback regulations should protect consumers in both domestic and cross-border transactions.
5. The US and the EU should require payment card companies to conspicuously disclose to consumers their rights and the procedures to be used in disputing any payment card transaction. Notices to consumers should be required when cards are issued, on monthly statements and annually in a form consumers can keep, and should be posted on company web sites.

6. The US and the EU should collect information from banks, card companies, merchants and consumers about the use of payment card redress protections with e-commerce disputes to determine whether current law and/or industry practice is effective; to gauge whether consumers are well informed about their rights and the methods to dispute transactions; and to identify security and risk-reduction steps needed to protect all parties to the payment system in e-commerce.