

Subscriptions Under Scrutiny: *Key Legal Developments*

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What's going on with the FTC's Negative Option Rule?

The FTC Rule: A Recent Timeline

- **July 2025:** Eighth Circuit Court of Appeals vacates Rule—on procedural grounds.
- **November 2025:** Industry groups submit petition urging FTC to revive rulemaking
→ FTC requests public comment.
- **January 2026:** FTC announces ANPRM.

What's Clear—Regardless

- FTC already has enforcement tools (*e.g.*, ROSCA, FTC Act).
- State and local regulators are active.
- Surge in class actions.
- Other legislative developments.

Bipartisan Federal Legislation

The Unsubscribe Act

- House and Senate versions (H.R.7048 and S.2253), both TBD.
- Key features:
 - Pre-renewal opt-in requirements
 - Separate consent to auto-renew feature
 - Cancellation via same method as enrollment
 - Regular reminder notices

State Legislation

State Legislation: The Landscape

- More than half of U.S. states now regulate subscriptions.
- Roughly a dozen new and updated laws recently.
- State laws are often more prescriptive than federal law.
- General trends:
 - Cancellation requirements
 - Save attempts
 - Notices

Spotlight on California



- Amendments effective July 1, 2025.
- Key updates:
 - Cancellation via same method as enrollment
 - Save attempts allowed, but consumers must be informed of/directed to option to cancel
 - New notice requirements, including annual reminders and price change notices 7-30 days in advance

Spotlight on Massachusetts



- New regulations cover junk fees and subscriptions.
- Effective September 2, 2025.
- Unique notice requirements, based on plan duration.
 - Exceeding 31 days: Pre-renewal notice 5-30 days in advance
 - 31 days or less: Same as above, or when consumer is charged
- Other unique requirements:
 - Online cancellation via same website or app
 - Disclosure of calendar date by which consumers must cancel

Spotlight on New York



- Amendments effective November 5, 2025.
- Key updates:
 - Notices of material change 5-30 days in advance
 - Need affirmative consent to increased price, or must provide cancellation/refund option
 - Save attempts allowed, but cannot unreasonably obstruct or delay

CLE Code: Renew

Local Regulation

Don't Forget Local Regulators

- NYC executive orders on junk fees and “subscription tricks and traps”
 - Samuel Levine appointed as Commissioner of NYC Department of Consumer and Worker Protection
- California Auto Renewal Task Force

Enforcement

Enforcement Trends

- Aggressive enforcement at all levels.
- Significant settlement amounts, including at state and local levels.
- Coordination among regulators.
- Surge in class actions, especially in California.
- Allegations target enrollment without consent and burdensome cancellation, including:
 - Misleading or incomplete disclosures
 - Buried/cumbersome/confusing cancellation processes
 - Refusal to improve despite awareness of issues

Final Thoughts

Compliance Takeaways

- Conduct a compliance health check ... now!
- Review subscription flows from user POV.
- Focus on transparency and simplicity.
 - Disclose auto-renewing nature upfront.
 - Don't forget your advertising!
 - Present all material terms truthfully.
 - Send required notices on time, including receipts, pre-renewal reminders, and notices of material change.
 - Make cancellation processes easy to find and use, via same method as enrollment.
 - Be careful with save attempts, with clear language and training/monitoring of CSRs.

Thank You!

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