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An Update on CNP Auto Renewal Laws and Regulations

Boston, MA   July 28, 2026

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Agenda

- Types of Negative Option Plans
- Subscription Marketing Laws & Rules
- Basics of Subscription Marketing
- Recent Cases
- Adjacent Issues
- Keeping it Compliant
- Questions

Types of Negative Option Plans

Pre-Notification Plans. Seller sends periodic notices offering goods and if consumer does not respond seller sends goods and charges consumer (e.g., book, record or wine clubs)

Continuity Plans. Consumers receive periodic shipments or provision of services, which they continue to receive until they cancel the subscription

Automatically Renewing Subscriptions. Seller automatically renews a subscription term when it expires and charges for it, unless the consumer cancels the subscription

Trial Conversions (aka Free to Pay). Consumers receive goods or services for free (or a nominal fee, introductory or promotional term) after which seller automatically begins charging a fee (or higher fee) unless the consumer cancels the subscription.

SUBSCRIPTION MARKETING LAWS AND RULES

Federal

- Federal Trade Commission Act
  - Prohibits “unfair and deceptive acts and practices in commerce”
- Restore Online Shoppers Confidence Act (ROSCA)
  - Online sales
- Telemarketing Sales Rule (TSR)
  - Phone
- Pre-Notification Negative Option Rule
  - TBD - “Click to Cancel” Rulemaking
- Unordered Merchandise Rule
- Electronic Funds Transfer Act/Regulation E
  - Governs recurring charges to debit cards

State

- General UDAAP Laws (mini-FTC Acts)

- Auto Renewal and Free Trial Laws
  - General Jurisdiction
    - 27 state laws – many follow California model
    - Several unique, outlier requirements
    - New York City – Proposed Rules April 8, 2026
  - Industry specific laws
    - Gyms
    - Dating Services/Apps

Payment Card Association Rules

Subscription Adjacent Laws/Guidance

- Junk Fee Laws, Mail Order Rule, Dot-Com Disclosures

THE BASICS

Basics of Subscription Marketing

Disclosure of Material Terms

- **Pre-Enrollment Disclosure**: All significant terms must be presented to consumers ***before*** collecting account information for enrollment.

- **Content**
  - **Initial Term**: Length and amount payable for the initial subscription term.
    - Could refer to other locations on the page
  - **Trial Period Details**: If applicable, specify any fees during a free or promotional trial; and afterward, if known, if not cancelled.
  - **Automatic Renewal**: That the subscription will automatically renew after the initial term or free/intro trial unless canceled.
  - **Renewal Costs**: The cost of the renewal term(s) if known.
  - **Cancellation Methods**: How consumers can cancel auto renewal.
  - **Prepaid Offerings**: Disclose refund policies and any early termination fees. If too lengthy, details may link to a clearly labeled hyperlink.

Basics of Subscription Marketing

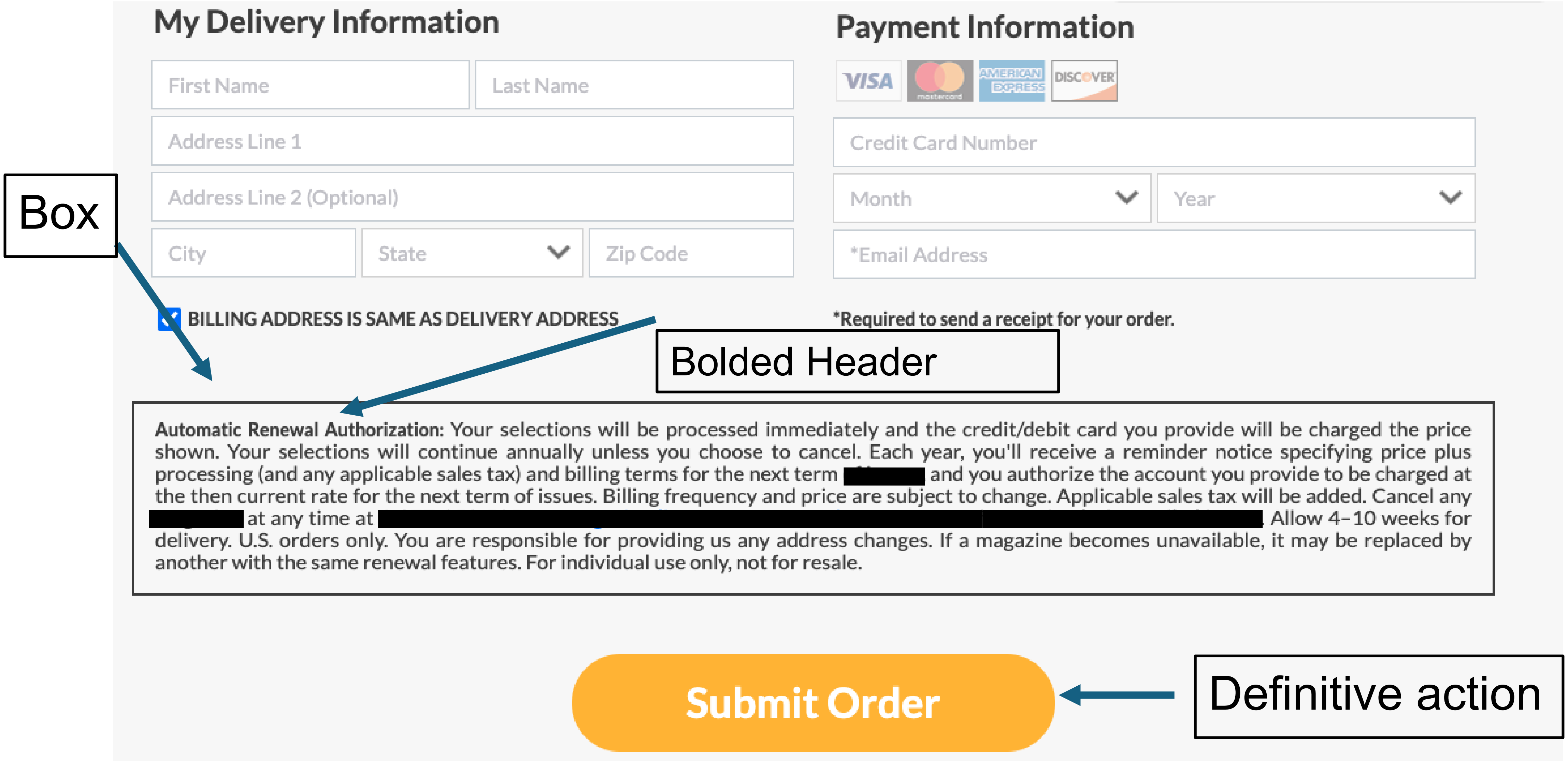
Presentation of Terms

- Clarity and Visibility: Terms must be disclosed “**clearly and conspicuously**” (unavoidable) and in simple language.
  - Presenting the offer terms larger than surrounding text or set apart with symbols.
    - In bold
    - In a lined box
  - In a noticeable font size and color contrasting with background.
  - Presented close to where consumers provide payment information, ideally above or next to a submission/agree button.

