

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

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November 5, 2009

Mr. Jeffrey Housenbold
Chief Executive Officer
Shutterfly, Inc.
2800 Bridge Parkway
Redwood City, CA 94065

Dear Mr. Housenbold:

I am writing to you regarding Shutterfly, Inc.'s partnership with Webloyalty.com, Inc., and the impact this partnership has on your online customers. In May 2009, I requested documents and information from Webloyalty in order to better understand its Internet business practices, which have been the focus of criticism by consumer advocates and have generated thousands of individual consumer complaints.

It is my understanding that Shutterfly is currently partnered with Webloyalty and engages in these controversial practices in its online business. Shutterfly apparently allows Webloyalty to present enrollment offers to its online customers as they check out of the Shutterfly site, and has agreed to pass Shutterfly customers' billing information, including their credit card or debit card numbers, to Webloyalty via a so-called "data pass" process.

The Committee has been investigating allegations that these post-transaction offers, when combined with the "data pass" billing process, confuse online consumers and cause them to unknowingly and inadvertently become enrolled in membership clubs offered by Webloyalty. These consumers are then charged on a monthly basis for a service they did not want and are unaware they have.

In order to better understand Shutterfly's awareness of these controversial practices and its involvement in "data pass," post-transaction marketing, I request that you provide answers to the following questions by Friday, November 14, 2009.

1. Does Shutterfly currently allow Webloyalty to engage in post-transaction marketing on the Shutterfly website? If so, why?
2. Does Shutterfly employ the "data pass" process to transfer its customers' billing information, including credit card or debit card numbers, to Webloyalty? If so, why?
3. How many Shutterfly customers have enrolled in Webloyalty membership programs via "data pass," post-transaction marketing on the Shutterfly website?

4. Has Shutterfly received complaints or communications from its online customers who claim they have unknowingly or inadvertently enrolled in membership programs offered by Webloyalty?
5. Does Shutterfly believe that its online customers have unknowingly or inadvertently enrolled in membership programs offered by Webloyalty?
6. Does Webloyalty provide Shutterfly with information related to the rates at which its customers utilize Webloyalty's membership program or the rate at which they cancel their membership? If so, what are those rates?

The Committee is conducting this investigation under the authority of Senate Rules XXV and XXVI. If you have any questions, please contact Erik Jones or John Williams with the Committee staff at (202) 224-1300.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Rockefeller". The signature is written in a cursive, flowing style.

John D. Rockefeller IV
Chairman