

Before the Federal Trade Commission**Response to Public Comment
Docket No. FTC 2026-0265****Written Comments from the American Economic Liberties Project
Solicitation for Public Comment on “Prenotification Negative Option Plans”****April 13, 2026**

The American Economic Liberties Project (“Economic Liberties”)¹ submits this comment in response to the Federal Trade Commission’s (“FTC” or the “Commission”) advance notice of proposed rulemaking (“ANPRM”) regarding the use of “prenotification negative option plans.”²

I. Introduction

Over the two decades, with technological advancements and changing consumer preferences, businesses have expanded their use of subscription models.³ Now, most businesses offer subscription plans for products and services, with this model becoming prevalent in almost every sector of the economy.⁴ At the same time, businesses are offering more types of models, new products and services, and new billing and marketing plans than ever before.⁵ This includes negative option plans – transactions where a business interprets a consumer’s silence as confirmation to be charged for a product or service – that automatically renew, free trials that roll into paid subscriptions, and plans that continue until a consumer affirmatively cancels.⁶

The first negative option rule (“Rule”) was adopted by the FTC in 1973 to prevent unfair or deceptive market practices for businesses that shipped physical merchandise via prenotification plans⁷ – where businesses ship products to consumers and charge them for it if the consumer does not cancel or decline.⁸ But it does not cover the vast majority of negative option practices that have emerged in the last fifty years. And while Congress has passed legislation to crack down on “aggressive sales tactics,”⁹ regulatory gaps remain. The *Telemarketing and Consumer Fraud and Abuse Prevention Act* enacted in 1994 as implemented by the FTC’s *Telemarketing Sales Rule* (“TSR”) only applies to negative option plans offered via telemarketing,¹⁰ and the *Restore Online Shoppers’ Confidence Act* (“ROSCA”) enacted in 2010 only applies to sales that are “effected on the internet”¹¹ or “completed online.”¹² That means besides case-by-case enforcement actions, subscribers are not necessarily protected from subscription traps via mail or in person. Recently, Uber filed a motion to dismiss attempting to evade accountability from the FTC and a number of states over unfair and deceptive subscription practices, by claiming it is a first-party biller, not a third-party which is covered under ROSCA.¹³

The previous administration took meaningful steps to address the evolving subscription market, to fill the regulatory gaps that exist, and ultimately crack down on unfair and deceptive practices to protect the public. This included proposing and finalizing a new rule (“Amended or Vacated Rule”)¹⁴ that required it to be as simple to cancel as it is to sign-up for all negative option subscription plans, and required businesses to clearly and truthfully disclose material information to consumers. The Amended Rule also allowed the Commission to impose civil penalties on businesses engaged in unfair or deceptive practices, which will deter further wrongdoing, allow the Commission to provide redress to consumers, and ensure there is fair competition.¹⁵ The Amended Rule was widely supported, with large public engagement – as over 16,000 people commented on the final rule.¹⁶ Business groups immediately sued to block the Amended Rule,¹⁷ with the Eighth Circuit Court of Appeals striking down the Amended Rule in March purely for procedural reasons.¹⁸

As the 1973 Rule remains unchanged, a number of businesses have used unfair and deceptive marketing in modern subscription practices to boost revenue and ultimately their profits – to the detriment of consumers, small and emerging businesses, and other competitors. While the FTC and a number of states have cracked down on particular companies,¹⁹ case-by-case enforcement actions are time and resource intensive. As investigations or lawsuits are underway, harm to consumers and businesses continues. Clear, bright-line rules that address these widespread practices are long overdue.²⁰

This comment provides a brief overview of subscription models and the different subscription traps that consumers and businesses are subject to. It also provides a few examples of the different enforcement and regulatory actions the FTC has taken against businesses for subscription traps, background on the Amended Rule, and why bright-line rules are preferable. Next, it provides a brief overview of actions the Trump FTC has taken surrounding subscription practices.

