

January 2, 2026

Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, D.C. 20580

Comment submitted electronically via <https://www.regulations.gov>

Re: Petition For Renewed Click to Cancel Rulemaking, Docket FTC-2025-0792

Dear Commissioners:

The undersigned civil society organizations write to you in strong support of the recent petition,¹ submitted by the Consumer Federation of America and the American Economic Liberties Project, for the Federal Trade Commission (FTC) to renew its trade regulation rulemaking to make it easy for consumers to "click to cancel" unwanted subscriptions.

As many Americans who have tried to end a gym membership or a predatory software subscription² know all too well, the modern marketplace is rife with unfair or deceptive corporate trickery that traps people into buying products or services with perpetually recurring charges. That is why we applauded the FTC's prior rulemaking³ to modernize the half-century-old Negative Option Rule to crack down on such practices. This needlessly aggravating and costly reality did not change just because the Eighth Circuit vacated⁴ the 2024 Final Rule⁵ over supposed procedural defects. It is imperative for the FTC to respond to the court ruling now by providing sensible and long overdue updates to the Negative Option Rule, with procedural adjustments as appropriate.

As previously proposed and promulgated, the FTC's regulatory amendments were designed to finally address core issues raised by the online proliferation of abusive or misleading negative option marketing schemes, including misrepresentations, disclosures, consent, and cancellation, and to make noncompliance with the new rule subject to civil penalties. We continue to welcome these improvements as a major step forward in protecting consumers against corporate malfeasance. And while we appreciate the FTC's recent action against LA Fitness,⁶ a trade

¹ Consumer Federation of America & American Economic Liberties Project, *Petition For Renewed Click To Cancel Rulemaking* (Nov. 26, 2025), <https://consumerfed.org/wp-content/uploads/2025/12/11.26.25-Petition-for-Renewed-Click-to-Cancel-Rulemaking-CFA-AELP.pdf>.

² See, e.g., Fed. Trade Comm'n, *FTC Takes Action Against Adobe and Executives for Hiding Fees, Preventing Consumers from Easily Cancelling Software Subscriptions* (June 17, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/06/ftc-takes-action-against-adobe-executives-hiding-fees-preventing-consumers-easily-cancelling>.

³ As the petition notes, this multi-year rulemaking process included an Advance Notice of Proposed Rulemaking (ANPRM) in 2019, followed by a Notice of Proposed Rulemaking (NPRM) in 2023, and a Final Rule in 2024. The petition asks the FTC to adopt the language in the NPRM issued on April 24, 2023. The Final Rule differs from the NPRM in several ways, the specifics of which are not addressed in our comment letter.

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

⁵ 9 Fed. Reg. 90,476, <https://www.federalregister.gov/documents/2024/11/15/2024-25534/negative-option-rule>.

⁶ Fed. Trade Comm'n, *Cancelling a gym (or other) membership shouldn't be a heavy lift: what businesses can learn from the FTC's case against LA Fitness* (Aug. 22, 2025), <https://www.ftc.gov/business->

regulation is still a far more efficient, predictable, and uniform approach than the FTC expending substantial resources playing whack-a-mole against a few bad corporate actors here and there.

As you consider the details of a potential renewed rulemaking, we call on the FTC's revived trade regulation to retain the previous rulemaking's legal requirements for merchants to cover all forms of "negative option" marketing, which refers to sellers interpreting a consumer's silence or inaction to be agreement. Negative option tactics include prenotification plans (e.g., gift-of-the-month clubs), continuity plans (e.g., weekly bottled water delivery), automatic renewals, and free trial conversion offers.

The regulation should also continue to cover negative option marketing regardless of the context, including online, telephone, and in-person face-to-face sales pitches. These expanded protections are sorely needed given the gaps in the current patchwork of consumer protections related to negative option transactions,⁷ particularly the archaic Negative Option Rule's limited coverage of only prenotification plans for physical goods (which the FTC estimated in 2017 as representing fewer than 100 sellers⁸).

The revived trade regulation should then subject the broader range of covered business practices to comprehensive standards that will ensure consumers can understand and consent to what they are buying, as well as easily cancel if they wish. For instance, merchants should be required to provide clear and conspicuous information about the negative option, whether it is an online dating app subscription or a gym membership, and to obtain a consumer's unambiguously affirmative consent to agree to it.

Importantly, sellers should be further mandated to make the cancellation process as easy and hassle-free as the initial purchase and sign-up. That is, under a permanent click to cancel rule, an online subscription service that a consumer bought on the internet with one click should be cancellable online with one click — rather than solely through a phone call, an in-person visit, or an online gauntlet of confusing prompts. Businesses should be relying on the quality of their goods or services to retain customers, not by making termination as frustrating and burdensome as possible.

[guidance/blog/2025/08/cancelling-gym-or-other-membership-shouldnt-be-heavy-lift-what-businesses-can-learn-ftcs-case](https://www.ftc.gov/blog/2025/08/cancelling-gym-or-other-membership-shouldnt-be-heavy-lift-what-businesses-can-learn-ftcs-case).

