

Autorenewals: Tariffs, FTC's Negative Option Rule, New State Laws, and More – A VAST Webinar

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Latest Developments

- FTC Click-to-Cancel Rule: disclosure, consent, and cancellation requirements effective May 14, 2025.
 - Enforcement by FTC
 - Violations punishable by injunctive relief and monetary relief of \$53,088 per violation
 - Legal challenges to the new rule are pending
- Amendments to California Automatic Renewal Law effective July 1, 2025
 - Applies to contracts entered into, amended, or extended on or after that date
- Tariffs and potential impacts on autorenewal programs
- Active state law enforcement (particularly in California and New York)
- Active class action plaintiff's bar (particularly in California and New York)
- Beginning enforcement under other states' automatic renewal laws
- Coupling challenges under state "honest pricing" and "junk fee" rules with autorenewal challenges
- Business-to-business transactions included in new state laws and proposed laws

Requirements

FTC Negative Option Rule: Prohibited Misrepresentations

- The FTC rule prohibits misrepresenting any “Material Fact,” including:
 - Anything about the negative option feature (term, deadline to cancel)
 - Cost
 - Purpose or efficacy of the underlying good or service
 - Health or safety
 - “Any other Material Fact”
- “Material” means likely to affect a person’s choice of, or conduct regarding, goods or services.
 - Is the existence of an early termination fee (ETF) a “Material Fact”?
 - Is a no-refund policy a “Material Fact”?

Required Disclosures (“Important Information”)

FTC Click-to-Cancel

Must provide the following “important information” clearly and conspicuously prior to obtaining a consumer’s billing information:

1. That consumers will be charged for the good or services, that consumers’ payments will be recurring, and, if applicable, that charges will increase after any applicable trial period ends.
2. Each deadline (by date or frequency) by which consumers must act to stop the charges.
3. The amount or range of costs consumers may incur. Need not be exact if exact figure is impossible to disclose (without tax info, for example), but must be a reasonable approximation.
4. Information necessary for the consumer to cancel the negative option feature.
5. “Any material conditions related to the underlying product or service that is necessary to prevent deception, regardless of whether that term directly relates to the terms of the negative option offer.”

State Law (CA and NY models)

Must disclose the following information clearly and conspicuously before the subscription or purchasing agreement is fulfilled, and in proximity (visual or temporal, as applicable) to the request for consent to the offer:

1. That the subscription or purchasing agreement will continue unless the consumer cancels.
2. The cancellation policy for the offer.
3. The recurring charges.
4. If applicable, that the amount of the charge may change, and the amount to which it will change, if known (for trial / introductory offers and promotional pricing).
5. The length of the automatic renewal or subscription term.
6. The minimum purchase obligation, if any.

Poll 1: Which of the Following Are Prohibited Misrepresentations?

- A. The existence of an early termination fee (ETF)
- B. A no-refund policy
- C. A shipping protection fee that is disclosed on the checkout page only
- D. A and B
- E. All of the above



Poll 1: Which of the Following Are Prohibited Misrepresentations?

All of the above

Clear and Conspicuous: What Does It Mean?

- Unavoidably noticeable, easily read and understood.
- Made in the same means through which the communication is presented.
 - TV ads: Simultaneous disclosure in both visual and audible portions.
- Visual disclosures that stand out (by size, contrast, location, length of time appearing on screen).
- Audible disclosures (in phone or streaming media) must be at good volume, speed, and cadence.
- Internet, mobile app, and other disclosures must also be unavoidable.
- Visual proximity (or temporal proximity, for voice offers) to the request for consent to the offer.
- Cannot contradict the disclosure with inconsistent information elsewhere.
- Must appear in each language in which the representation that requires the disclosure appears.



Hyperlinks / Hovering Over Icons

- The FTC's Final Click-to-Cancel Rule **deleted** the sentence: "A disclosure is not Clear and Conspicuous if a consumer must take any action, such as clicking on a hyperlink or hovering over an icon, to see it."
- According to the FTC: *This prohibition would have made effective space-constrained disclosures of the terms required by the Final Rule difficult if not impossible. **However, a clear and conspicuous disclosure still must be "unavoidable."** By this requirement, consumers are protected from buried or inconspicuous disclosures. Sellers, on the other hand, can make disclosures "unavoidable" even if the consumer must take some action to see it.*

FTC Negative Option Rule: Obtain “Express Informed Consent”

- Obtain the consumer’s unambiguously affirmative consent to the automatic renewal offer terms / negative option feature offer **separately from any other portion of the transaction.**
- Exclude any information that interferes with, detracts from, contradicts, or otherwise undermines the ability of consumers to provide their express informed consent to the negative option feature.
- Keep or maintain verification of the consumer’s consent for at least three years.

