



**Key Takeaways:**

- Brands should honor advertised product benefits and avoid techniques to block product use.
- Under the Restore Online Shoppers' Confidence Act (and state auto-renewal laws), advertisers must disclose material terms and conditions and obtain consumers' express consent before charging a payment card or account.

The FTC and MoviePass recently settled related to allegations that the company used deceptive tactics to prevent subscribers from using its service and insecurely held subscribers' private information. The FTC's [complaint](#) alleged that MoviePass used three tactics, described below, in a perceived attempt to save money on their \$9.95

per month subscription service that was advertised as providing unlimited access to certain films in theaters. **Limiting Subscribers' Usage:** The FTC alleged that MoviePass, its parent company Helios and Matheson Analytics, Inc. (Helios), and its principals Mitchell Lowe and Theodore Farnsworth, scrambled at the high demand for the subscription service and took steps to prevent users from receiving the advertised "one movie per day" that they had paid for in order to cut costs. The FTC listed the following deceptive or unfair tactics that MoviePass operators allegedly engaged in to set up roadblocks for consumers: 1) Denial of Passwords: MoviePass operators prevented users from logging into their accounts by falsely claiming that there was "suspicious activity or potential fraud." Subscribers could not use their MoviePass account until the operators allowed them back in. 2) Verification Program: MoviePass operators implemented a verification program where subscribers had to submit a picture of their movie tickets within a certain timeframe or else face lost access to, or even deactivation of, their account. This program blocked thousands from access to their account. 3) Avid User "Trip Wires": MoviePass operators made note of their most avid users and blocked the entire group once they collectively watched a set number of films. Even if a person labeled as an avid user only watched a single film in a month, they could hypothetically be blocked from watching another if the group of users had reached a quota decided by MoviePass. **ROSCA Violation:** The FTC also alleged that MoviePass operators violated the [Restore Online Shoppers' Confidence Act](#) (ROSCA) that, among other things, requires firms providing subscription services to disclose material terms and to receive material consent before any charges to subscribers' payment accounts. **Not Securing Data:** The FTC further alleged that MoviePass failed to secure its users' personal information. Despite stating in its privacy policy that it was taking "reasonable measures to protect personal information," MoviePass users' data was placed in unencrypted databases. These databases—containing user credit card numbers, locations, emails, and more—were accessed by unauthorized individuals. A [proposed order](#) would require MoviePass to reverse these practices, and adherence will be monitored. Consumers will not receive money damages, and MoviePass and Helios have already filed for bankruptcy.

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