⁷ For example, as the Federal Register notice for the Negative Option Rule NPRM states, "the proposed Rule would allow the Commission to seek civil penalties and consumer redress in contexts where such remedies are currently unavailable, such as deceptive or unfair practices involving negative options in traditional print materials and face-to-face transactions (*i.e.*, in media not covered by ROSCA or the TSR) and misrepresentations (which are not expressly covered by ROSCA, even when on the internet)." 88 Fed. Reg. 24716, 24726, https://www.ftc.gov/system/files/ftc_gov/pdf/p064202_negative_option_nprm.pdf.

⁸ Fed. Trade Comm'n, *Negative Option Rule*, 82 Fed. Reg. 38907, 38908 (Aug. 16, 2017), <https://www.federalregister.gov/documents/2017/08/16/2017-17318/agency-information-collection-activities-proposed-collection-comment-request>.

These consumer protections are common sense and urgently warranted to curb the devious sales tactics that are still flourishing in the digital marketplace at the expense of consumers and scrupulous businesses. Among the worst are so-called "dark patterns"⁹ or user interface or design features that manipulate consumers into making choices that pad the business's bottom line and boost market share but violate the consumer's wishes or interests. While these design choices can seem small on the surface, when corporate monopolies deploy dark patterns, they are manipulating the public, shaping markets to their own benefit, and reducing our autonomy in daily decisions. In addition to charging consumers recurring fees, companies are unjustly enriched by continuing to collect, retain, and use the personal data of misdirected subscribers.

These unfair or deceptive negative option sales tactics are not merely annoying to consumers. All too often they are financially, emotionally, and legally damaging to deal with, costing people precious time and money. For free trial conversions alone, one survey found that 59% of consumers have dealt with a free trial that automatically converted into a paid contract against their will.¹⁰ The Better Business Bureau also reported that victims' losses in free trial scam cases pursued by the FTC amount to more than \$1.3 billion over a decade.¹¹ Furthermore, as many State Attorneys General have written to the FTC,¹² the states must continue to devote substantial resources combating negative option marketing abuses, while the FTC itself reported that it receives thousands of complaints each year about negative option sales practices.¹³

Clearly, stronger regulatory requirements, penalties, and incentives must be put in place to deter companies from resorting to these exploitative tactics for profit, including multinational giants like Amazon.¹⁴ While individual enforcement actions remain a crucial tool, we need a modernized Negative Option Rule more than ever to ensure that corporations cannot keep abusing their powers against their own customers with impunity and stacking the deck in self-serving ways. The good news for the FTC is that the click to cancel NPRM already would have done exactly that.

For all these reasons, the FTC should move swiftly to reinstitute the click to cancel rulemaking pursuant to the petition and establish a robust national baseline for negative option protections that will match the challenges of the modern e-commerce era.

⁹ See, e.g., Fed. Trade Comm'n, *Bringing Dark Patterns to Light*, FTC Staff Report (Sept. 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf.

¹⁰ Bankrate, *Despite safety concerns, 64% of U.S. debit or credit cardholders save their information online* (Oct. 24, 2019), <https://www.bankrate.com/pdfs/pr/20191024-online-shopping-survey.pdf>.

¹¹ Better Business Bureau, *BBB Study: Free Trial Scams* (Dec. 2018), https://www.bbb.org/all/scamstudies/free_trial_scams/free_trial_scams_full_study.

¹² Public Comment Letter in Response to FTC Advance Notice of Proposed Rulemaking on Negative Option Rule, 84 Fed. Reg. 52393, by State Attorneys General (Dec. 2, 2019), <https://www.regulations.gov/comment/FTC-2019-0082-0012>.

¹³ 88 Fed. Reg. 24716, 24719.

¹⁴ See, e.g., Fed. Trade Comm'n, *FTC Secures Historic \$2.5 Billion Settlement Against Amazon* (Sept. 25, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-secures-historic-25-billion-settlement-against-amazon>.

Thank you for considering our views on the petition, and we look forward to working with you on these critical issues.

Sincerely,

20/20 Vision

American Association of People with Disabilities

American Friends Service Committee

Center for Digital Democracy

Center for Economic Integrity

Center for Responsible Lending

Consumer Action

Consumer Reports

Demand Progress Education Fund

Economic Empowerment Center DBA Lending Link

Electronic Privacy Information Center

Hip Hop Caucus

Housing and Economic Rights Advocates

JustLeadershipUSA

National Association of Consumer Advocates

National Consumer Law Center (on behalf of our low income clients)

National Consumers League

New Jersey Appleseed Public Interest Law Center

New Jersey Citizen Action

Open Markets Institute

Oregon Consumer Justice

Oregon Consumer League

Public Citizen

Tzedek DC

U.S. PIRG

X-Lab