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CLIENT ALERT | May 13, 2025

# FTC Delays Enforcement of Click-to-Cancel Rule Until July 14, 2025

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***Companies with B2C or B2B recurring payment programs that include negative option terms now have until July 14, 2025, to ensure their disclosure, consent, and cancellation practices are compliant with the Negative Option Rule.***

## Key Points:

- The Federal Trade Commission's (FTC or the Commission) new Negative Option Rule (the Rule or the click-to-cancel rule) introduced a host of new requirements for both B2B and B2C companies offering negative option terms to customers (e.g., automatic renewals, free trial conversion offers, etc.).
- On May 9, 2025, the FTC issued a statement deferring enforcement of the Rule by 60 days. The original deadline to be in full compliance with the Rule was May 14, 2025; however, companies subject to the Rule (i.e., those with recurring payment programs or similar automatically renewing subscription programs) must now fully comply starting on July 14, 2025. The FTC left open the possibility of further postponing the deadline or amending the Rule if issues arise from enforcement experiences.
- In advance of the new compliance deadline, regulated companies should review their marketing, disclosure, consent, and cancellation practices to mitigate potential enforcement risk given the prospect of civil and regulatory penalties.

On May 9, 2025, the FTC [announced](#) it will defer the compliance deadline of its recent Negative Option Rule by 60 days, moving it to July 14, 2025.<sup>1</sup> Key elements of the Negative Option Rule were initially poised to take effect on May 14, 2025. The FTC voted unanimously (3-0) in favor of postponement.<sup>2</sup>

The FTC originally issued the Rule on October 16, 2024, as part of its ongoing efforts to curb “unfair or deceptive practices related to subscriptions, memberships and other recurring-payment programs in an increasingly digital economy.”<sup>3</sup> The Rule (i) significantly expands the FTC's preexisting marketing, disclosure, consent, and cancellation requirements; (ii) encompasses a broader definition of negative options programs; (iii) prohibits material misrepresentations in connection with the offering of negative option terms; and (iv) covers business-to-business (B2B) transactions in addition to business-to-consumer (B2C) transactions.<sup>4</sup> For a more in-depth discussion of the Rule and its requirements, see our prior [Client Alert](#).

In its statement announcing the new compliance deadline, the Commission noted that it had already tacitly acknowledged in its rulemaking that compliance with the Rule would be difficult and require time.<sup>5</sup> Specifically, the Commission pointed out that the final Rule adopted a staged implementation with two separate compliance deadlines: (i) a compliance deadline of January 14, 2025, for the portion of the Rule prohibiting material misrepresentations in the sale of goods or services with negative option terms, and (ii) a compliance deadline of May 14, 2025, for the Rule's remaining disclosure, consent, and cancellation requirements.<sup>6</sup>

On May 9, 2025, the Commission refreshed its assessment of the compliance burdens associated with the Rule's requirements and determined that the May 14, 2025, compliance deadline "insufficiently accounted for the complexity of compliance."<sup>7</sup> The FTC also left open the possibility of further deferring the compliance deadline or amending the Rule if the "enforcement experience exposes problems with the Rule."<sup>8</sup>

Despite the possibility of further postponement or amendment, nothing in the FTC's statement disavows the FTC's commitment to the Rule. Moreover, in the background of deferring the Rule's compliance date, the FTC is currently providing a vigorous defense of the Rule against a set of consolidated legal challenges in front of the US Court of Appeals for the Eighth Circuit, ending speculation that the Republican-led FTC might abandon the Rule.<sup>9</sup> In its briefing, the FTC argued that the Rule complies with its Section 18 authority under the FTC Act, which authorizes the Commission to "define with specificity" unfair or deceptive practices "in or affecting commerce".<sup>10</sup> The FTC also asserted that the Rule's cross-industry scope is consistent with its statutory authority and that Congress did not impose a single-industry limitation against rules affecting multiple industries.<sup>11</sup>

Finally, the FTC stated that the Rule rests on "copious evidence—including dozens of enforcement actions, tens of thousands of consumer complaints, comments of industry and consumer groups, and economic studies—showing that unfair and deceptive negative option practices are prevalent," easily passing muster under the arbitrary-and-capricious standard, especially given that the FTC Act does not require "prevalence" to meet a numerical threshold.<sup>12</sup>

As of April 4, 2025, merits briefing in the Eighth Circuit is complete, but the matter has not been scheduled for oral argument.