While we commend the Commission for taking steps to address manipulative, coercive, or deceptive subscription practices throughout the economy,²¹ we believe that the Commission’s limited time and resources should be spent addressing the Eighth Circuit’s concerns by issuing a preliminary regulatory analysis along with a notice of proposed rulemaking (“NRPM”)²² instead of restarting the rulemaking in its entirety. If the FTC must restart the rulemaking process in its entirety, then the Commission should go even farther than the Amended Rule, as noted below. However, the FTC has already collected research and evidence – including via an ANPRM in 2019²³ and NPRM in 2023,²⁴ enforcement actions, and complaints from the public. And importantly, the time between an ANPRM and an NRPM can take months and even years – as exemplified by the aforementioned four year period.²⁵ Assuming beginning with an ANPRM adds 12 months to the process, and the trajectory of complaints the FTC receives each year regarding negative option plans and subscriptions continues, the agency could receive over 120 complaints per day in the next year– totaling 43,800 over 12 months.²⁶ This extra delay will result in more consumers and businesses suffering harm, and with FTC budget and staff cuts,²⁷ an enforcement first approach is likely to be costly and inadequate, leaving many complaints unaddressed. As such, we urge the FTC to quickly implement a negative option rule that fills the regulatory gaps, creating clear, consistent guidance for businesses across different types of negative option plans and subscriptions.

II. The Subscription Economy

Over the two decades, the subscription model has expanded and become prevalent in almost every sector of the economy.²⁸ Between 2012 and 2021, it has grown by over 400%,²⁹ with subscription based companies outpacing traditional business models on the S&P 500,³⁰ and almost 75% of companies that sell directly to consumers offer a subscription service.³¹ Indeed, 80% of the top fortune 500 companies offer subscription plans,³² while 90% of the largest technology companies by market cap offer such plans.³³ Over 90% of households in the U.S. pay for at least one subscription service,³⁴ while the average household is subscribed to seven or more services.³⁵ In total, the average American pays over \$1,000 a year for subscriptions.³⁶ In fact, there are so many subscription products that there are subscription services that will cancel a consumer's other subscriptions.³⁷

At the same time the model has expanded to different types of businesses, the type of subscription has also evolved. Subscriptions used to primarily involve prenotification plans³⁸ – where businesses send notices to consumers offering goods and automatically bill and ship the product if the consumer fails to decline, including monthly books, magazines, or newspapers.³⁹ Now, subscription plans are primarily automatic renewals that continue until a consumer cancels.⁴⁰ This includes streaming services, gym memberships, car wash and ride sharing subscriptions, and music and video game services.⁴¹

This model has grown in part due to technological advancements, business rationales, and consumer preferences. Cloud computing has made it easier for companies to host applications and data without expensive upfront costs on infrastructure and physical storage.⁴² High speed internet and the use of mobile devices allow consumers to access products and services at all times. The development of recurring, automatic billing systems along with payment processors have made it easier for businesses to offer this model.⁴³ And the availability of data collection, artificial intelligence, and other analytical tools have made it easier for businesses to know precisely what customers want and are willing to pay for a service.⁴⁴ Businesses are turning to subscription models because they provide consistent revenue, allowing for stability and predictability.⁴⁵ And some consumers turn to subscriptions for a lower entry price, flexibility that comes with free trials and cancellations, or convenience as they do not have to own, store, repair, or lose things.⁴⁶

Some businesses have used this model to coerce consumers into signing up for unwanted subscriptions, prevent them from cancelling, charge consumers or increase prices without their consent, or lock consumers into an ecosystem while locking other businesses out.⁴⁷ These efforts create outsized profits for the business,⁴⁸ while costing millions of people time and money. For example, the average American spends almost \$200 a year on unused or hard to cancel subscriptions,⁴⁹ with people underestimating exactly how much they are spending each month.⁵⁰ At the same time, many businesses pay for subscriptions that go unused. According to one study, half of all software licenses go unused, costing businesses billions of dollars.⁵¹

III. Previous Efforts

The FTC has a long history of cracking down on these abusive subscription practices, including via case-by-case enforcement actions and rulemaking efforts.