Consumer Agreement

- Affirmative Agreement: Consumers must actively agree to terms to enroll, typically through a "Submit," “I Agree,” or "Enroll" button.
- Be Definitive. Avoid “Start Free Trial”
- Two-Action Requirement: More to come...

Sample Offer Terms Presentation and Agreement



My Delivery Information

First Name

Last Name

Address Line 1

Address Line 2 (Optional)

City

State

Zip Code

BILLING ADDRESS IS SAME AS DELIVERY ADDRESS

Payment Information

VISA

mastercard

AMERICAN EXPRESS

DISCOVER

Credit Card Number

Month

Year

*Email Address

*Required to send a receipt for your order.

Box

Bolded Header

Automatic Renewal Authorization: Your selections will be processed immediately and the credit/debit card you provide will be charged the price shown. Your selections will continue annually unless you choose to cancel. Each year, you'll receive a reminder notice specifying price plus processing (and any applicable sales tax) and billing terms for the next term [redacted] and you authorize the account you provide to be charged at the then current rate for the next term of issues. Billing frequency and price are subject to change. Applicable sales tax will be added. Cancel any [redacted] at any time at [redacted] Allow 4–10 weeks for delivery. U.S. orders only. You are responsible for providing us any address changes. If a magazine becomes unavailable, it may be replaced by another with the same renewal features. For individual use only, not for resale.

Submit Order

Definitive action

To Check(box) or Not to Check(box)?

- Vermont (for annual subscriptions) and bolded terms
- District of Columbia (free to pay conversions)
- Amended California ARL – Final amendment replaced "separate affirmative consent" with "express affirmative consent" (express undefined) – so no "legal" checkbox requirement
  - But favored by CA AG and CART (California Auto Renewal Task Force)
    - Hello Fresh. 2025. $7.5MM
    - Thrive Market 2024 - ~$1,550,000
    - Relaxium 2023 - $925,000
      - Dietary supplements
      - Misleading advertising
    - eHarmony 2018 - $2.3MM

Basics Of Subscription Marketing

Notifications

- **Order Confirmation**: Must be sent immediately post-transaction, reiterating offer terms, especially how to cancel.
- **Renewal Notices**: Before charging for renewals or before the the end of a trial period, informing consumers of:
  - Renewal date
  - Cost of the new term
  - Cancellation deadline
  - Cancellation method
  - Some states require a direct link to the cancel process
  - **Timing**: "Sweet spot" is 30-40 days prior to renewal
- **Reminder Notices** – Next Slide
- **Change in Terms Notice**: Must be sent if there is a material change to the offer terms, including price if mid-term.
  - Note: NY requires express consumer agreement to price increase or else pro rata refund 14 days after charge.
- **Delivery Methods**: Notices can be sent via the same medium used for enrollment (email, postal mail, etc.), in a manner that may be retained by the consumer. If emails bounce, send postal notices if addresses are available.

Basics of Subscription Marketing

"Reminder" Notices

- Colorado
  - Auto renewing contracts with renewal periods **less than a year (includes monthly)**, 25-40 days before the renewal extends beyond a 12 month period

- Delaware
  - Auto renewing contracts with renewal periods of **more than 1 month (excludes monthly),** 30-60 days if renewal will cause the contract to go beyond 12 months from initiation of the contract

- California
  - Questionable: "Annual reminder notice" to be sent "*under an **annual** automatic renewal agreement or continuous service agreement*"

- Minnesota
  - "indefinite subscription agreements" subject to continuous service, must send written notice of the continuous service at least once per calendar year via mail or email

Basics of Subscription Marketing

Cancellation - Generally

- **Easy Cancellation**: Federal and state laws mandate a simple, easy to use, and no-cost cancellation process.
  - Generally mirroring the enrollment method.
  - Aka "click to cancel" – make it as easy to cancel as it was to enroll.

- **Self-Service Options**: Provide online self-service cancellation methods to avoid complex phone systems.

- **Save Attempts/Implications of Cancelling**
  - Generally permitted but should not hinder or obstruct the cancellation process.
    - Have an equally prominent "No, I just want to cancel" option

Cancellation: Unique State Requirements

Arkansas

- Exclusively online, at will, and without engaging in any further steps

California

- Through the same medium that the consumer used to provide consent
  - If the auto renewal service was offered online, MUST allow consumer to cancel auto online

Colorado

- "one-step cancellation" – does not require additional action from the consumer

Connecticut

- May not take any action to obstruct or delay a consumer's efforts to cancel

Maine

- For mobile apps and online media players, MUST allow for cancellation of the auto renewal subscription by any means of communicating over a computer network.
- must provide for cancellation of the subscription *using the same method and in the same manner by which the consumer initially agreed to the subscription*

New York (11/5/25)

- Through the same medium that the consumer used to provide consent
- *All mediums by which the business allows a consumer to enroll*

News from the Big Apple

July 10, 2026 - NYC Dept of Consumer and Worker Protection adopt new rules for subscriptions and propose rules for junk fees

- “Click to cancel” rules effective October 1, 2026
  - Civil penalties and restitution for violations
  - Generally mirrors NYS Auto Renewal law (GBL §527) and free trial law (GBL § 396-mm)
  - Clear and conspicuous disclosure of offer terms
  - Cancellation
    - "Click-to-Cancel": Consumers must be able to cancel at any time using a simple cancellation process that is as easy as the enrollment process and through the same medium used to subscribe..
    - No Obstruction of Cancellation: Businesses may not impose unreasonable barriers to cancellation, including hanging up on consumers, providing misleading cancellation instructions, delaying processing, or using retention offers or discounts in a manner that impedes a consumer's ability to cancel.
      - Unclear whether saves are permissible
- Notices
  - Renewal – terms of a year or longer - 15-45 days prior to renewal
  - Material change – 5-30 days prior to change
  - Free trial reminder – for trial more than a month, 3-21 days prior to charge
- Various but narrow exemptions

What of the FTC's Click to Cancel Rule?