In addition to its defense of the Rule in court, the FTC has continued to bring major negative option enforcement actions — demonstrating its resolve to regulate this space. For example, on April 21, 2025, the FTC announced a complaint against Uber Technologies/USA in the Northern District of California for allegedly violating negative option requirements embedded in the Restore Online Shoppers' Confidence Act (ROSCA).<sup>13</sup> The complaint alleged that the company charged consumers for Uber One subscription services without their consent and failed to provide a simple cancellation mechanism despite "cancel anytime" representations.<sup>14</sup> In touting the merits of that lawsuit, FTC Chair Andrew Ferguson clearly laid

down his agenda: “Americans are tired of getting signed up for unwanted subscriptions that seem impossible to cancel. The Trump-Vance FTC is fighting back on behalf of the American people.”<sup>15</sup>

In short, the Commission’s posture in the Eighth Circuit litigation and the continued enforcement of existing negative option requirements appears to signal, at a minimum, that automatically renewing subscription offers will be scrutinized for compliance under the Rule starting July 14, 2025.

## Conclusion

Notwithstanding the possibility of further postponement or amendment, companies should still aim for operational compliance with the Rule. Even though the FTC decided to defer enforcement of the rule by two months, this enforcement deferral does not appear to signal the Commission’s desire to abandon the Rule, especially given the FTC’s defense of the rule in litigation and its negative option-related enforcement actions.

In preparing for operational compliance with the Rule, companies should note that state automatic renewal laws may be more stringent or contain additional requirements (e.g., after-sale notifications). Therefore, companies may wish to adopt lowest-common-denominator compliance practices that consider both state laws and the FTC’s Negative Option Rule to better ensure compliance with both state and federal laws. This is particularly important given that certain states expressly provide a private right of action in the event of violations, and not all states have a so-called “good-faith exemption.” Latham lawyers are positioned to advise on such federal and state law compliance efforts.

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#### Endnotes

<sup>1</sup> FTC, [Statement of the Commission Regarding the Negative Option Rule](#) (May 9, 2025).

<sup>2</sup> FTC, Press Release: FTC Votes on Negative Option Rule Deadline (May 9, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/05/ftc-votes-negative-option-rule-deadline>.

<sup>3</sup> FTC, Press Release: 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>.

<sup>4</sup> FTC Negative Option Rule, [89 Fed. Reg. 90537](#) (Nov. 15, 2024) (codified at 16 C.F.R. § 425).

<sup>5</sup> FTC, [Statement of the Commission Regarding the Negative Option Rule](#) (May 9, 2025).

<sup>6</sup> Negative Option Rule, [89 Fed. Reg. 90476](#) (Nov. 15, 2024) (codified at 16 C.F.R. Part 425) (“The rule is effective January 14, 2025.” “Regulated entities have until May 14, 2025 to comply with §§ 425.4 through 425.6.”)

<sup>7</sup> FTC, [Statement of the Commission Regarding the Negative Option Rule](#) (May 9, 2025).

<sup>8</sup> *Id.*

<sup>9</sup> See generally Brief of Respondent, *Custom Communications, Inc. v. FTC*, No. 24-3137 (8th Cir. filed Mar. 17, 2025).

<sup>10</sup> Brief of Respondent at 19, *Custom Communications, Inc. v. FTC*, No. 24-3137 (8th Cir. filed Mar. 17, 2025).

<sup>11</sup> *Id.* at 19-20.

<sup>12</sup> *Id.* at 21.

<sup>13</sup> FTC, Press Release: FTC Takes Action Against Uber for Deceptive Billing and Cancellation Practices (Apr. 21, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/04/ftc-takes-action-against-uber-deceptive-billing-cancellation-practices>.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*