Enforcement

The FTC has taken a number of enforcement actions⁵² using a patchwork of existing authorities to try to address unfair or deceptive subscription practices,⁵³ including Section 5 of the FTC Act. For example, in 2009, the FTC took action against two companies and their executives for deceptive advertising surrounding weight-loss drugs and charging consumers without their consent.⁵⁴ In 2017, the FTC took action against Credit Bureau Center (formerly MyScore LLC) for enrolling consumers into a credit monitoring subscription without their consent.⁵⁵ In 2023, the FTC sued Amazon and a number of executives for knowingly enrolling consumers in an Amazon Prime subscription without their consent using manipulative, coercive practices and making it difficult for consumers to cancel their subscription.⁵⁶ And in 2024, the Commission also sued Adobe and two executives for hiding early termination fees from consumers and making it difficult to cancel subscriptions.⁵⁷ Before the Amended Rule was struck down, the Commission along with 21 bipartisan states and Washington D.C. sued Uber for falsely advertising free delivery services and charging them anyway, and for enrolling consumers into a subscription plan without their consent, and made it difficult to cancel.⁵⁸

While enforcement efforts are necessary, signaling to businesses and markets that law and rulebreakers will be held accountable, these actions are company-specific, take a vast amount of time and resources, and are clearly not adequate given the increasing number of complaints received by the FTC each year.⁵⁹

Rulemaking

The FTC has had a negative option rule since 1973. However, the Rule only addressed “prenotification” plans in which the business offers a product to consumers, then charges and provides the goods if the consumer does not decline the offer.⁶⁰

In 2019, the first Trump FTC understood the need for a bright-line rule to address persistent unfair and deceptive subscription practices, as the Commission continued to see an uptick in the number of complaints surrounding subscription plans.⁶¹ As such, the Commission began a rulemaking process, receiving fewer than 20 comments from the public on the current rule and how a new rule could address consumer harms.⁶²

The Biden FTC took additional efforts to protect consumers and businesses across the board from unfair and deceptive subscription practices. First, the Commission published an updated policy statement regarding negative option marketing, providing clear guidance for businesses on the FTC’s enforcement of laws and regulations.⁶³ Then, the Commission proposed and finalized changes to the Rule.⁶⁴ The Amended Rule expanded what categories were covered under the rule, including continuity plans,⁶⁵ automatic renewals,⁶⁶ and free trial plans.⁶⁷ The Amended Rule also required businesses to make it as quick and easy to cancel as it was for the consumer to sign up for the subscription, and provide clear, truthful information for consumers to easily understand what they are signing up for.⁶⁸

Despite the popularity of the Amended Rule – with over 16,000 people commenting and the vast majority of commenters supporting the new rule – and the agency’s history of promulgating rules to protect

consumers,⁶⁹ business groups sued to block it almost immediately.⁷⁰ The plaintiffs claimed the Amended Rule was an “abuse of discretion” and “in excess” of the agency’s authority, while also violating a statutory requirement.⁷¹ On July 8, 2025, an Eighth Circuit panel held that the FTC had violated Section 22 of the FTC Act,⁷² as the agency did not issue its preliminary regulatory analysis prior to the final rule because it had determined that the proposed rule would not reach the threshold which required an analysis – including having an annual effect of over \$100 million on the economy.⁷³ However, the administrative law judge (“ALJ”) at the Commission later determined the rule would instead exceed that threshold.⁷⁴ Because the Commission did not issue a preliminary regulatory analysis, the 8th Circuit panel determined the plaintiffs “lost a notable opportunity to dissuade the FTC from adopting the Rule.”⁷⁵ Notably, the Court did not set aside the rule on arbitrary and capricious grounds, nor on the Commission’s authority to promulgate such a rule,⁷⁶ but instead because of the “Commission’s procedural error.”⁷⁷ Now, instead of addressing the Eighth Circuit’s concerns, the Commission seems poised to completely restart the rulemaking process.

Continued need for action

Since the Amended Rule was finalized and struck down, these unfair or deceptive practices have only continued. This is evident by commenters on this docket, complaints shared on anonymous message boards, and litigation efforts.⁷⁸ One commenter told the Commission “as much as I try to stay on top of cancelling before the free trial ends[,] [s]ometimes I forget, and in this last 6 month[s] it has cost me \$120 from 4 [applications] I failed to cancel [and] have never used nor opened.”⁷⁹ Another individual was charged a monthly fee after making a purchase, which the commenter does not recall signing up for.⁸⁰ Someone else expressed frustration when attempting to cancel a subscription that required a “over 10 minute [phone call with] someone who tried to convince me to stay,”⁸¹ while another commenter urged the Commission to “give[] this issue the attention it deserves.”⁸² There are a number of message boards where anonymous users have also expressed their frustrations with subscriptions and subscription traps. One user said they are “exhausted” by subscriptions, as they have to keep “a constant mental load to track what [subscription] is active and what is not,”⁸³ while another expressed frustration with subscription services that announce price increases, but once a user goes to cancel the service, the company offers them a discount instead, noting “[i]f they aren’t losing money [], why not just offer that deal for everybody?”⁸⁴ And in response to the Eighth Circuit’s decision to vacate the rule, one commenter said they were “[t]ired of courts tying customer hands.”⁸⁵ At a time when streaming services are raising prices well above inflation,⁸⁶ the stakes for consumers are only getting higher.