Amended FTC Negative Option Rule (aka ”click to cancel”)

- Final Rule Announced Oct. 16, 2024
  - Initial staggered roll out
    - January 14 - Prohibition on Misrepresentations
    - May 14 – All other provisions.
  - Extended full roll out July 14
- Purpose
  - Amend and expand scope of the decades-old (and generally obsolete) Prenotification Negative Option Rule
  - Harmonize conflicts and gaps in current related laws
    - ROSCA
    - TSR
    - Regulation E
    - Unordered Merchandise Rule
- Violations subject to $53,088 civil penalty (effective as of Jan. 17, 2025)
- Currently being challenged in court based on procedural and jurisdictional grounds

CANCELLED

Click to Cancel: It’s baaaaaack

FTC Advance Notice Of Proposed Rulemaking

- Published March 2026
  - In response to consumer advocate requests to reinstate the vacated Amended Rule
  - Doesn’t propose or resurrect Vacated Old Rule, but merely seeks public comments – due April 13, 2026
- Who knows where it will go

FTC Seeks Public Comment in Response to Advance Notice of Proposed Rulemaking Regarding Negative Option Marketing Practices

The Commission seeks comment on whether it should consider amending the current Rule to better address deceptive or unfair negative option practices

March 11, 2026

RECENT CASES AND LEARNINGS

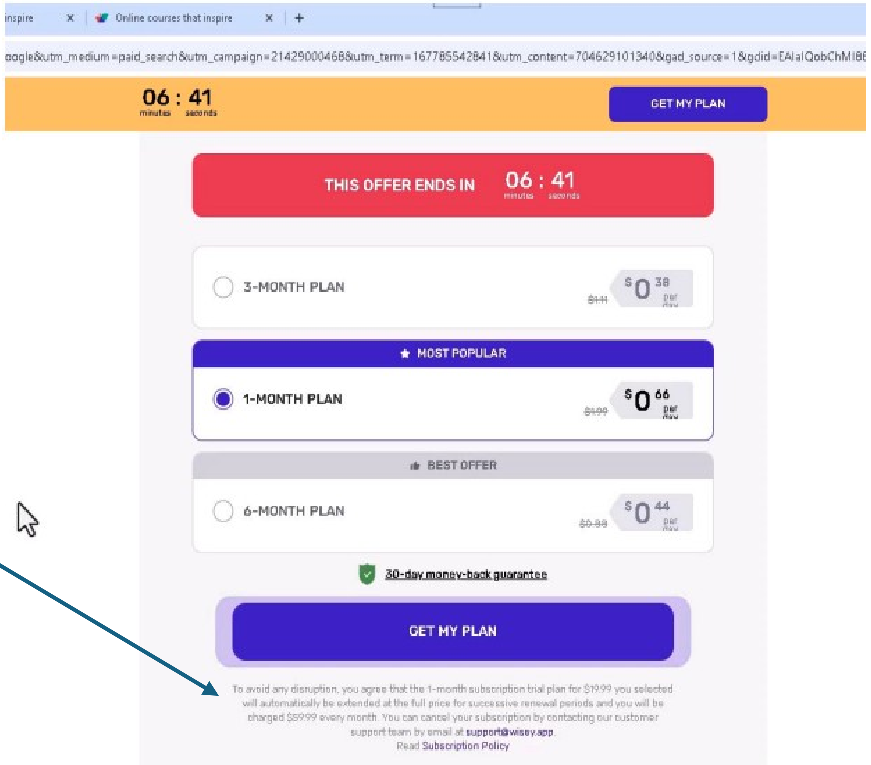
Notable Recent FTC – Cases
Genesis Tech

FTC Sues to Stop Sprawling Enterprise Operating Unlawful Subscription Schemes

Agency alleges Genesis Tech enterprise and its owners operated misleading internet-based subscription schemes, billed consumers without authorization and made cancellation difficult

June 17, 2026

- **Failure to disclose material terms:** Defendants advertise products as being free or available for a low, one-time cost, often with a money-back guarantee. But when consumers sign up, the defendants obscure references to auto-renewing subscriptions or recurring charges. Their webpages fail to disclose material terms clearly and conspicuously, consistently relegating terms to the smallest print on the page.
- **Charges without authorization:** Defendants make unauthorized charges even beyond the undisclosed subscription fees, by double-charging consumers for the same product or by adding more products to the transaction without consumers' knowledge or consent.
- **Failure to provide simple cancellation mechanisms:** Defendants make cancellation difficult, for example, by omitting cancellation options from their websites and apps or requiring consumers to explain why they want to cancel, and, even after confirming cancellation, continue charging or attempting to charge users without authorization.



Notable Recent FTC Cases -- Shutterstock

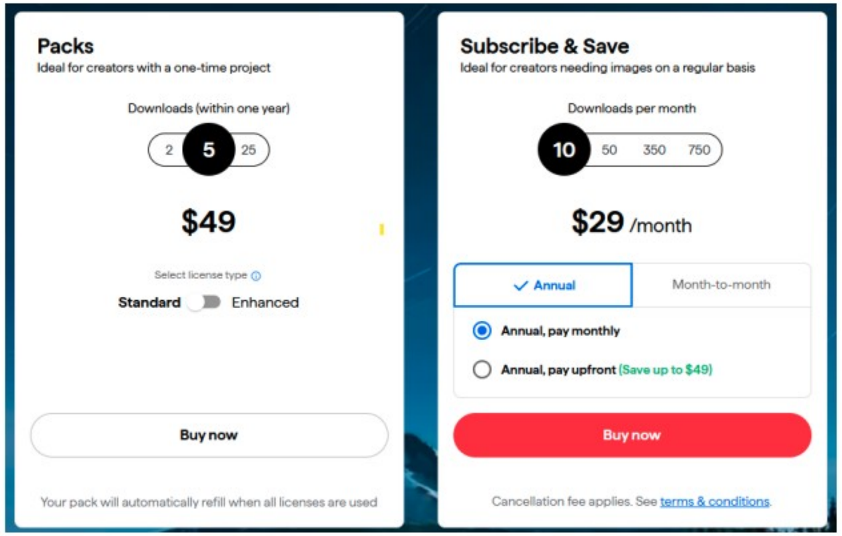
Shutterstock to Pay $35 Million to Settle FTC Allegations Over Illegal Subscription and Cancellation Practices

