

December 11, 2023

The Honorable Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan,

As consumers prepare to purchase prepaid gift cards for their friends and family this holiday season, I strongly urge the Federal Trade Commission (Commission) to investigate the practices of Incomm Financial Services (Incomm), a payments technology company whose negligent failure to properly secure its Vanilla gift cards have left consumers susceptible to monetary theft. It is critical that the Commission protect consumers against fraud and significant financial loss by holding Incomm accountable for their unfair and deceptive business practices.

A recent lawsuit filed by the San Francisco City Attorney's Office (SFCAO) reveals that Incomm failed to secure the packaging of their popular Vanilla gift cards, allowing anyone to obtain a card's information from beneath its cardboard sleeve.¹ As a result, bad actors targeted consumers through "card draining," a practice in which an individual obtains card information without leaving signs of tampering. Once consumers purchase and activate these gift cards at a retail store, fraudsters then empty the card of all funds.

Incomm has been aware of this problem for a decade but took no action to improve the packaging design of their cards or to swiftly reimburse victims of card draining.² By contrast, Incomm's competitors have taken simple and cost-effective measures to protect their gift cards against fraud, such as through tamper proof packaging. Further, Incomm frequently failed to quickly remediate fraud and reimburse consumers for their losses as a result of their negligent failure to adequately protect their Vanilla card. Consumers across the United States, including Connecticut residents, have been victims of this fraudulent action.

In the past, the Commission has brought enforcement actions and civil suits against financial institutions that have turned a blind eye to consumer fraud, citing violations of the FTC Act among other statutes. For instance, in January 2017, the Commission charged Western Union with failing to implement an anti-fraud policy for their money transfer system, in some

¹ <https://www.sfcityattorney.org/wp-content/uploads/2023/11/2023-11-09-Complaint.pdf>

² <https://law.yale.edu/yfs-today/news/sfalp-files-suit-gift-card-scamming-case>

cases even facilitating those acts of fraud.³ More recently in June 2022, the Commission sued Walmart for failing to secure its money transfer system and allowing bad actors to scam consumers out of hundreds of millions of dollars.⁴ These examples are no different than the practices of Incomm, whose neglect and refusal to implement improved security features have unjustly harmed consumers.

These instances of card draining will likely continue unless Incomm enhances the security features of their prepaid gift cards. As the SFCAO complaint demonstrates, this fraud has impacted Americans across the country, calling for complementary action from the Commission to ensure vigorous enforcement of our consumer protection laws at a state and federal level. I therefore urge your agency to coordinate and support the efforts of SFCAO, and to work with them investigate the business practices of Incomm leading to this widespread fraud. It is time we put an end to this practice and offer justice to the consumers who have been harmed as a result.

Sincerely,



RICHARD BLUMENTHAL

United States Senate

³ <https://www.ftc.gov/news-events/news/press-releases/2017/01/western-union-admits-anti-money-laundering-violations-settles-consumer-fraud-charges-forfeits-586>

⁴ <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-sues-walmart-facilitating-money-transfer-fraud-fleeced-customers-out-hundreds-millions>