

Compliance Takeaways Amid Subscription Practices Scrutiny

By **William Efron, Raqiyyah Pippins and Tommy Huynh** (March 4, 2026)

The Federal Trade Commission has made it clear that it is prioritizing enforcement regarding deceptive billing and cancellation practices involving recurring subscriptions.

On Jan. 13, the FTC announced yet another lawsuit — this time against JustAnswer and its CEO — alleging violations of the Restore Online Shoppers' Confidence Act, or ROSCA.[1]

Then, on Jan. 30, the FTC announced that it had taken a preliminary step toward commencing a new rulemaking regarding subscriptions.[2] This development follows a July 8, 2025, decision by the U.S. Court of Appeals for the Eighth Circuit invalidating the agency's amended Negative Option Rule, also known as the click-to-cancel rule, in Custom Communications Inc. v. FTC.[3]

While certainly a headliner, the rulemaking comes at a time when companies must already be mindful of numerous new or enhanced state auto-renewal laws and the prospect of state enforcement.

This article summarizes notable federal and state activity related to auto-renewal laws and offers key takeaways for companies that use or are considering using recurring subscriptions to sell products or services.

Recent FTC ROSCA Actions

ROSCA is the most important enforcement tool that the FTC uses in connection with negative option marketing.[4]

Enacted by Congress in 2010, ROSCA requires online sellers using a negative option feature to (1) clearly and conspicuously disclose all material terms of the transaction before obtaining consumers' billing information; (2) obtain consumers' express informed consent before charging them; and (3) provide simple mechanisms for consumers to stop recurring charges.[5]

The FTC can seek civil penalties of up to \$53,088 per violation and consumer redress for ROSCA violations.

Under FTC Chairman Andrew Ferguson, the FTC has continued to prioritize ROSCA enforcement, including through the following actions.

JustAnswer

On Jan. 13, in *FTC v. JustAnswer LLC*, the commission alleged that the defendants claim consumers can join the online Q&A service and get access to expert advice for a small fee.

However, when consumers sign up to use the service, the FTC asserts that JustAnswer



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enrolls them in a recurring monthly subscription without consent and immediately charges them a higher monthly fee, in addition to the fee for joining. The case is pending in U.S. District Court for the Northern District of California.[6]

Instacart

In *FTC v. Maplebear Inc. dba Instacart*, on Dec. 18, 2025, Instacart agreed to pay \$60 million in consumer refunds to settle allegations that it engaged in false advertising and violated ROSCA by failing to adequately disclose that (1) consumers signing up for a free trial membership in Instacart+ would be automatically enrolled into a paid annual subscription program; and (2) membership fees would only be refunded under limited circumstances.[7]

On Jan. 13, the Northern District of California approved the settlement.[8]

Uber Technologies

On Dec. 15, 2025, the FTC, joined by 21 states and the District of Columbia, filed an amended complaint in *FTC v. Uber Technologies Inc.* The FTC alleged that Uber charged consumers for its Uber One subscription service without consent and made it difficult to cancel.

The complaint alleged that consumers must take at least 12 different actions and navigate at least seven screens to cancel, and if they are within 48 hours of their billing date, consumers must take up to 32 actions and navigate as many as 23 screens to do so. The case is pending in the Northern District of California.[9]

Amazon.com

On Sept. 25, 2025, just days after the trial began in *FTC v. Amazon.com*, Amazon agreed to resolve the FTC's case in a historic settlement requiring it to pay a \$1 billion civil penalty and \$1.5 billion in consumer refunds. The FTC alleged that Amazon and several executives (1) used manipulative or deceptive interface designs to trick consumers into enrolling in auto-renewing Prime subscriptions; and (2) created a complex and difficult process for consumers seeking to cancel, with the goal of preventing them from doing so.[10]

The stipulated order was approved by the U.S. District Court for the Western District of Washington.[11]

Chegg

On Sept. 15, 2025, educational technology company Chegg agreed to pay \$7.5 million to settle allegations in *FTC v. Chegg Inc.* that it failed to provide subscribers with a simple mechanism to cancel recurring charges and continued to charge consumers after they thought they had canceled their memberships.[12] The Northern District of California approved the settlement.[13]

Fitness International

On Aug. 20, 2025, in *FTC v. Fitness International LLC*, the commission sued the operators of LA Fitness and other gyms, alleging that the defendants made it exceedingly difficult for consumers to cancel their gym memberships.