Consent Under California's Amended Law

- Companies must obtain “the consumer’s **express** affirmative consent” to the automatic renewal or continuous service offer terms.
 - Amended law added “**express**”: California’s Automatic Renewal Taskforce (CART) takes the position that this requires an empty checkbox.
 - A prior version of the bill stated that companies must obtain “the consumer’s affirmative consent to the automatic renewal or continuous service separately from any other portion of the contract.”
- The amended law prohibits companies from including any information in the contract that interferes with, detracts from, contradicts, or otherwise undermines the ability of consumers to provide their affirmative consent to the automatic renewal or continuous service.
- Requires companies to maintain verification of the consumer’s affirmative consent for at least three years, or one year after the contract is terminated, whichever period is longer.

Poll 2: Is a Checkbox Required to Obtain Consent?

Is a checkbox required to obtain consent?

A. Yes

B. No

Poll 2: Is a Checkbox Required to Obtain Consent?



Is a Checkbox Required?

- Remains unspecified under FTC Click-to-Cancel.
- Information “directly related to the negative option feature ... must appear immediately adjacent to the means of recording the consumer’s consent for the negative option feature.”
- Information not directly related to the negative option feature must appear before obtaining consumers’ consent to the negative option.

Order Confirmation

- Primarily a state law requirement, but required in the larger states (CA, NY, others) and effectively a best practice.
- Required when debit cards are used (under Electronic Fund Transfer Act).
- Best practice everywhere else: FTC settlement orders with defendants in automatic renewal cases require it as part of injunctive relief.
- Order confirmation should **clearly and conspicuously** re-cap the subscription offer terms that the customer agreed to:
 - Length of the subscription term (e.g., monthly, annual, etc.).
 - That the customer will be charged unless and until he or she cancels.
 - The specific amount of the recurring charges. If the amount of the charge may change, then need to disclose what the new charge amount will be.
 - Payment method that will be used for the charges.
 - Cancellation policy, and how to cancel (e.g., via email, online, telephone, etc.).
 - The seller's contact information.
 - **For trial offers only:** Customer must be informed that he or she is allowed to cancel before being charged the normal price for the subscription.

Are Notices of Renewal / Annual Reminders Required?

Yes, under some state laws. No, under FTC Click-to-Cancel.

- Free Trial Offers:
 - Best practice for all states: Include in an order confirmation the trial terms and make sure the consumer knows how to cancel before they pay or become obligated to pay.
 - Some states require a reminder notice that a free trial is ending and the consumer will be obligated to begin paying, with notices provided on a timing schedule dictated by the state (e.g., California, District of Columbia Connecticut).
- Renewals after an initial term of 1 year or longer:
 - Required by some states / best practice for all states: Send an annual reminder notice before the agreement renews.
 - Pay attention to any state-imposed timing deadlines, and internal deadlines needed to process renewals.
 - Include recap of subscription terms and information needed to effectuate cancellation.

Changes to Subscription Terms After Enrollment

- Notice of material changes must be provided to the consumer, in a manner that may be retained by the consumer, and by means of a clear and conspicuous notice of the material change and information regarding cancellation of the automatic renewal contract, including the cancellation mechanism available.
- Material changes (examples): price changes, billing frequency changes, changes to the type of goods or services included in the subscription.

Updated California Law:

- In the case of a change in the fee charged under an existing automatic renewal or continuous service offer that has been accepted by a consumer in this state, **including changes the consumer affirmatively consented to in an existing plan or arrangement**, the business shall provide, no less than 7 days and no more than 30 days before the fee change takes effect, the consumer with both of the following: (A) a clear and conspicuous notice of the fee change and (B) information regarding how to cancel in a manner that is capable of being retained by the consumer.

FTC “Click-to-Cancel” Cancellation Requirements

- The seller must provide a simple cancellation mechanism through the **same medium** (such as Internet, telephone, mail, or in person) the consumer used to consent to the negative option feature.
- Additionally, sellers must provide consumers with a simple **mechanism to immediately stop charges** that is cost-effective, timely, and easy to use.
- Having consumers verify or authenticate their identity, or confirm their intent to cancel, is OK.
 - But reasonable verification, authentication, or confirmation procedures should not create “distinctly asymmetrical experiences, particularly if the cancellation mechanism is located within account or user settings secured by authentication requirements for access.”
 - Cannot use verification or authentication tools to thwart or delay cancellation.