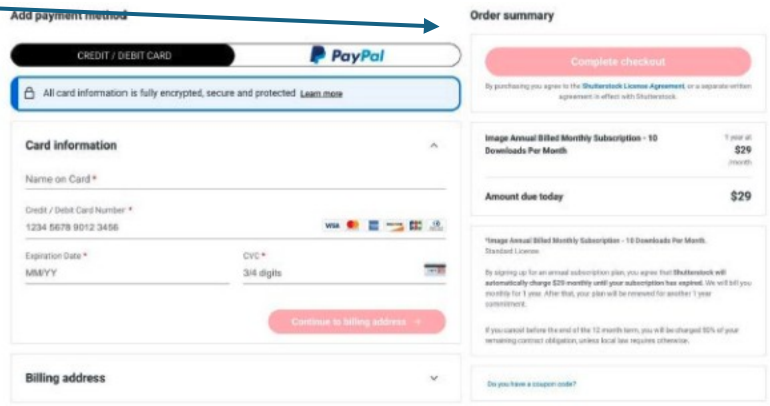
Online licensing platform allegedly charged consumers without their consent, failed to disclose auto-renewals and cancellation charges, and made cancelling difficult

May 13, 2026

The FTC's complaint charged Shutterstock with:

- Failing to clearly and conspicuously disclose material terms before billing. Shutterstock failed to disclose the renewal terms, what cancellation fees applied and when, and the amount of the fees.
- Failing to obtain consumers' express informed consent. Shutterstock failed to get consent to charge consumers' credit cards before charging them for subscriptions and content packs.
- Failing to provide simple cancellation mechanisms. Shutterstock has failed to provide simple means for consumers to cancel their subscriptions. For example, before 2024, consumers could not complete early cancellation online and were required to contact customer support by phone, chat, or email, all of which were a complicated and time-consuming process.





Notable Recent FTC Cases -- Chegg

Ed Tech Provider Chegg to Pay $7.5 Million to Settle FTC Allegations Concerning Unlawful Cancellation Practices

FTC alleges Chegg failed to provide simple mechanisms for cancellation and made it difficult for consumers to cancel recurring subscriptions

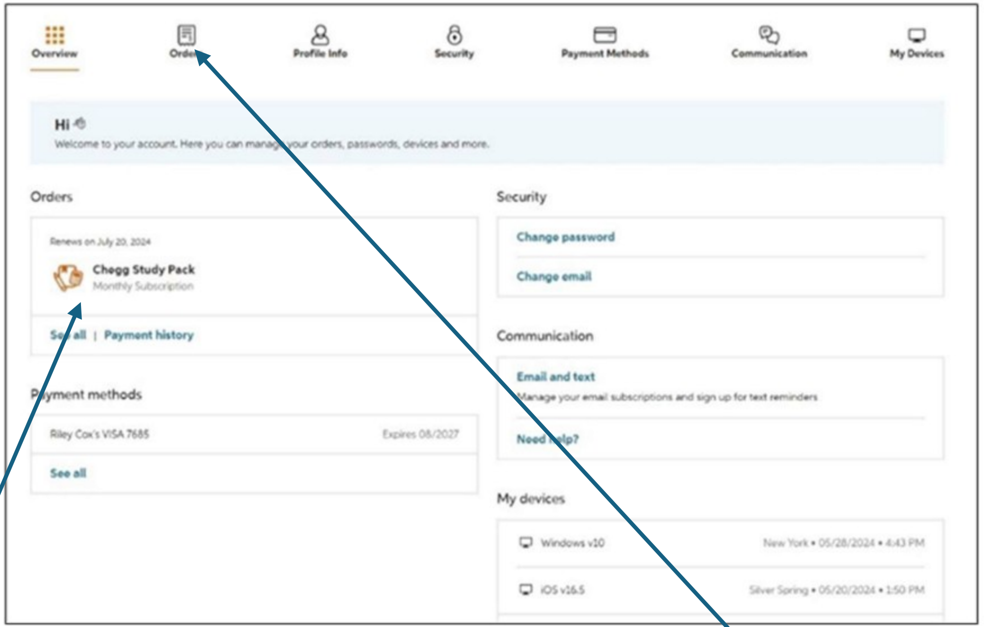
September 15, 2025

Case primarily focused on cancellation issues

- Chegg continued to charge some consumers even after they cancelled their subscriptions. Since October 2020, Chegg has charged nearly 200,000 consumers after they had requested cancellation.
- Chegg's online cancellation processes for its various subscription services were buried on Chegg's websites and required multiple clicks to locate.
- Even when consumers were able to successfully locate the cancellation process, consumers would still need to navigate a confusing and cumbersome process.
- Despite overwhelming consumer feedback and internal recognition that consumers faced difficulties with Chegg's cancellation process, the company did not improve the visibility of the cancellation link.

Notable Recent FTC Cases -- Chegg

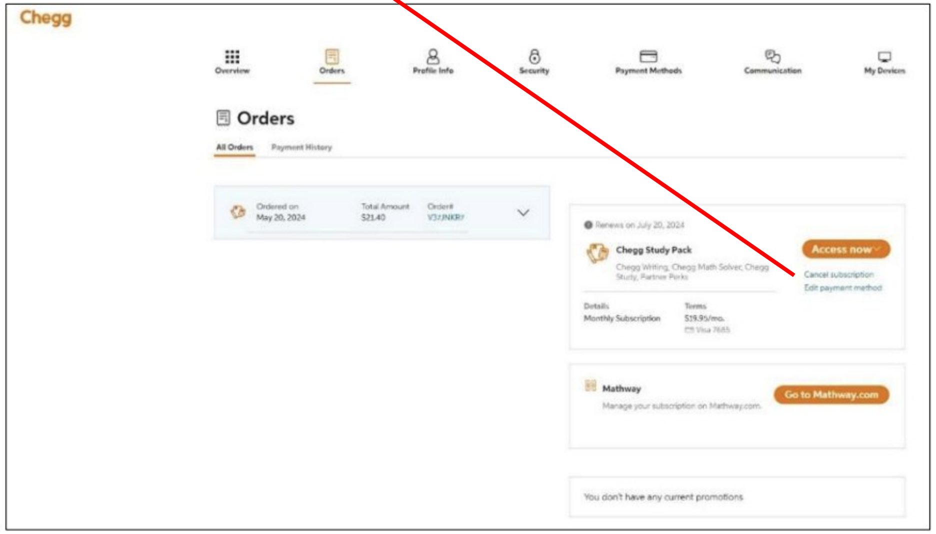
21. Subscribers who reached “My Account” land on the “Overview” tab of the account management page.