The FTC further alleged that LA Fitness has required consumers wishing to cancel to either go to the gym or send a cancellation notice by mail, and that both methods are opaque and complicated. The FTC also alleged that LA Fitness did not clearly inform consumers that they could cancel add-on services without affecting their gym membership. The case is pending in U.S. District Court for the Central District of California.[14]

Update Regarding the Click-To-Cancel Rule

On Jan. 30, the FTC announced that it had taken a preliminary step toward a new rulemaking regarding recurring subscriptions. Specifically, it submitted a draft advance notice of proposed rulemaking, or ANPRM, concerning the agency's Negative Option Rule to the White House's Office of Information and Regulatory Affairs.[15] Once such review is completed, the FTC will publish the ANPRM in the Federal Register for public comment.[16]

This follows a July 8, 2025, decision by the Eighth Circuit in *Custom Communications Inc. v. FTC* to vacate the FTC's click-to-cancel rule.[17] By way of background, the FTC has an existing Negative Option Rule that is narrow and applies only to one type of negative option marketing: prenotification plans.

In October 2024, under former FTC Chair Lina Khan, the FTC amended the rule to apply to nearly all negative option programs in any media, e.g., online, phone and print. While similar to ROSCA in many respects, the amended rule would have imposed some additional and specific requirements regarding disclosures of material terms, obtaining consent and cancellation.[18]

For example, the rule required clear and conspicuous disclosure of certain material terms immediately adjacent to where the consumer consents to the negative option feature, and that cancellation be as easy as signing up. It also prohibited misrepresenting any material facts made while marketing goods or services with a negative option feature.

Ferguson, who was then a commissioner, dissented from the rule and a number of other consumer protection rulemaking activities during the Biden administration.[19] Shortly after the rule was announced, multiple petitions for review were filed in appellate courts seeking to invalidate it.[20]

As the challenge was pending, Ferguson was selected as chair and made it clear that the FTC under President Donald Trump would primarily be a "cop on the beat," enforcing the laws Congress has passed rather than writing them.[21] Nevertheless, the FTC defended the rule in the agency's appellate brief filed in March 2025.[22]

However, the Eighth Circuit vacated the rule in July 2025 based on procedural deficiencies with the rulemaking process.[23] The FTC did not seek rehearing or U.S. Supreme Court review of the Eighth Circuit's decision.

On Dec. 3, 2025, the FTC published a petition from two nonprofit organizations requesting that the agency renew its rulemaking concerning the use of negative option plans. The FTC invited written comments on the petition through Jan. 2 and explained that after receiving them, it would determine what action to take, if any, regarding the request.[24]

While the commission's announcement of an ANPRM is a significant development, there are still many required steps under the FTC's rulemaking procedures before any new rule concerning subscriptions can be issued. Among other things, after receiving comments on the ANPRM and notifying certain congressional committees, the FTC would then issue a

notice of proposed rulemaking, or NPRM, setting forth the text of the proposed rule, including any alternatives.

In connection with an NPRM, the FTC must allow interested persons to make written submissions and provide an opportunity for an informal hearing.[25] Based on the rulemaking record, if appropriate, the commission would then issue a final rule with (1) a statement of basis and purpose; (2) statements regarding the prevalence of the acts or practices addressed by the rule; (3) the manner and context in which they are unfair or deceptive; and (4) the economic effect of the rule.[26]

Accordingly, there will be much to follow as the rulemaking process moves forward, and the commission considers the contours of any new rule based on the record that is developed.

What has become clear, however, is that the FTC under Ferguson will, in fact, consider consumer protection rulemaking when it advances core agency enforcement priorities. Indeed, on the same day the FTC announced this ANPRM, it announced another ANPRM related to rental housing fees.[27]

Recent State Regulation/Enforcement of Subscription Practices

Importantly, though the Eighth Circuit vacated the click-to-cancel rule, many of its requirements live on in a number of new or recently enhanced state auto-renewal laws. Some such laws impose requirements on sellers even beyond what was set forth in the FTC's rule.

For example, California's auto-renewal law, A.B. 2863, is one of the strictest in the country, and includes new, strengthened requirements that went into effect July 2025.[28] Under the law, businesses that make auto-renewal offers to consumers in California must, among other things, obtain their express affirmative consent to the auto-renewal terms.

In addition, those terms and information on how to cancel must be provided to the consumer in a retainable acknowledgment. For consumers who signed up online, sellers must allow them to cancel exclusively online "without engaging in any further steps that obstruct or delay the consumer's ability to terminate."

When customers request to cancel online, businesses may offer discounts or other promotions to retain them — known as save attempts — if a cancel button is simultaneously displayed in a prominent and proximate location. Sellers must also provide between seven and 30 days notice of a price change to an existing subscription, along with information on how to cancel.