Online Cancellation (FTC)

1. Simple cancellation must be “easy to find” and easy to use at the time the consumer wants to cancel.
 - Consumers would consider a link or button located on a website or within a user’s account or device settings to be easy to find.
 - Providing a clearly labeled cancellation button in a consumer’s account or user settings is one example of a simple online cancellation mechanism.
 - Sellers cannot prominently label the mechanism within the account settings and make it difficult for consumers to find the account settings in the first instance.
2. Cancellation can be through any “interactive electronic medium,” which may include text, chat, and email within the scope of the online cancellation mechanism.
 - Text, chat, and email must be “simple”; cannot erect unreasonable barriers or prevent consumers from immediately halting charges.
 - Seller cannot require a consumer to engage with customer service representatives (whether by phone, or through web-based chat or messaging) if they did not do so when they signed up.
 - No exclusion for those providing “bundled” services (where it may be necessary to figure out which services a consumer might want to cancel).

Other Cancellation Methods (FTC)

Phone cancellation:

- Sellers must promptly effectuate cancellation requests by consumers via a telephone number that is answered **or** records messages during normal business hours.
- “Normal business hours” are those hours in which the business would normally engage with its customers.
- Cannot make telephone cancellation available only at inconvenient times.
- Seller need not physically answer the phone; you can ask consumer to identify the subscription and leave identifying information. Seller must still effectuate cancellation promptly.

In-Person Cancellation:

- In-person sellers must provide alternatives to in-person cancellation, either online or by phone, **at the seller’s choice**. (Because in-person cancellation has been found to present opportunities for unfair and deceptive practices.)
- A phone call cannot impose a cost that creates an unreasonable barrier to cancellation.

Cancellation – Amended California Law

Mirror Cancellation

- The ability to cancel or terminate shall be available to the consumer in the same medium that the consumer used in the transaction that resulted in the activation of the automatic renewal or continuous service, or the same medium in which the consumer is accustomed to interacting with the business, including, but not limited to, in person, by telephone, by mail, or by email.
 - A business that allows a consumer to accept an automatic renewal or continuous service offer online shall allow a consumer to terminate the automatic renewal or continuous service exclusively online, at will, and without engaging any further steps that obstruct or delay the consumer's ability to terminate the automatic renewal or continuous service immediately. The business **shall** provide a method of termination that is online, in the form of either of the following:
 - A prominently located direct link or button, which may be located within either a customer account or profile, or within either device or user settings.
 - An immediately accessible termination email formatted and provided by the business that a consumer can send to the business without additional information.
- *What about mobile apps?*

Poll 3: Can You Attempt to “Save the Sale”?

Can you attempt to “Save the Sale”?

A. Yes

B. No

Can You Attempt to “Save the Sale”?

- Under FTC Click-to-Cancel Rule: **YES**
 - The proposed rule would have prohibited sellers from presenting save attempts without first obtaining consumers’ unambiguously affirmative consent.
 - **The FTC declined to adopt this provision but stated that it plans to seek further comment through a supplemental NPRM.**
 - The Final Rule removed the “one-click cancellation” requirement.
- ***BUT...***
 - New York opinion in *NY v. SiriusXM*: Court held that Sirius violated ROSCA’s requirement to provide a “simple method of cancellation”
 - Sirius required customers to contact a live agent to cancel, despite allowing customers to enroll online. As a result, callers faced lengthy wait times.
 - Customers were subjected to multiple retention attempts before the cancellation request was honored.
 - Court cited the FTC’s 2021 Negative Option Policy Statement.

Saves and Retention Efforts Under New CA Law

- Providing a discount offer or other consumer benefit or informing a consumer of the effect of the cancellation **shall not be considered an obstruction or delay, provided that** the consumer remains able to cancel or terminate the automatic renewal or continuous service, as follows:
 1. If a consumer conveys a request to cancel by **telephone**, the business may present the consumer with a discounted offer, retention benefit, or information regarding the effect of cancellation, provided that **the business first clearly and conspicuously informs the consumer that they may complete the cancellation process at any time by stating that they want to “cancel,” or words to that effect.** If the consumer states their intention to “cancel” or words to that effect, the business shall promptly process the cancellation and shall not otherwise obstruct or delay the consumer’s ability to cancel.
 2. If a consumer conveys a request to cancel by an **online** system, the business may display a discounted offer, retention benefit, or information regarding the effects of cancellation, **provided that the business simultaneously displays a prominently located and continuously and proximately displayed direct link or button titled “click to cancel,” or words to that effect,** with the presentation of the discounted offer, other consumer benefit, or information. If the consumer uses this direct link or button, the business shall promptly process the cancellation and shall not otherwise obstruct or delay the consumer’s ability to proceed to cancellation.