IV. The Current FTC Delayed Rollout of the Amended Rule — And Then Took Over Six Months to Take Additional Action

When the Trump FTC took control of the rulemaking effort, the Commission slow-walked its rollout of the rule. On May 9, 2025, just days before companies were required to comply with the new rule, the agency extended the compliance deadline sixty days – despite already deferring enforcement for some provisions already.⁸⁷ The FTC required compliance by July 14 – a deadline which was mooted by the Eighth Circuit’s decision just days earlier.

This FTC has taken a number of enforcement actions to crack down on abusive subscription practices. After the rule was struck down, the Commission sued LA Fitness for making it “exceedingly difficult” for consumers to cancel their gym memberships which continued indefinitely,⁸⁸ and Instacart for falsely advertising free delivery services and charging them anyway, and for enrolling consumers into subscription plans they did not consent to.⁸⁹ However, it took six months before the Commission took any action to revive the rulemaking effort, including eight months before issuing the ANPRM.⁹⁰

If the FTC nonetheless restarts the rulemaking process in its entirety, then the Commission should go even farther than the Amended Rule. This could include: 1) banning free trials or free to pay plans from rolling into automatic subscriptions, 2) requiring affirmative agreements from consumers for price increases, 3) requiring a period after automatic renewal where a consumer can cancel and receive a full refund, and 4) banning subscriptions that are required for a product or service to be operable.

V. Conclusion

The evolving subscription economy alongside outdated FTC rules has enabled a number of businesses to use unfair and deceptive practices to trap consumers and businesses into subscriptions and keep other competitors out of the marketplace. While the FTC looks to repeat work that has already been done, consumers are spending hundreds of dollars on unused or unwanted memberships, competition is being suppressed, and cities, states, and members of Congress are looking to fill in the gaps.⁹¹ At a time of persistent inequality,⁹² challenging labor market,⁹³ and growing affordability crisis,⁹⁴ it is imperative for the FTC to act quickly to end these abusive practices on an economy wide level.

¹ The American Economic Liberties Project is a nonpartisan, nonprofit research and advocacy organization dedicated to understanding and addressing the problem of concentrated economic power in the United States.

² Federal Trade Commission, “FTC Seeks Public Comment in Response to Advance Notice of Proposed Rulemaking Regarding Negative Option Marketing Practices,” press release, March 11, 2026, <https://www.ftc.gov/news-events/news/press-releases/2026/03/ftc-seeks-public-comment-response-advance-notice-proposed-rulemaking-regarding-negative-option>; Federal Trade Commission, “Rule Concerning the Use of Prenotification Negative Option Plans,” Federal Register (proposed rule), 91 Fed. Reg. 12318, March 13, 2026, <https://www.federalregister.gov/documents/2026/03/13/2026-04952/rule-concerning-the-use-of-prenotification-negative-option-plans>.

³ See, e.g., Zuora, *The Subscription Economy Index*, April 2025, <https://www.zuora.com/resource/subscription-economy-index/>; Faisal Kalim, “The Subscription Economy has grown over 435% in 9 years,” *The Fix*, March 4, 2021, <https://thefix.media/2021/03/04/the-subscription-economy-has-grown-over-435-in-9-years/>.

⁴ Jay Fitzgerald, “With Subscription Fatigue Setting In, Companies Need to Think Hard About Fees,” *Working Knowledge* (Harvard Business School), October 17, 2023, <https://www.library.hbs.edu/working-knowledge/with-subscription-fatigue-setting-in-companies-need-to-think-hard-about-fees>; Elie Ofek and Amy Konary, “Subscription Models: Recurring Revenues for Lasting Growth,” *Harvard Business School Background Note No. 523-113*, June 2023, <https://www.hbs.edu/faculty/Pages/item.aspx?num=64200>.