For free or discounted trials lasting more than 31 days, businesses must notify customers three to 21 days before the trial expires. And for subscriptions that renew annually, sellers must send consumers an annual reminder prior to renewal that discloses certain key terms and how to cancel.

Notably, California not only recently amended its auto-renewal law, but also actively enforces it. In August 2025, meal kit delivery company HelloFresh paid \$7.5 million to settle a lawsuit brought by the district attorney's offices of Los Angeles and Santa Clara counties alleging that it (1) enrolled consumers into auto-renewing subscription plans without proper disclosure or consent; (2) failed to provide a post-transaction acknowledgment with the subscription's material terms; and (3) did not offer an easy-to-use mechanism to cancel.[29]

The case, *California v. Grocery Delivery E-Services USA Inc., dba HelloFresh*, filed in Santa Clara County Superior Court, was investigated by the California Automatic Renewal Task Force, a coalition of county and city enforcers that addresses complaints regarding subscriptions.

Other states with new or recently updated auto-renewal laws and regulations include Colorado, Connecticut, Massachusetts, Minnesota, New York and Utah. While there are many similarities between new subscription laws, there are certain noteworthy differences.

For example, New York's law, which became effective in November 2025, requires that businesses either (1) obtain consumers' advance affirmative consent to increased subscription prices; or (2) allow the consumer to cancel within 14 days after such charge and provide a pro rata refund for the remaining term of service.[30]

And Massachusetts' regulation, which took effect in September 2025, requires that for any subscription term exceeding just 31 days, sellers must provide a prerenewal notice five to 30 days in advance of when the consumer must cancel to avoid incurring a subsequent charge.[31] Finally, Minnesota's law, unlike California, does not permit save offers unless the customer affirmatively consents to receive them.[32]

Just as California is not the only state legislating in this space, it is likewise not alone in bringing actions related to subscriptions.

In October 2025, a group of 33 states announced a \$4.8 million settlement with TFG Holding Inc., an online clothing retailer, resolving allegations of deceptive advertising and billing practices, including that TFG automatically enrolled consumers into a membership program with recurring charges without consent, and then made it difficult to cancel.[33]

New York City Also Prioritizes Subscription "Tricks and Traps"

In early January, New York City's new mayor, Zohran Mamdani, signed an executive order signaling the city's intent to use its full authorities to crack down on illegal subscription practices.[34]

The order provides that the city's Department of Consumer and Worker Protection will prioritize investigating and taking enforcement action against subscription-related practices that deceive consumers and consider rulemaking to combat such practices.

Takeaways

The FTC and consumer protection enforcers at the state — and now city — level are closely scrutinizing subscription practices and will not hesitate to bring cases in this area. In addition, plaintiffs attorneys are active in the space.

Accordingly, when companies that use subscription models that are not in compliance with applicable law, they may be at risk of both government enforcement actions and class action lawsuits.

Companies should monitor any developments with respect to the FTC's rulemaking process concerning the Negative Option Rule, including the publication of the ANPRM. This event, and the issuance of an NPRM, provide opportunities for comment from interested parties as the commission considers the contours of any eventual rule that is promulgated.

States are continuing to enact new or enhanced auto-renewal laws. While many of these laws contain similar core requirements, some differ in at least certain respects. Thus, companies must stay abreast of regulatory developments at the state level and carefully review new laws as they evaluate and update their auto-renewal compliance policies.

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[1] Complaint, *FTC v. JustAnswer LLC*, No. 3:26-cv-00333 (N.D. Cal. Jan. 13, 2026).

[2] *FTC Submits Draft ANPRM Related to Negative Option Plans to OMB for Review*, FTC (Jan. 30, 2026).

[3] *Custom Commc'ns, Inc. v. FTC*, 142 F.4th 1060 (8th Cir. 2025).

[4] Negative option programs take many forms (e.g., continuity plans, auto-renewals) but each generally feature a term or condition allowing sellers to interpret a customer's silence or failure to take any affirmative action as acceptance of an offer.

[5] 15 U.S.C. §§ 8401-8405.

[6] Complaint, *FTC v. JustAnswer LLC*, No. 3:26-cv-00333 (N.D. Cal. Jan. 13, 2026).

[7] *Instacart to Pay \$60 Million in Consumer Refunds to Settle FTC Lawsuit Over Allegations it Engaged in Deceptive Tactics*, Fed. Trade Comm'n (Dec. 18, 2025); Complaint, *FTC v. Maplebear, Inc. (dba Instacart)*, No. 3:25-cv-10783 (N.D. Cal. Dec. 18, 2025).

[8] Stipulated Order for Permanent Injunction, Monetary Judgment, and Other Relief, *FTC v. Maplebear, Inc. (dba Instacart)*, No. 3:25-cv-10783 (N.D. Cal. Jan. 13, 2026).

