

Is Your Company Prepared for the FTC's May 14 "Click-to-Cancel" Compliance Deadline?

May 2, 2025

A May 14, 2025 deadline is rapidly approaching for companies to comply with several of the most significant changes to the Federal Trade Commission's (FTC) amended negative option rule, often called the "click-to-cancel" rule. This month's deadline follows a January 2025 compliance deadline for other aspects of the rule. Compliance with this rule is critical for all companies with subscription services and automatic billing renewal, particularly since the FTC may seek civil penalties of up to \$53,088 per violation.

New requirements under the amended rule focus on making clear disclosures, streamlining cancellation policies, and confirming consent.

As Wiley has discussed previously in greater detail, the amended rule has four primary new requirements:

- Companies must provide a "simple mechanism" to cancel the negative option or subscription feature that immediately stops any recurring charges. That simple mechanism must be as easy for customers as it was for them to enroll.
- It is a violation to misrepresent any material fact made while marketing goods or services with a negative option feature.
- Sellers must clearly and conspicuously disclose all material terms – including specific information outlined in the rule – before obtaining a consumer's billing information in connection with a negative option or automatic renewal feature.
- Sellers must obtain consumers' express informed consent to the negative option or automatic renewal feature before charging them.

Authors

Duane C. Pozza
Partner
202.719.4533
dpozza@wiley.law
Ian L. Barlow
Of Counsel
202.719.4994
ibarlow@wiley.law

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FTC and Consumer Protection

Despite previous objections, FTC Chairman Ferguson now supports the amended rule.

When the FTC approved the amended rule in October 2024, it was approved in a 3-2 vote along party lines. Although he voted against the rule, then-Commissioner Andrew Ferguson did not specifically join Commissioner Holyoak's dissenting statement. Under Ferguson's leadership as Chairman, the FTC recently filed a brief in the U.S. Court of Appeals for the Eighth Circuit supporting the amendments to the rule. In that brief, the FTC argued that it had jurisdiction to implement the amendments, that it properly justified the need for the amendments and their scope, and that it complied with procedural requirements. Although it is possible that the Eighth Circuit will overturn the rule or vacate certain aspects, there is no stay of enforcement while the litigation is pending.

The FTC may act quickly on rule enforcement.

In cases where companies offer legitimate goods and services to consumers but the FTC believes the marketing or sales process may have been unfair or deceptive, the FTC typically – but not always – issues civil investigative demands (CIDs) to the target companies to obtain information. Responding to CIDs affords businesses opportunities to explain their practices to FTC staff. That said, FTC investigators can conduct undercover purchases, attempt to cancel recurring charges, and document the cancellation procedures to evaluate compliance without information from the company. Companies should note that they may not have an additional opportunity to explain or modify their compliance approach before any FTC review.

State laws may present additional compliance requirements.

Many states also have auto-renewal laws that add additional regulatory requirements beyond those imposed by the click-to-cancel rule. For example, many states require yearly notices before annual subscriptions renew. And other states, including California, impose requirements around method of cancellation. The FTC's click-to-cancel rule explicitly states that it shall not be construed as superseding, altering, or affecting any state law or regulation relating to negative option requirements that impose additional requirements beyond those in the rule.

Wiley's FTC Regulation Practice has substantial experience advising and representing clients in matters related to the click-to-cancel rule and subscription services. Our team routinely advises on regulatory compliance and represents companies in responding to FTC requests and advocating before the agency. Please reach out to either of the authors with questions.