State-Specific and Other Considerations

- State laws are ever evolving (even outside CA and NY); for example:
 - Colorado: After the initial term, the renewal term cannot exceed 1 year unless the consumer gives express written consent for a longer term.
 - Vermont: For subscriptions with an annual term of 1 year or more, the disclosures must appear in boldface type.
 - New Mexico: Disclosures must be in at least 10-point type.
 - North Carolina: Disclosures must be in at least 12-point bolded typeface if the terms change upon automatic renewal.
 - Vermont: Customer must separately and affirmatively agree to the subscription terms – in other words, clicking the “Place Your Order” button is not likely to be treated as evidence of consent.

Poll 4: Are you interested in attending a VAST in-person event in Los Angeles or San Francisco?

- A.** Yes, Los Angeles
- B.** Yes, San Francisco

Tariffs' Impact on Autorenewal Programs

Advertising Claims

- FTC Negative Option Rule prohibits material misrepresentations and provides \$53,088 per violation. Watch out for:
 - Made in the USA claims
 - Country of origin claims
 - Money-back guarantees
 - Refund policies
 - Return policies
 - Shipping representations

Material Changes resulting from Tariffs and Logistics: Poll 5

- Material change notices are required under many laws.
- POLL: What constitutes a material change?
 - A. Increased prices
 - B. Delayed shipments
 - C. Reduced value of product
 - D. New country of origin
 - E. A, B, and C
 - F. All of the above

Enforcement

New challenges and risks

FTC v. Uber

(N.D. Cal. Filed 4/21/25)

- **Core issues:**
 - FTC alleges Uber charged consumers for its “Uber One” subscription service without their consent and falsely advertised the amount customers could save using Uber One.
 - FTC alleges Uber made it difficult for users to cancel the service, requiring customers to navigate at least 7 screens that require at least 12 different actions.
 - FTC alleges Uber falsely claimed customers could “cancel anytime” despite charging customers before the stated billing date, making it difficult for customers to cancel within 48 hours of the next rebill.

VENABLE LLP

←

Join Uber One

Monthly

4 weeks free

\$9.99/mo

☒


Best value

Annual

4 weeks free

\$8.00/mo (billed at \$96.00/yr)

☐




Save an extra 20% each year compared to a monthly plan

Student

4 weeks free


Get Uber One benefits for half the price

>



Visa

•••




Switch

Billing starts Jul 16, 2024 for \$9.99/mo. Cancel without fees or penalties.

By joining Uber One, you authorize Uber to charge \$9.99 on any payment method on your account, and monthly thereafter, based on the terms, until you cancel. To avoid charges cancel up to 48 hours before Jul 16, 2024 in the app. [View terms and conditions](#)

Join Uber One

|||



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Poll 6: If you use a third-party platform with an out-of-the-box solution to create your website, can you be liable for disclosures and consent violations (even if you don't control them)?

- A. Yes
- B. No

Love v. Filterbaby

(C.D. Cal. Filed 4/22/25)

- Core issues:** Filterbaby does not clearly and conspicuously disclose in visual proximity to the request for consent to the offer, among other things, the automatic renewal offer terms, that the subscription or purchasing agreement will continue until the consumer cancels, or the cancellation policy that applies to the offer.

The screenshot displays the checkout process on the Filterbaby website. It includes fields for Card number, Expiration date (MM / YY), Security code, and Name on card. A checkbox for 'Use shipping address as billing address' is checked. Below these fields is a 'Remember me' section with a checked checkbox for 'Save my information for a faster checkout with a Shop account'. A mobile phone number field is also present. At the bottom, there is a 'Pay now' button and a disclaimer: 'Your info will be saved to a Shop account. By continuing, you agree to Shop's [Terms of Service](#) and acknowledge the [Privacy Policy](#).'

The screenshot shows the cart and checkout summary. The cart contains one item: 'Filterbaby Skincare Filter 2.0 Light Pink' with a price of \$88.00 and a note 'Every 90 days subscription'. Below the cart is a field for 'Discount code or gift card' with an 'Apply' button. The checkout summary shows: Subtotal \$88.00, Shipping (with a link to 'Enter shipping address'), Total USD \$88.00, and a 'Recurring interval' of 'every 3 months'.

Love v. Filterbaby

(C.D. Cal. Filed 4/22/25)

- **Core issues:** Filterbaby's acknowledgment does not disclose the offer terms, its cancellation policy, and instructions on how to cancel a subscription.

----- Forwarded message -----
From: **FilterBaby** <no.reply@sealsubscriptions-email.com>
Date: [REDACTED]
Subject: Your Filterbaby Subscription
To: [REDACTED]

Subscription created

Thank you for creating a subscription at Filterbaby. You can always view, or edit your subscription by logging to your account in our store, or by clicking on the link below.

[View subscription](#)

Items

Filterbaby Skincare Filter 2.0 - Black x 1	77.00 USD
Filterbaby Pro Series Aluminum Titanium Shower Filter - Black x 1	77.00 USD

If you have any questions, you can always contact us at help@filterbaby.com.