⁵ See, e.g., Stripe, “Subscription pricing models: A guide for businesses,” January 29, 2026, <https://stripe.com/resources/more/subscription-pricing-models-a-guide-for-businesses>; Stripe, “Subscription business models 101: Types of models, how they work, and how to choose one,” March 11, 2024, <https://stripe.com/resources/more/subscription-business-models-101-types-of-models-how-they-work-and-how-to-choose-one>.

⁶ Federal Trade Commission, *Negative Options: A Report by the Staff of the FTC’s Division of Enforcement*, January 2009, <https://www.ftc.gov/sites/default/files/documents/reports/negative-options-federal-trade-commission-workshop-analyzing-negative-option-marketing-report-staff/p064202negativeoptionreport.pdf>.

⁷ See, e.g., Federal Trade Commission, “For Your Information: Regulatory Reform Update: Negative Option Rule,” March 31, 1997, <https://www.ftc.gov/news-events/news/press-releases/1997/03/regulatory-reform-update-negative-option-rule> (FTC File No. P97 4229); 16 CFR 425.1(c)(1).

⁸ Federal Trade Commission, “Use of Prenotification Negative Option Plans,” 16 CFR Part 425, <https://www.ftc.gov/legal-library/browse/rules/use-prenotification-negative-option-plans>.

⁹ See, e.g., Public Law 111–345, Restore Online Shoppers’ Confidence Act, 111th Congress, S. 3386, 15 U.S.C. § 8401, December 29, 2010, <https://www.congress.gov/111/plaws/publ345/PLAW-111publ345.pdf>

¹⁰ See, e.g., H.R. 868 - *Telemarketing and Consumer Fraud and Abuse Prevention Act*, 103rd Congress (1993–1994), <https://www.congress.gov/bill/103rd-congress/house-bill/868>; Federal Trade Commission, “Telemarketing Sales Rule,” 16 CFR Part 310, <https://www.ftc.gov/legal-library/browse/rules/telemarketing-sales-rule>.

¹¹ See, Pub. L. No. 111-345, § 3(a).

¹² See, e.g., Competition Policy International, “Reports of ‘Click-to-Cancel’s Death May Be Premature,” PYMNTS, November 3, 2025, <https://www.pymnts.com/cpi-posts/reports-of-click-to-cancels-death-may-be-premature/>.

¹³ Isaiah Poritz, “Uber’s Bid to Escape FTC Suit Hinges on Online Shopping Law,” Bloomberg Law, April 9, 2026, <https://news.bloomberglaw.com/litigation/ubers-bid-to-escape-ftc-suit-hinges-on-online-shopping-law>; Carly Nairn, “Uber defends subscription service charges against FTC,” Courthouse News Service, April 9, 2026,” <https://courthousenews.com/uber-defends-subscription-service-charges-against-ftc/>.

¹⁴ See, e.g., Federal Trade Commission, Statement of Chair Lina M. Khan, “Regarding the Notice of Proposed Rulemaking on the Negative Option Rule,” Commission File No. P064202, March 22, 2023, https://www.ftc.gov/system/files/ftc_gov/pdf/majority_statement_re_negative_option_nprm_0.pdf.

¹⁵ Federal Trade Commission, “Federal Trade Commission Proposes Rule Provision Making it Easier for Consumers to ‘Click to Cancel’ Recurring Subscriptions and Memberships,” March 23, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/03/federal-trade-commission-proposes-rule-provision-making-it-easier-consumers-click-cancel-recurring>; Federal Trade Commission, “Federal Trade Commission Announces Final ‘Click-to-Cancel’ Rule Making It Easier for Consumers to End Recurring Subscriptions and Memberships,” October 16, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/10/federal-trade-commission-announces-final-click-cancel-rule-making-it-easier-consumers-end-recurring>.

¹⁶ Federal Trade Commission, “Federal Trade Commission Announces Final ‘Click-to-Cancel’ Rule Making It Easier for Consumers to End Recurring Subscriptions and Memberships; Agency Acts After Receiving More Than 16,000 Comments from the Public,” October 16, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/10/federal-trade-commission-announces-final-click-cancel-rule-making-it-easier-consumers-end-recurring>.

