

## USA: FTC mobile payments report will impact social media-based offerings

There has been an explosion in the number and variety of mobile payments services available to consumers in the last couple of years, including several social media-centric payments innovations. New payments products, including peer-to-peer services, mobile coupons, contactless options, and mobile wallets offer consumers and businesses significant flexibility and many new benefits. But regulators are concerned about the prospect of increased risks to consumers. The release of the Federal Trade Commission's (FTC) March 8, 2013 staff report, "Paper, Plastic... or Mobile? An FTC Workshop on Mobile Payments," indicates the potential for new and greater regulatory scrutiny of this growing sector. The report discusses the key issues facing businesses and consumers in emerging mobile payments services and highlights the diverse mix of companies comprising the mobile payments ecosystem, including mobile carriers, payment card networks, financial institutions, merchants, and others. It describes three primary evolving concerns, all of

which are relevant to social media-based offerings: data security; privacy; and dispute resolution.

The report – which follows up on a 2012 FTC workshop on the same topic – is a reminder to businesses developing or deploying mobile payments services – and the third parties with whom they share consumer data – that the FTC is continuing to monitor the industry and stands ready to enforce the law against deceptive or unfair practices. The FTC stakes out a claim for broad authority over mobile payments, asserting that it has jurisdiction over mobile phone carriers for non-common carrier activities (e.g., mobile carrier billing) and every other type of company involved in mobile payments except for depository institutions. Therefore, businesses in the mobile payments ecosystem – including social media platform providers, app developers, and advertising networks – should assess their existing data privacy and security practices and other terms and conditions of service to ensure that they are consistent with evolving practices.



### **Benefits of Mobile Payments/Cost of Regulation**

The report notes that mobile payments offer the possibility of significant benefits to businesses and consumers. Merchants stand to benefit from increased competition among payment methods and potentially lower transaction costs. In the social media context, they could also benefit from additional branding and advertising opportunities and the ability to leverage a user's stated interests. For consumers, as the FTC observes, "mobile payments can be an easy and convenient way to pay for goods and services, get discounts through mobile coupons, and earn or use loyalty points." They can also connect users to products more directly via social networking platforms. Additionally, mobile payments may offer "underbanked" persons greater access to financial products. While the FTC emphasizes a need for consumers to have consistent protections (noting discrepancies in statutory protections and business practices based on the product and funding source), it acknowledges that additional regulations may impose costs on businesses, which in turn may negatively impact consumers.

### **Data Security**

The Report indicates that a potential impediment to more widespread adoption of mobile payments services is the perceived lack of security. The technology exists, however, to make mobile payments more secure than traditional payments, and the FTC encourages mobile payments providers to ensure that sensitive financial information is secure as it moves through the payment channel, including through enhanced authentication, end-to-end encryption, and secure storage of the information on mobile devices. The Report also notes that a mix of state and federal laws already impose data security requirements on companies that collect and use financial information. Consumers can also take steps to protect their own data, such as setting passwords to protect sensitive information on their mobile devices.

### **Privacy**

The FTC states that mobile payments services may create significant privacy concerns for consumers. There are many companies involved in the mobile payments ecosystem, and they may be sharing a significant amount of consumer data – particularly in comparison to traditional in-store payments using a

credit or debit card. In the social networking context, highly personalized user profiles pose additional privacy risks when integrated with financial transactions. To address emerging privacy concerns in mobile payments services, the FTC recommends that companies receiving consumers' personal information incorporate privacy protections in each stage of their product development, give consumers choices about data collection, and provide greater transparency about their data collection practices. These steps, along with the FTC's suggestions on data security and dispute resolution (discussed below), will facilitate protection of consumer data and greater trust in the services offered by companies in the mobile payments ecosystem.

### **Dispute Resolution**

Finally, the FTC explains that one of the most significant concerns for consumers using mobile payments services is how to resolve disputes when there are fraudulent or unauthorized charges. Although credit and debit cards have statutory protections that limit consumer liability in the case of unauthorized charges, some mobile payments services may not have such protections. The FTC urges consumers to understand their rights and protections when choosing a mobile payment provider, and for businesses to develop clear dispute resolution policies.

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