Ferris and Lawlor in Ad Age: FTC's New Click-to-Cancel Rule — What Brands Need to Know

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Haynes Boone Partners Tiffany Ferris and Joe Lawlor authored an article for *Ad Age* sharing tips for complying with rules taking effect in April aimed at making it easier for consumers to cancel subscriptions and memberships.

Read an excerpt below.

Most consumers know the frustration of trying to cancel a subscription or membership that was quite simple to purchase—an experience that often goes like this: It only takes a minute and a couple of clicks online to sign up for the annual membership at the Pilates studio—the really expensive one that renews your membership every year unless you cancel before they charge your card again. But canceling is not that easy.

There is no “cancel” button in the “Membership” tab of your app and no information online about the cancellation process. You ask about cancellation at the front desk and the employee tells you to send an email to the studio with a copy of your driver’s license and a detailed reason for why you want to cancel. Once the studio receives that email, they might call you and explain the benefits of maintaining your membership before finally allowing you to cancel. The experience is exhausting and thousands of consumers have complained to the Federal Trade Commission. And recently, the FTC took action.

On Oct. 16, the commission announced a new rule, colloquially known as “Click-to-Cancel,” which was motivated by practices that the FTC describes as “saddling shoppers with recurring payments for products and services they never intended to purchase nor wanted to continue buying” and takes direct aim at so-called negative options. The Click-to-Cancel rule aims to ensure consumers are fully aware of the terms of negative option programs and are able to cancel their subscriptions/memberships just as easily as they signed up.

But what is a negative option program? In general, the term refers to a program or tactic where a lack of action by the purchaser results in acceptance of an offer and its terms. The four most common categories of negative options are:

1. Prenotification plans (where goods are shipped and billed to subscribers if subscribers don’t expressly reject merchandise in a specified time period, such as a book club plan)
2. Continuity plans (where consumers receive periodic shipment of goods, such as bottled water delivery)
3. Automatic renewals (where a subscription is automatically renewed at its expiration unless a consumer affirmatively cancels, as is often the case in studio fitness subscriptions or credit monitoring services)
4. Free trial conversions into paid programs (where consumers receive an initial free or nominal-free trial that automatically converts to a paid or higher-fee version unless consumers affirmatively cancel, as may happen in software free trial situations)

To read the full article from *Ad Age*, click here.