¹⁷ United States Court of Appeals for the Eleventh Circuit, *The Chamber of Commerce of the United States of America and the Georgia Chamber of Commerce v. Federal Trade Commission*, Case No. 24-13436, Petition for Review, October 22, 2024, <https://www.uschamber.com/assets/documents/Petition-for-Review-Chamber-of-Commerce-v.-FTC-Eleventh-Circuit.pdf>; Jessica Guynn and Bailey Schulz, “New FTC Subscription Cancellation Rule Under Fire from Business Groups,” *USA Today*, October 23, 2024, <https://www.usatoday.com/story/money/2024/10/23/ftc-click-to-cancel-rule-lawsuit/75812374007/>.

¹⁸ The Eighth Circuit vacated and set aside the rule, determining that the FTC violated Sec 22 of the FTC Act (15 U.S.C. § 57b-3(b)(1)) for not conducting a preliminary regulatory analysis during the rulemaking process. See, e.g., United States Court of Appeals for the Eighth Circuit, *Custom Communications, Inc., et al. v. Federal Trade Commission*, Nos. 24-3137, 24-3388, 24-3415, 24-3442, 24-3469, Submitted June 10, 2025, Filed July 8, 2025, <https://www.uschamber.com/assets/documents/Opinion-Custom-Communications-Inc.-v.-FTC-Eighth-Circuit.pdf>.

¹⁹ See, e.g., Federal Trade Commission. “FTC and States File Amended Complaint Against Uber for Deceptive Billing and Cancellation Practices.” For Release, December 15, 2025. <https://www.ftc.gov/news-events/news/press-releases/2025/12/ftc-states-file-amended-complaint-against-uber-deceptive-billing-cancellation-practices>; Orrick, Herrington & Sutcliffe LLP. “Multistate Settlement Secures Approximately \$4.8 Million in Refunds and Penalties Over Deceptive Subscription Practices.” JD Supra, November 3, 2025. <https://www.jdsupra.com/legalnews/multistate-settlement-secures-1271309/>; Arnold & Porter. “FTC and State AGs Continue to Scrutinize Subscription Practices Amidst a Possible Click-to-Cancel Rule Revival.” Advisory by William Hallett, Efron Raqiyyah, Pippins Tommy, Huynh Kelsie, Sicinski Danait, Mengist Kyle, February 2026. <https://www.arnoldporter.com/en/perspectives/advisories/2026/02/ftc-and-state-ags-continue-to-scrutinize-subscription-practices>.

²⁰ See, e.g., “Past FTC Rulemaking Efforts,” Federal Register, supra note 2, at 12323.

²¹ Federal Trade Commission, “Petition for Rulemaking of Consumer Federation of America and the American Economic Liberties Project,” *Federal Register* (proposed rule; receipt of petition; request for comment), 16 CFR

Part 425, File No. R607000, December 3, 2025, <https://www.federalregister.gov/documents/2025/12/03/2025-21887/petition-for-rulemaking-of-consumer-federation-of-america-and-the-american-economic-liberties>; Federal Trade Commission, “FTC Seeks Public Comment in Response to Advance Notice of Proposed Rulemaking Regarding Negative Option Marketing Practices,” press release, March 11, 2026, <https://www.ftc.gov/news-events/news/press-releases/2026/03/ftc-seeks-public-comment-response-advance-notice-proposed-rulemaking-regarding-negative-option>.

²² *Custom Communications, Inc. v. Federal Trade Commission*, No. 24-3137 (8th Cir. 2025).

²³ Federal Trade Commission, “Rule Concerning the Use of Prenotification Negative Option Plans,” Proposed Rule, *Federal Register*, 84 FR 52393, October 2, 2019, <https://www.federalregister.gov/documents/2019/10/02/2019-21265/rule-concerning-the-use-of-prenotification-negative-option-plans>.

²⁴ Federal Trade Commission, “Negative Option Rule,” *Federal Register*, 88 FR 24716, April 24, 2023, <https://www.federalregister.gov/documents/2023/04/24/2023-07035/negative-option-rule>; Federal Trade Commission, “Negative Option Rule,” *Federal Register*, 88 FR 85525, December 8, 2023, <https://www.federalregister.gov/documents/2023/12/08/2023-26946/negative-option-rule>.

²⁵ Regulations.gov, “Learn: Rulemaking,” <https://www.regulations.gov/learn>.

²⁶ In 2020, the FTC received at least 33 complaints per day, and in 2025, received over 90. *See, e.g.*, Rule Concerning the Use of Prenotification Negative Option Plans, 91 Fed. Reg. 12318, at 12324.