22. The Overview tab had no cancellation button or hyperlink. Nor did this tab contain any text directing consumers to the cancellation process. Instead, to proceed with cancellation, consumers needed to click on either the “Orders” option in the top menu bar or the “Order” they wished to cancel.

Notable Recent FTC Cases -- Chegg

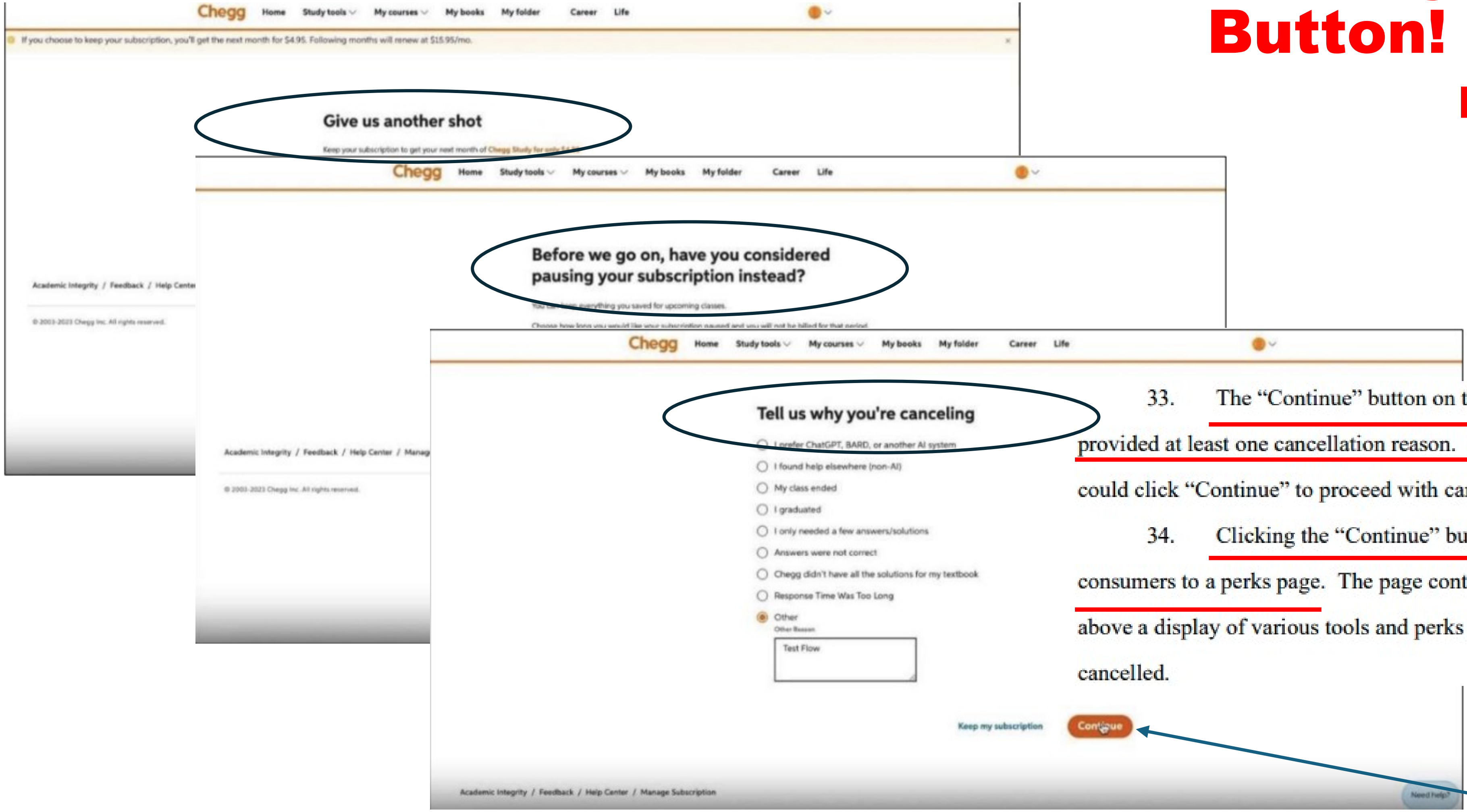
23. Clicking on one of these options brought consumers to the "Orders" tab. The Orders tab had one or more prominent orange buttons, none of which initiated cancellation. Instead, consumers had to find and click on the less prominent "Cancel subscription" hyperlink to proceed.



24. Until around January 2023, the cancellation hyperlink was not available to consumers using a mobile web browser to self-cancel. At the time, Chegg instructed consumers to cancel by logging into "My Account" using a desktop or laptop computer.

Notable Recent FTC Cases -- Chegg

Finally! An Orange Button! We're Done.. right?