This e-mail was sent to you to confirm your subscription at FilterBaby. You can view or edit your subscription [here](#)

Nordvpn

(S.D.N.Y. Filed 3/28/25)

Pick a yearly deal that's best for you

Best choice

Save 60%

Incogni Standard

\$7.98 /mo

~~\$29.76~~ \$95.76 for the first 12 months
VAT may apply

Get Incogni Standard

Incogni
 Data privacy

Personal data removal tool ⓘ
Additional terms apply

- Secure, high-speed VPN ⓘ
- Threat Protection Pro™: Anti-malware and advanced browsing protection ⓘ
- Threat Protection Pro™: Ad and tracker blocker ⓘ

Save 60%

Incogni Plus

\$8.97 /mo

~~\$275.64~~ \$107.64 for the first 12 months
VAT may apply

Get Incogni Plus

Incogni
 Data privacy

Personal data removal tool ⓘ
Additional terms apply

- Secure, high-speed VPN ⓘ
- Threat Protection Pro™: Anti-malware and advanced browsing protection ⓘ
- Threat Protection Pro™: Ad and tracker blocker ⓘ
- Cross-platform password manager ⓘ
- Data breach scanner ⓘ

Save 65%

Incogni Complete

\$9.96 /mo

~~\$347.52~~ \$119.52 for the first 12 months
VAT may apply

Get Incogni Complete

Incogni
 Data privacy

Personal data removal tool ⓘ
Additional terms apply

- Secure, high-speed VPN ⓘ
- Threat Protection Pro™: Anti-malware and advanced browsing protection ⓘ
- Threat Protection Pro™: Ad and tracker blocker ⓘ
- Cross-platform password manager ⓘ
- Data breach scanner ⓘ
- 1 TB of encrypted cloud storage ⓘ

Nordvpn Allegations

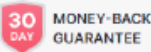
(S.D.N.Y. Filed 3/28/25)

1. Nord offers consumers what appear to be time-limited plans and buries the “disclosure” in a drop-down feature customers do not see unless they click on it.
2. Nord does not obtain consumers’ affirmative consent to the automatic renewal offer.
3. The post-purchase email does not contain the automatic renewal offer terms and omits information on the need to cancel a Nord Security subscription to avoid additional charges and how to do so.
4. Nord charges customers 14 days ***before the customer’s current subscription period even ends.***
5. Nord makes canceling exceedingly difficult and requires customers to find a buried feature labeled “turn off automatic renewal.” Users must navigate additional windows and click a minimum of two additional buttons and provide a reason for their decision and then navigate past large, colorful offers for promotional pricing or customer service assistance before Nord Security will process a cancellation.
6. Nord fails to provide sufficient annual renewal reminder under New York law because the renewal notice fails to: “include instructions on how to cancel” the automatic renewal contract and provide a “cost effective, timely, and easy-to-use” cancellation mechanism.

* The introductory price is valid for the first term of your subscription. Then it will be automatically renewed for an additional 1-year term annually and you'll be charged the then-applicable renewal price. Savings granted by the introductory price are compared to the current renewal price, which is subject to change. But don't worry — we'll always send you a notification email prior to charging. [Learn more](#)



Already have Nord Account? [Log in](#)



Create an account

Your email address

name@example.com

If you don't want to receive marketing emails about Nord services, you can change notification settings in Nord Account.

By submitting your information and continuing to purchase, you agree to our [terms of service](#) and [privacy policy](#).

Select a payment method

Credit or debit card



PayPal



AmazonPay



Google Pay



Crypto Currencies



Order summary

Standard plan

2-year plan (\$3.79/mo) + 3 EXTRA months

\$102.33

Save 54%

\$223.83

Tax country: [United States](#)

Sales tax 8.875%

\$9.08

Total

\$111.41*

[Get a coupon?](#)



Dedicated IP (\$3.79/mo)

Get a personal IP address that's only yours.

[See available locations](#)

Add

Recommended for NordVPN users

[Incogni](#)



Incogni data removal tool (\$3.69/mo)

Get your personal info off the market.

[View details and terms](#)

Add

* The introductory price is valid for the first term of your subscription. Then it will be automatically renewed for an additional 1-year term annually and you'll be charged the then-applicable renewal price. Savings granted by the introductory price are compared to the current renewal price, which is subject to change. But don't worry — we'll always send you a notification email prior to charging. [Learn more](#)

Poll 7: If you increase the subscription price for existing customers, do you need to send a notice and get consent?

- A. Sending a notice is enough.
- B. No, you need to send a notice and obtain opt-in consent, too.