²⁷ *See, e.g.*, Federal Trade Commission, “Congressional Budget Justification, Fiscal Year 2026,” Budget Request Summary, May 30, 2025, p. 8, https://www.ftc.gov/system/files/ftc_gov/pdf/fy-2026-cbj.pdf and Federal Trade Commission, “Congressional Budget Justification, Fiscal Year 2027,” Budget Request Summary, April 3, 2026, p. 9, https://www.ftc.gov/system/files/ftc_gov/pdf/ftc-fy-2027-congressional-budget-justification.pdf.

²⁸ Zuora, *The Subscription Economy Index*, April 2025, <https://www.zuora.com/resource/subscription-economy-index/>.

²⁹ Subscribed Institute, *The Subscription Economy Index: Subscriptions Designed Around Customers, Modeled for Resilience*, March 2021, p. 2, https://www.amic.media/media/files/file_352_2844.pdf.

³⁰ Zuora, *The Subscription Economy Index*, March 2023, p. 4, https://www.zuora.com/wp-content/uploads/2023/03/Zuora_SEI_2023_Q2.pdf.

³¹ Fitzgerald, *supra* note 4; Ofek & Konary, *supra* note 4.

³² *See, e.g.*, 50Pros, “Fortune 500 Full List (2026),” February 21, 2026, <https://www.50pros.com/fortune500>.

³³ *See, e.g.*, Largest Tech Companies by Market Cap,” CompaniesMarketCap, <https://companiesmarketcap.com/tech/largest-tech-companies-by-market-cap/>.

³⁴ PR Newswire, “Streaming Subscriptions Reach 91% of US Internet Households as Ad-Supported Models Redefine Profitability,” PR Newswire, November 4, 2025, 3 min read, <https://finance.yahoo.com/news/streaming-subscriptions-reach-91-us-140300787.html>.

³⁵ Seth Eisenstein, Michael Bohne, and Monica Volodarsky, “Combating Subscription Fatigue: A Data-Driven Approach for Streamers,” BRG, Lexology, October 28, 2024, <https://www.lexology.com/library/detail.aspx?g=a4782548-0d78-468c-8bd7-2e45497f89f0>.

³⁶ Bailey Schulz and Jessica Guynn, “How to Cancel That Subscription: Why More Americans Are Dumping Monthly Payments,” USA TODAY, June 22, 2025, <https://www.usatoday.com/story/money/2025/06/22/how-to-cancel-subscription-trends/84284851007/>.

³⁷ *See, e.g.*, RocketMoney, Trim, Experian.

³⁸ Federal Trade Commission, “Negative Option Rule,” 89 Fed. Reg. 90476 (Nov. 15, 2024), <https://www.federalregister.gov/documents/2024/11/15/2024-25534/negative-option-rule#footnote-74-p90482>.

³⁹ Federal Trade Commission, “Use of Prenotification Negative Option Plans,” 16 C.F.R. Part 425, <https://www.ftc.gov/legal-library/browse/rules/use-prenotification-negative-option-plans>; Book of the Month LLC, “How Does BOTM Work?,” Help Center, <https://www.bookofthemonth.com/help-center/botm-membership/how-does-botm-work>; FTC, Regulatory Reform Update, *supra* note 7, 16 CFR 425.1(c)(1).

⁴⁰ Federal Trade Commission, “Getting In and Out of Free Trials, Auto-Renewals, and Negative Option Subscriptions,” Consumer Information, September 2024, <https://consumer.ftc.gov/articles/getting-and-out-free-trials-auto-renewals-and-negative-option-subscriptions>;

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⁴¹ *See, e.g.*, Microsoft, “Xbox Game Pass,” Xbox, <https://www.xbox.com/en-US/xbox-game-pass>; Spotify, “Spotify Paid Subscription Terms and Conditions,” *Spotify*, <https://www.spotify.com/us/legal/paid-subscription-terms/>; Uber Technologies Inc., “Uber One Membership,” *Uber*, <https://www.uber.com/us/en/uber-one/>; Planet Fitness

Franchising, LLC, “Customer Service & FAQs,” *Planet Fitness*, <https://www.planetfitness.com/about-planet-fitness/customer-service#region-faq-accordion-3>.

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⁶⁶ Automatic renewal plans are when businesses continue to renew the subscription when they expire unless a consumer cancels it.

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