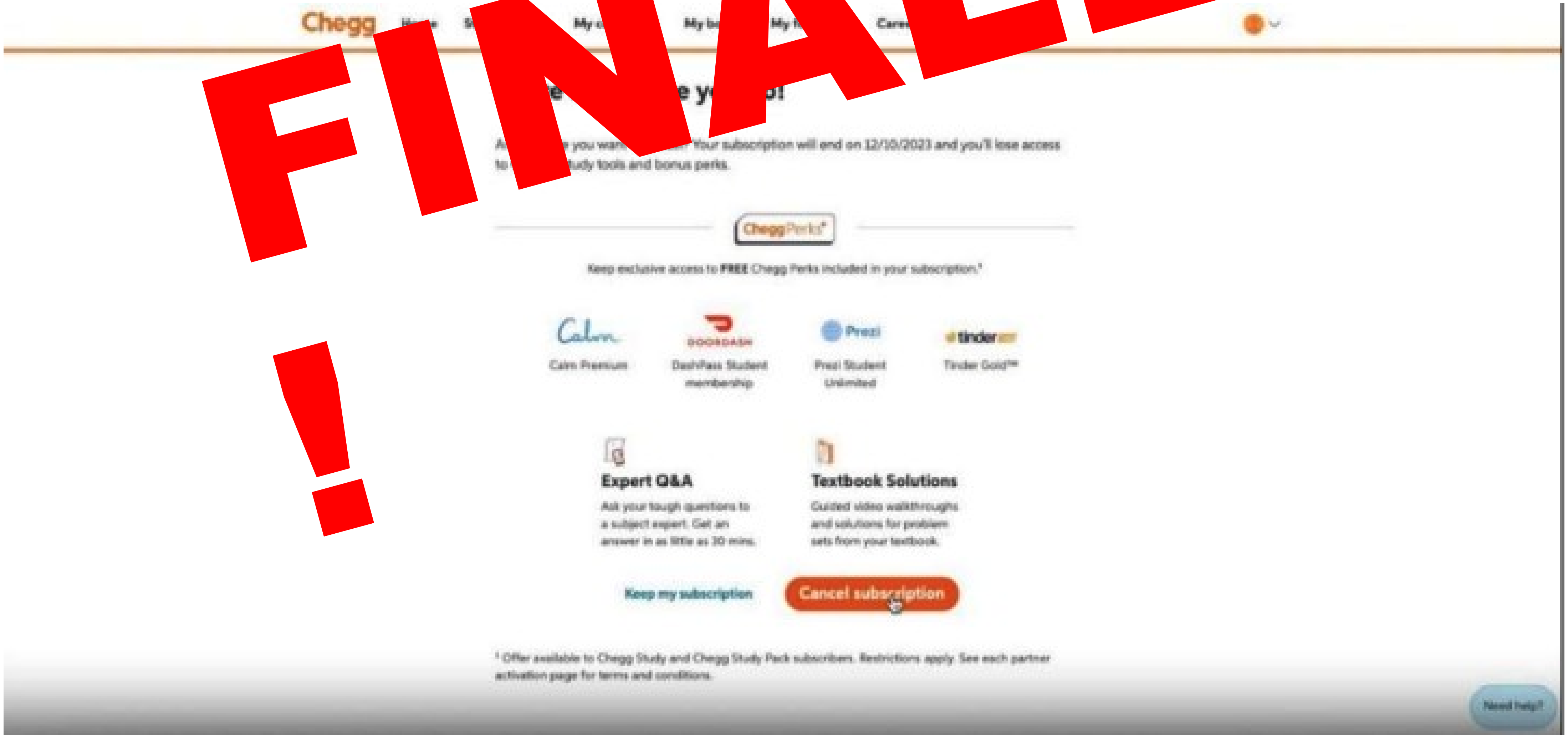
33. The "Continue" button on the survey page was greyed out until the subscriber provided at least one cancellation reason. After providing a cancellation reason, subscribers could click "Continue" to proceed with cancelling.

34. Clicking the "Continue" button did not complete cancellation. Instead, it brought consumers to a perks page. The page contained a prominent "We're sad to see you go!" headline above a display of various tools and perks to which consumers would lose access if they cancelled.

NOPE!

Notable Recent FTC Cases -- Chegg

FINALLY!



Notable Recent FTC Cases -- Chegg

Management knowledge of Complaints

64. Chegg has known for years its customers struggle to cancel their subscriptions.

65. For example, Chegg knows its cancellation practices have generated numerous consumer complaints, including to the Better Business Bureau ("BBB"), state law enforcement agencies, social media, online review websites, and Chegg itself.

69. Thousands of subscribers who complained to Chegg about their cancellation issues sent emails to danlr@chegg.com—an account Chegg internally refers to as "Letters to Dan." The name is a reference to Chegg's former CEO, Dan Rosensweig.

70. Chegg's former COO and current CEO, and other high-level Chegg executives and managers received, shared, and discussed consumer complaints about cancellation sent to Letters to Dan.

71. For example, in January 2024, one Chegg director explained to other senior managers that: "Problems with cancelling form one of the largest % of Letters to Dan we receive." He noted this was "definitely evidence that the [user interface] needs some significant work."

Notable Recent FTC Cases -- Amazon

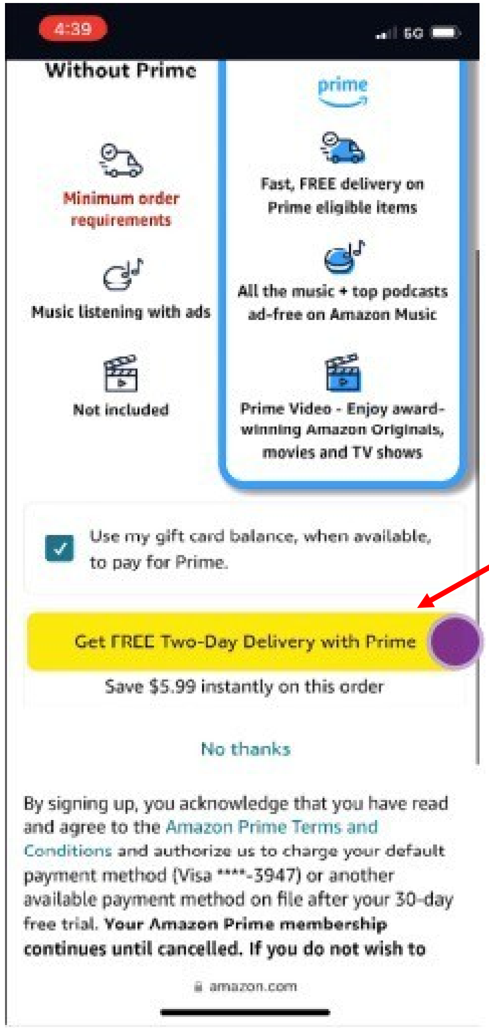
FTC Secures Historic $2.5 Billion Settlement Against Amazon

Agency alleged that Amazon used deceptive methods to sign up consumers for Prime subscriptions and made it exceedingly difficult to cancel

September 25, 2025

In a complaint filed today, the FTC charges that Amazon has knowingly duped millions of consumers into unknowingly enrolling in Amazon Prime. Specifically, Amazon used manipulative, coercive, or deceptive user-interface designs known as "dark patterns" to trick consumers into enrolling in automatically-renewing Prime subscriptions.