SoundCloud

(C.D. Cal. Filed 2/21/2025)

- **Core issue:** Misleading advertising for failure to adequately disclose that an advertised price may change.
- “When consumers enroll in SoundCloud Go, they are told that the plan will renew monthly at the price offered (e.g., \$9.99/month for Go+). **But SoundCloud does not clearly and conspicuously disclose that it may increase the price over time.**” (emphasis added)
- Alleged violations of California Automatic Renewal Law, California Unfair Competition Law, and California Consumer Legal Remedies Act.

The screenshot displays a promotional banner for SoundCloud Go+ at the top, featuring a woman and a man. The banner text reads: "MORE MUSIC, NO LIMITS" and "SoundCloud Go+ gives you offline and ad-free listening to everything from mainstream releases to DJ sets and remixes." Below this is an orange button that says "Start your 30-day free trial" and a note: "\$9.99/month after 30 days. Restrictions apply*".

Below the banner are two pricing cards:

- SOUNDCLOUD GO**
\$4.99/month*
 - ✓ Save unlimited tracks for offline listening
 - ✓ Ad-free listening
 - ✗ Access full catalog
 - ✗ High quality audio

Start your 7-day free trial
- SOUNDCLOUD GO+**
\$9.99/month*
 - ✓ Save unlimited tracks for offline listening
 - ✓ Ad-free listening
 - ✓ Access full catalog
 - ✓ High quality audio

Start your 30-day free trial

At the bottom right, there is a small link: "Are you a student? Get SoundCloud Go+ for 50% off".

SoundCloud

(C.D. Cal. Filed 2/21/2025)

Try SoundCloud Go

Your payment details

Card

Name on credit / debit card Card Number

Expiration date CVC ZIP Code

By submitting your payment information and clicking "Start your free trial", you agree to the SoundCloud Go Terms of Use.

Your subscription

Your new plan will start right away, and you will be charged after the trial is over.

Your subscription will automatically renew every 30 days at a rate of \$4.99 plus any applicable tax, but you can cancel anytime on soundcloud.com in your subscription settings.

Billed now: \$0.00

Start your free trial

- ✓ Ad-free listening
- ✓ Save unlimited tracks for offline listening
- ✗ Access full catalog
- ✗ High quality audio

Your subscription

Your new plan will start right away, and you will be charged after the trial is over.

Your subscription will automatically renew every 30 days at a rate of \$4.99 plus any applicable tax, but you can cancel anytime on soundcloud.com in your subscription settings.

Billed now: \$0.00

Start your free trial

- ✓ Ad-free listening
- ✓ Save unlimited tracks for offline listening
- ✗ Access full catalog
- ✗ High quality audio

10 25. Consumers are told that the plan will automatically renew at the displayed price
11 (e.g. \$4.99 or \$9.99, depending on the tier) every 30 days. So, consumers think they will be
12 charged that disclosed price, each month, until they cancel. These disclosures don't tell
13 consumers that SoundCloud may increase the price and increase the automatic charges. In the
14 box that discloses the automatic renewal terms, there is no mention of potential price increases
15 (much less a clear and conspicuous disclosure).
16

SoundCloud

(C.D. Cal. Filed 2/21/2025)

26. In August of 2024, SoundCloud increased the monthly price of SoundCloud Go+ from \$9.99/month to \$10.99/month and began automatically charging all Go+ subscribers the higher price. SoundCloud did not seek or obtain consumers' affirmative or express consent for this price increase. This violated the ARL and ROSCA:

Why has the Go+ subscription price changed?

We're making this change to continue delivering on our commitment to support independent and emerging artists on our platform thanks to our [Fan-Powered Royalties](#) payment model.

The price change help artists make more money, and also helps us build new features that bring you closer to artists.

If you are a Go+ subscriber as of May 2024, you'll have one more billing cycle at the current price before the increase. You can always manage your subscription in your [account settings](#), where you can also read about our [Go plan](#), which gives you offline and ad-free access to a limited catalog of music.

SoundCloud

(C.D. Cal. Filed 2/21/2025)

- Plaintiffs alleged that disclosing a potential price increase in fine-print terms and conditions lacks merit, even if the consumer agreed to hyperlinked terms and conditions when accepting the offer.

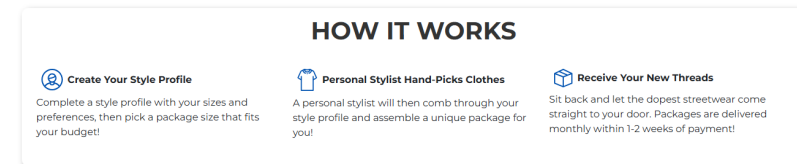
7 28. This disclosure is legally insufficient. A company cannot bury payment increase
8 information in inconspicuously linked terms. Instead, the law requires it to clearly and
9 conspicuously disclose the potential for payment increases.