[9] First Amended Complaint, *Fed. Trade Comm'n v. Uber Techs., Inc.*, No. 4:25-cv-03477 (N.D. Cal. Dec. 15, 2025).

[10] *FTC Secures Historic \$2.5 Billion Settlement Against Amazon*, Fed. Trade Comm'n (Sept. 25, 2025); Complaint, *FTC v. Amazon.com, Inc. et al.*, No. 2:23-cv-0932 (W.D. Wash. June 21, 2023).

[11] Stipulated Order for Injunction, Monetary Relief, Civil Penalty Judgment, and other Relief, *FTC v. Amazon.com, Inc. et al.*, No. 2:23-cv-0932 (W.D. Wash. Sept. 25, 2025).

[12] *Ed Tech Provider Chegg to Pay \$7.5 Million to Settle FTC Allegations Concerning Unlawful Cancellation Practices*, Fed. Trade Comm'n (Sept. 15, 2025); Complaint, *FTC v.*

Chegg, Inc. 5:25-cv-07827, (N.D. Cal. Sept. 15, 2025).

[13] Joint Motion for Entry of Stipulated Order for Permanent Injunction, Monetary Judgment, and other Relief, FTC v. Chegg, Inc. 5:25-cv-07827 (N.D. Cal. Sept. 19, 2025).

[14] Complaint, FTC v. Fitness Int'l, LLC, No. 8:25-cv-01841 (C.D. Cal. Aug. 20, 2025).

[15] The FTC explained that since the planned ANPRM qualifies as a "signatory regulatory action," review by OIRA (which is within the Office of Management and Budget) is required pursuant to Executive Orders 12866 and 14215.

[16] ANPRMs must contain a brief description of the area of inquiry being considered, the FTC's objectives, and possible regulatory alternatives under consideration.

[17] Custom Commc'ns, Inc. v. FTC, 142 F.4th 1060 (8th Cir. 2025).

[18] Negative Option Rule, 9 Fed. Reg. 90476 (Nov. 15, 2024).

[19] Federal Trade Commission Announces Final 'Click-to-Cancel' Rule Making It Easier for Consumers to End Recurring Subscriptions and Memberships, Fed. Trade Comm'n (Oct. 16, 2024).

[20] Petitioners' Opening Brief, Custom Commc'ns, Inc. v. FTC, No. 24-3137 at 31-53 (8th Cir. Feb. 18, 2025).

[21] A. Ferguson, Dissenting Statement of Commissioner Andrew N. Ferguson Fall 2024 Regulatory Plan and Regulatory Agenda Matter Number P072104 (Dec. 13, 2024).

[22] Brief of the Federal Trade Commission, Custom Commc'ns, Inc. v. FTC, No. 24-3137 (8th Cir. Mar. 17, 2025).

[23] Custom Commc'ns, Inc. v. FTC, 142 F.4th 1060 (8th Cir. 2025).

[24] Petition for Rulemaking of Consumer Federation of America and the American Economic Liberties Project, 90 Fed. Reg. 55701 (Dec. 3, 2025).

[25] See 15 U.S.C. § 57a.

[26] 15 U.S.C. § 57a. The procedures for FTC rulemaking pursuant to Section 18 of the FTC Act, also known as Magnuson-Moss rulemaking, impose additional requirements beyond those applicable to rulemaking under the Administrative Procedure Act.

[27] FTC Submits Draft ANPRM Related to Rental Housing Fees to OMB for Review, FTC (Jan. 30, 2026).

[28] Automatic Renewal and Continuous Service Offers, Assembly Bill No. 2863 (Sept. 24, 2024).

[29] Carlos E. Castaneda, HelloFresh Agrees to \$7.5M Settlement in California Lawsuit Accusing it of Misleading Customers (Aug. 18, 2025); Final Judgment and Injunction Pursuant to Stipulation, California v. Grocery Delivery E-Services USA, Inc., 25CV472270 (Cal. Sup. Ct. Aug. 6, 2025).

[30] N.Y. Gen. Obligations Law § 5-903.

[31] 940 CMR 38.05, Recurring Fees and Trial Offers.

[32] MN Stat § 325G.57 (2025).

[33] Press Release, Penn. Attorney General, AG Sunday Secures Settlement Valued at \$4.8 Million With Online Clothing Retailer for Deceptive Advertising and Billing Practices (Oct. 23, 2025).

[34] Press Release, Office of the Mayor, New York City, Mayor Mamdani Signs Executive Orders to Crack Down on Junk Fees, Subscription Tricks and Traps and Save New Yorkers Money (Jan. 5, 2026).