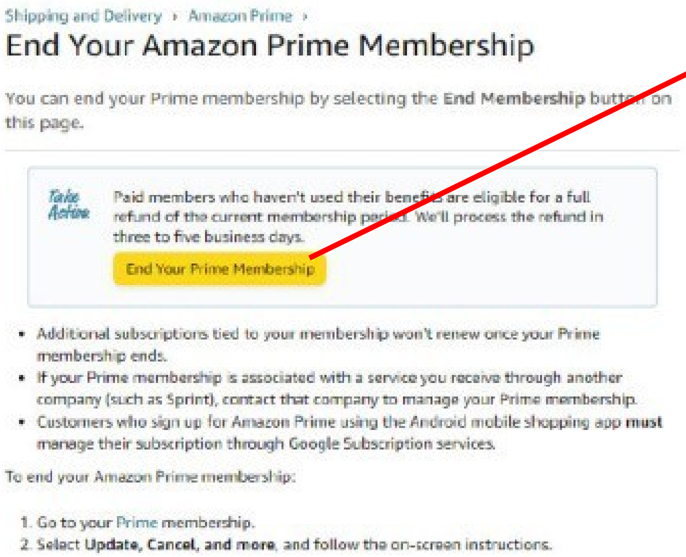
Dark Patterns – Amazon - Enrollment



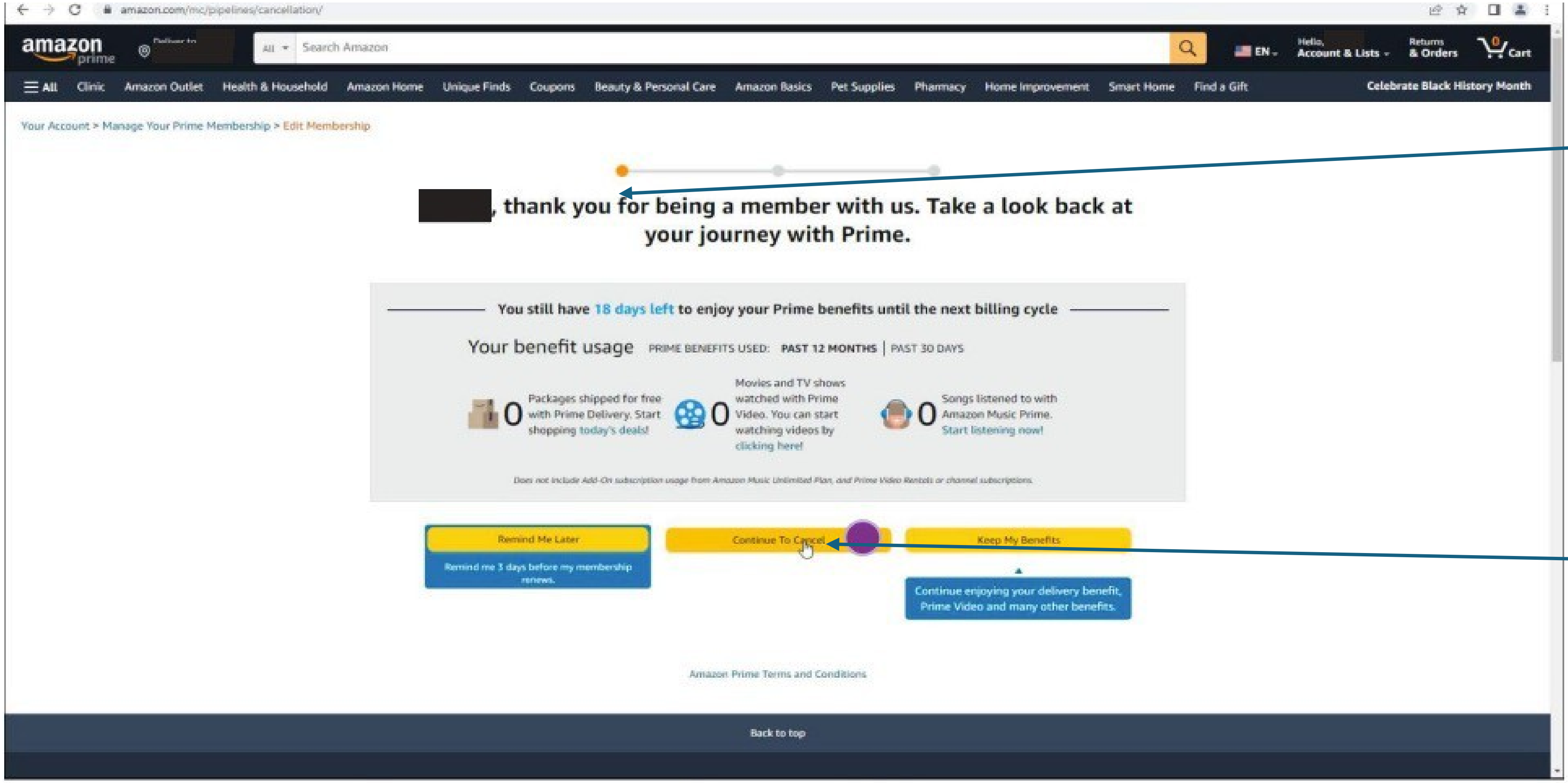
Amazon enrolls consumers who click the yellow button in Prime. As such, a consumer can enroll in Prime without viewing the portion of the page that the sticky footer hides.

Dark Patterns – Amazon – Cancel Flow (“Iliad”)

122. Clicking the link did not end Prime membership. Instead, it took the consumer to another page with a heading that read: “End Your Amazon Prime Membership.” The page contained a button labelled “End Your Prime Membership.” Pressing the button did not end Prime Membership. Instead, it took the consumer to the Iliad Flow. *See* Attachment T, at 3-4.



Dark Patterns – Amazon – Cancel Flow ("Iliad")



We're done.. right?

Not so fast…

"Continue to cancel"

State Regulatory Enforcement

1-800 Flowers (7/7/26)

- $375,00 penalty and restitution to aggrieved consumers
- Failed to clearly and conspicuously disclose offers
- Failed to send order acknowledgement and renewal notices
- Violations go back to 2021-2022

Uber (12/15/25)

- Multi-state lawsuit – no settlement (yet)
- Misleading savings claims in-app and push notifications
- Intentionally making it difficult to cancel – 7 different screens and at least 12 actions to cancel.
- “Consumers who tried to cancel in the app within 48 hours of their renewal date were sent into seemingly endless loops in the app, only to be told that payments were already in progress and that cancelling via the app is impossible.”