0 29. SoundCloud will also point to the following provision of the ARL Cal Bus & Prof
1 Code § 17602 (g)(2)(A) states that, in “the case of a change in the fee charged under an existing
2 automatic renewal or continuous service offer that has been accepted by a consumer in this state”
3 the company must provide the consumer with “clear and conspicuous notice of the fee change”
4 and information “regarding how to cancel in a manner that is capable of being retained by the
5 consumer.” Cal Bus & Prof Code § 17602 (g)(2)(B). But that assumes that the company already
6 complied with the up-front disclosure requirement: a clear and conspicuous disclosure that the
7 “the amount of the charge may change.” Cal. Bus. & Prof. Code § 17601(a)(2)(C). In other
8 words, to comply with the law, a company must both (1) clearly and conspicuously disclose the
9 potential for a price increase up front (upon enrollment), and get affirmative consent; and (2)
10 before the price increase takes effect, disclose the price increase again and get passive consent.

ThreadBeast

(C.D. Cal. Filed 2/20/2025)

- **Core issue:** Failure to provide an easy-to-use mechanism for cancellation; failure to provide an online means to cancel.
- **Complaint facts:** Plaintiff signed up to receive products for \$165.00 each month, charged to plaintiff's debit card. After 4 months, plaintiff was unhappy with products and decided to cancel. Plaintiff was required to email Defendant's customer service to request cancellation; Plaintiff could not cancel through Defendant's website. In response to Plaintiff's email cancellation request, Defendant send a 13-page-long membership cancellation form, including several pieces of information designed to convince Plaintiff not to cancel (e.g., discount offers). Defendant then required Plaintiff to set up a phone call with Defendant's customer service to finally cancel. Defendant did not immediately honor cancellation request.
- **Alleged violations of law:**
 - California Automatic Renewal Law
 - Federal Electronic Funds Transfers Act (because of debit card use)
 - Defendant failed to provide a written copy of Plaintiff's authorization to debit; Plaintiff revoked authorization to debit by requesting to cancel subscription, and Defendant failed to comply with request



Bateman v. Fabletics

(C.D. Cal. Filed 3/12/2025)

Allegations:

- Fabletics did not clearly and conspicuously disclose the monthly membership obligation and autorenewal terms.
- Fabletics lures customers to join a monthly recurring subscription program with the promise of a Promotional Member Credit that exceeds the \$59.95 monthly membership fee, and that can be used on a variety of items of different styles and types of clothing items when, in fact, based on Defendant's pricing model, it would be nearly impossible for a Program member to use a Promotional Member Credit to purchase a single item or outfit exceeding \$59.95, much less \$100.00.
- Monthly credits expire after 12 months, in violation of California's Gift Card Law.

Member Credits 101

- On the 6th of each month, you'll be **charged \$59.95** for your exclusive membership benefits. These benefits include a promotional Member Credit which unlocks our best savings when redeemed. Member Credits can be redeemed for **any 2-piece outfit or item up to \$100**, online or in-store.
- **Don't want to be charged for the month?** Visit the site between the 1st and 5th of the month, click "Skip the Month", and you won't be charged
- Any **unused promotional Member Credits expire after 12 months**. (Don't worry, we'll remind you!)
- You can now use your monthly member credits on Yitty.com as well

Hawx Pest Control

(Cal. Sup. Court Filed 8/28/24)

- **Core issue:** Failure to comply with “clear and conspicuous” disclosure requirements; failure to disclose key terms of the automatic renewal subscription, including “exorbitant” cancellation fee and fact that a subscription agreement has been executed.
- **Complaint facts:** Customers sign one-year term contracts that automatically renew for the following year, typically for a \$99.99 initial service charge and \$54.99 monthly thereafter. Subject to an early termination fee of \$199.
- **Alleged violations of law:** California Automatic Renewal Law, Federal Restore Online Shoppers Confidence Act, California Home Solicitation Rule, California Unfair Competition Law
- One of the first cases filed by California Automatic Renewal Taskforce (CART)

Hawx Pest Control

(Cal. Sup. Court Filed 8/28/24)

1 31. Required language elsewhere in the Service Agreement also fails to comply with
2 the "clear and conspicuous" requirement. In subsections 3 and 17, the language (see arrows in
3 excerpt below) states, respectively, that authorization for the recurring charges "shall remain
4 force until Customer provides written notice to cancel the authorization . . . ," and "I understand
5 that this authorization will remain in effect until I cancel it in writing . . . ":

