

## Data, Privacy & Cybersecurity

July 16, 2025

### **FTC Click-to-Cancel Rule on Hold, but California's Automatic Renewal Law Remains Intact: What Companies Need To Know**

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#### **Decision and Background**

On July 8, the Eighth U.S. Circuit Court of Appeals vacated the Federal Trade Commission's (FTC) "click-to-cancel" rule (FTC Rule), which would have required companies to provide customers with an easy, one-click method to cancel subscriptions. The court found that the FTC Rule failed to follow mandatory procedural requirements after an administrative law judge determined that the FTC Rule's economic impact would exceed \$100 million annually.

The vacated FTC Rule, announced in October 2024, would have modernized a 1973 regulation to cover all forms of "negative option" marketing—where consumers are automatically charged for products or services unless they actively cancel. The FTC Rule would have mandated that companies provide straightforward cancellation methods matching the ease of sign-up, required clear disclosures of material terms, and obligated businesses to obtain and retain informed consumer consent for at least three years.

The FTC Rule was developed over several years, beginning with an advance notice in 2019 and a formal proposal in 2023, following widespread consumer complaints about the difficulty of canceling subscriptions. After the FTC Rule's announcement, multiple industry groups and associations challenged it in court, leading to last week's decision.

#### **Considerations for Businesses**

While the Eighth Circuit's decision will likely cause a several-year delay in the implementation of the FTC Rule at the federal level, companies should consider complying with the requirements of the now-scrapped rule moving forward, as it is anticipated state regulators will pick up the torch on this issue.

Relatedly, companies that conduct business in California should also be aware that the California Automatic Renewal Law (CARL) (as amended, effective July 1, 2025) imposes requirements *in excess* of those in the FTC Rule on companies conducting business in California. These heightened requirements include details regarding disclosures, consent, cancellation mechanisms, and renewal reminders.

For advice on subscription products and compliance with the rules above, please reach out to the authors of this article.

## Contacts

Please contact the listed attorneys for further information on the matters discussed herein.

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