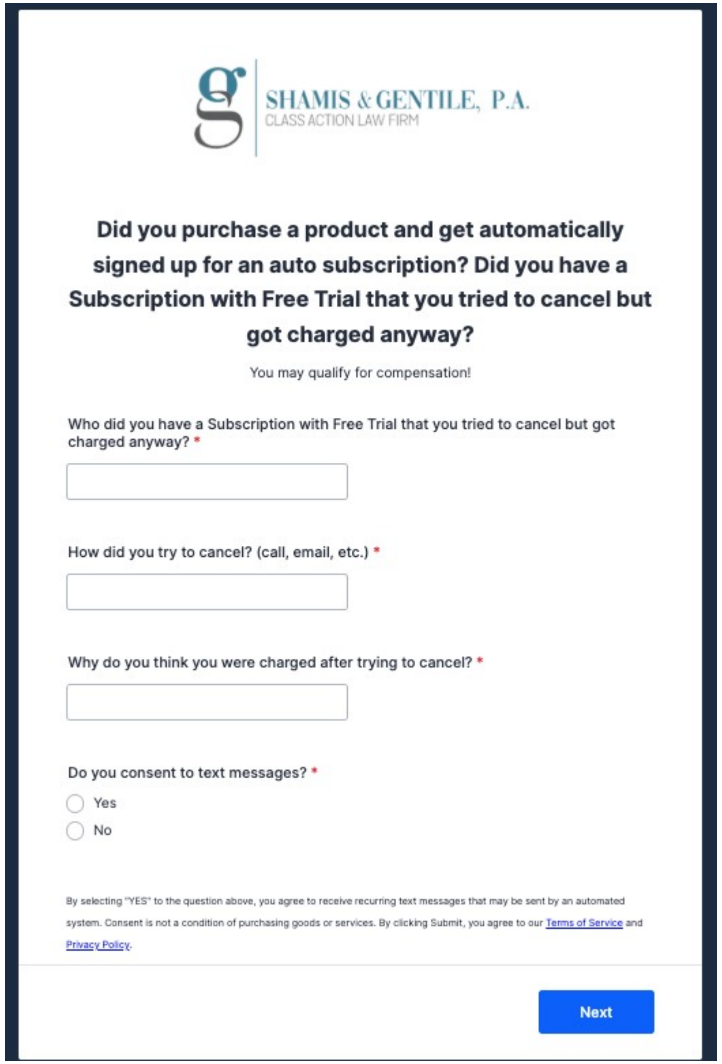
Equinox (5/30/25)

- $600,000 penalty; up to $250 refunds
- Failed to clearly and conspicuously disclose offers
- Failed to obtain consumer affirmative consent
- Failed to send order acknowledgement and renewal notices
- Failed to provide a cost-effective and easy-to-use online cancellation mechanisms.

State Regulatory Enforcement Trends

- CA DAs (CART)
- Massachusetts
  - Enforcing its new “online cancel requirement”
    - Chat may not be sufficient.
- Colorado sending CIDS
- Expect NYC to be vary active

And beware the Plaintiff Firms…


SHAMIS & GENTILE, P.A.
CLASS ACTION LAW FIRM

Did you purchase a product and get automatically signed up for an auto subscription? Did you have a Subscription with Free Trial that you tried to cancel but got charged anyway?

You may qualify for compensation!

Who did you have a Subscription with Free Trial that you tried to cancel but got charged anyway? *

How did you try to cancel? (call, email, etc.) *

Why do you think you were charged after trying to cancel? *

Do you consent to text messages? *

Yes

No

By selecting "YES" to the question above, you agree to receive recurring text messages that may be sent by an automated system. Consent is not a condition of purchasing goods or services. By clicking Submit, you agree to our Terms of Service and Privacy Policy.

Next

Why Should I Hire an Auto-Renewal Subscription Attorney?

Hiring an Auto-Renewal Subscription attorney not only gives you peace of mind about having effective legal knowledge on your side, but also in knowing that you won't be navigating a complicated court system without a guide. At Kaplan Rothstein Prüss Peraza, P.A., we are professionals who specialize in navigating complex legal issues, ensuring fair treatment, and securing remedies for unjust corporate misconduct.

Our success in class action cases speak for themselves:

- $80 million was secured in a class action recovery from a brokerage firm that had sold fraudulent securities issued by a Ponzi scheme without conducting sufficient due diligence.
- $13 million was acquired in a class action settlement against a large bank related to the bank's involvement in the sale of securities by an unregistered broker-dealer.
- $8.9 million was obtained in a class action settlement against a depository institution. The lawsuit alleged that the institution failed to perform necessary due diligence, resulting in financial losses for investors.

Take control of your auto-renewal subscription cases by consulting **Kaplan Rothstein Prüss Peraza, P.A.** Our experienced attorneys are ready to advocate for your rights and provide expert guidance.

Don't let unfair charges go unchecked — contact us today for a consultation.

ADJACENT LEGAL ISSUES

Can a Merchant Rely on a Third-Party Billing Platform For Compliance?

- Ultimately the merchant is responsible, as they are the seller of the goods and with whom the consumer has the relationship

- Using a third-party billing platform will not relieve compliance obligations, except for actually billing/charging

- Ensure third party billing platforms are contractually obligated to comply with the law
    - Work together to create, review and approve enrollment and cancel flows
    - Designate responsibility for sending confirmation, renewal, reminder and material change notices
    - Ensure consumer consents are maintained for at least 3 years
    - Develop direct reporting of enrollment and cancel activity
        - Real time or daily sweeps
    - Carefully review contracts

Must consumers agree to a ToS and/or privacy policy?

- Not legally required by law, but helpful if/when seeking to enforce a ToS
  - IP rights
  - Terminating a gamer
  - Enforcing a class action/mandatory arbitration provision
- Location
  - Closer to "Submit" button, the better
    - Preferably just above the button
  - Not buried or at bottom of page
- Appearance
  - Blue and underlined, linkable
- Use of a checkbox
  - Not necessary but helpful
- Connecting the action
  - "By purchasing____, I understand and agree to …"
    - Tie the purchase/action to agreement to the terms

Auto Renewal - Keeping It Compliant

- **Present offer terms clearly and conspicuously**
  - Unavoidable and understandable
    - Clear language
    - Avoid extraneous copy
    - Not present behind a link, in fine print, in a ToU, or obfuscated by other text or images
  - Close proximity to account information and agree/accept button
- **Consumer Acceptance**
  - Obtain consumer affirmative, unambiguous consent
  - For online offers, acceptance button should be clear - “Enroll,” “Subscribe,” “Accept”
    - Avoid labels suggesting there’s more to review: “Continue” or “Next” or not enrolling in a subscription: “Start Free Trial”
  - Consider a check box
- **Notices**
  - Determine what and when notices are required
- **Cancellation**
  - Easy to find and use, not burdensome
  - Avoid confusing language and choices

THANK YOU!

QUESTIONS?

Marc Roth