6 **3. AUTOMATIC PAYMENT AUTHORIZATION.** By signing a Recurring Payment Authorization on
7 this form, Customer authorizes Company to charge Customer's card/bank account immediately
8 for the Initial Service and Recurring Charges automatically thereafter on a quarterly or monthly
9 basis as determined by the Customer on page 1 of this Agreement. This authorization shall
10 remain in force until Customer provides written notice to cancel the authorization and the
11 Company has reasonable opportunity to act on it. IF YOU ELECT TO RECEIVE A PAPER
12 INVOICE (RATHER THAN MAKING AN ELECTRONIC PAYMENT) OR IF WE DO NOT RECEIVE
13 YOUR ELECTRONIC PAYMENT FOR ANY REASON, HAWX WILL SEND YOU A PAPER
14 INVOICE, AND YOU UNDERSTAND AND AGREE THAT AN ADDITIONAL PROCESSING FEE
15 MAY APPLY TO EACH PAPER INVOICE SO RENDERED.

1 . . .

2 **17. RECURRING PAYMENT AUTHORIZATION.** By signing below Customer authorizes the
3 Company and its assignees to charge Customer's credit card indicated below on the scheduled
4 time frame as outlined above.

5 I understand that this authorization will remain in effect until I cancel it in writing, and I agree to
6 notify the Company in writing of any changes in my account information or termination of this
7 authorization at least 15 days prior to the next billing date. If the above noted payment dates fall
8 on a weekend or holiday, I understand that the payments may be executed on the next business

Hawx Pest Control

(Cal. Sup. Court Filed 8/28/24)

12

36. In addition to the violations in the Service Agreement, Hawx's online subscription

13

offer similarly fails to disclose *any* of the automatic renewal terms:

14

15

Payment Summary

Subtotal	\$249.99	\$69.99
Promo Code Discount	-\$150.00	-\$15.00
Total Price	\$99.99	\$54.99

16

17

18

19

Preferred Communication Methods

☒ SMS

☒ Email

☒ Phone

☒ By submitting this form, I give my electronic signature and consent that Hawx may contact me with offers at the phone number above, including by text message, autodialer or prerecorded message

[General Pest Control Plan Terms and conditions](#)

20

21

22

23

24

Signature

Type

Draw

Upload

NY v. Sirius XM Radio Inc.

(Filed 12/20/2023)

- Alleged violations of NY Automatic Renewal Law and federal ROSCA.
- Focus on cancellation procedures, which required a call, and save the sale efforts. The AG sought nationwide relief.
- Court (November 2024):
 - Nationwide relief not appropriate because, while Sirius had its principal place of business in NY, the calls from consumers were handled in call centers outside NY. Thus, the offending conduct did not occur within NY and nationwide relief was not appropriate.
 - Rejected Sirius's constitutional arguments regarding the dormant Commerce Clause and the First Amendment.
 - Found that Sirius had violated ROSCA, based on FTC guidance on what is a "simple method of cancellation"; ordered relief for NY consumers (subject to further hearing on amount).
 - NYAG is appealing.

NYSCEF DOC. NO. 188 INDEX NO. 453325/2023
RECEIVED NYSCEF: 11/21/2024

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE E. FRANK **PART** 11M
Justice
-----X

PEOPLE OF THE STATE OF NEW YORK, BY LETITIA
JAMES, ATTORNEY GENERAL OF THE STATE OF NEW
YORK **INDEX NO.** 453325/2023
MOTION DATE 12/20/2023
MOTION SEQ. NO. 001

Plaintiff,
- v -
SIRIUS XM RADIO INC.,
Defendant.
-----X

**DECISION + ORDER ON
MOTION**

Drip Pricing and Pricing Transparency Laws

California's Honest Pricing Law

- Prohibits businesses from advertising, displaying, or offering a price for a good or service that does not include all mandatory fees or charges other than government-imposed taxes or fees or reasonable shipping costs.
- The advertised or listed price must be the full price that the consumer is required to pay.
- Multiple lawsuits have challenged companies under the new law:
 - *Jasher v. Service Spot* (E.D. Cal.): Alleges that a parking reservation company imposes a “Reservation Fee” that is not government-imposed, which constitutes “*fee-flation*.”
 - *Scott v. Camuto* (C.D. Cal.): Challenges shoe seller’s “Shipping Protection Fee” as a prechecked option, which customers must un-check to avoid paying.

Key Takeaways

1. Compliance requirements and enforcement trends are changing.
2. Even if Click-to-Cancel does not withstand legal challenge or FTC enforcement priorities change, class action plaintiffs and state attorneys are ready and willing to file lawsuits.
3. The creativity of the class action bar and the state attorneys is limitless and unpredictable.
4. Consider how you would defend your practices as you are defining them.

Questions?



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