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FTC'S CLICK-TO-CANCEL RULE DELAYED AMID LEGAL CHALLENGES: WHAT BUSINESSES NEED TO KNOW

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Federal officials just postponed enforcement of the Click-to-Cancel rule, which requires businesses offering subscriptions or memberships to provide a cancellation process as straightforward as the sign-up procedure. The two-month delay announced last Friday, which pushes the effective date from May 14 to July 14, coincides with ongoing legal challenges by industry groups that argue the Federal Trade Commission (FTC) overstepped its authority in issuing such a broad rule. Given that the 8th US Circuit Court of Appeals decision could significantly impact the rule's future, businesses should stay informed and prepare for one of several potential outcomes.

A Quick Refresher on the Click-to-Cancel Rule

As we discussed when the rule was finalized in 2024 ([read more here](#)), the FTC's Click-to-Cancel rule amends the agency's Negative Option Rule, targeting deceptive subscription practices that make it easy to sign up but difficult to cancel.

The rule imposes several new requirements on companies using recurring billing models:

- **Clear and Conspicuous Disclosures:** Businesses must present key terms (such as pricing, cancellation terms, and renewal conditions) before collecting billing information.
- **Express Informed Consent:** Customers must affirmatively agree to the terms in a standalone format – separate from

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other transaction elements.

- **Easy Cancellation Mechanism:** Companies must provide a cancellation method that is at least as simple as the method used to subscribe, including through the same communication channel.

Originally, the FTC staggered the effective dates:

- **January 14:** Misrepresentation provisions took effect.
- **May 14:** Consent and cancellation requirements were scheduled to kick in – now delayed to **July 14**.

Why the Delay? All Eyes on the 8th Circuit

The enforcement pause comes as legal challenges against the rule mount. Multiple lawsuits filed by business coalitions and trade associations have been consolidated in the 8th Circuit. These challenges assert that:

- The FTC overstepped its authority under the FTC Act;
- The rule is overly vague and burdensome; and
- The rulemaking process violated the Administrative Procedure Act.

Those challenging the rule argue that it creates new substantive obligations rather than merely clarifying deceptive conduct – a move they say requires congressional authorization. Although the 8th Circuit previously declined to issue a stay, which would have halted the rule's effective date, the litigation is ongoing, and a decision is expected in the coming months.

In the meantime, the FTC cited the “complexity of compliance” and “business implementation needs” as reasons for the brief delay – though it notably did not back down from its regulatory stance. As you might expect, the agency is in the midst of a change of leadership. When the rule was first proposed, a majority of the commissioners were Democrat appointees of President Biden. Last week's vote to postpone the rule was carried out by three Republican appointees [after President Trump terminated the two Democrat commissioners](#).

What's at Stake for Your Business

The 8th Circuit's decision could upend or reshape the rule. Three general outcomes are possible:

1. **Rule is Upheld:** Businesses must comply by July 14.
2. **Rule is Modified:** Portions of the rule may be struck or revised, changing the scope of compliance.
3. **Rule is Vacated:** The court could find the FTC lacked authority, nullifying the rule entirely (unless, of course, [SCOTUS decides that courts can't issue national injunctions](#)).

Even if the FTC's rule is struck down, similar requirements may emerge at the state level. Several states, including California and New York, already have automatic renewal laws in place that emphasize easy cancellation and consent requirements.

Next Steps for Businesses

Regardless of the litigation outcome, you might want to consider following these best practices:

- **Audit Your Subscription Practices:** Ensure you're not making it harder to cancel than to enroll.
- **Review Consent Mechanisms:** If necessary, redesign your process to make sure customers affirmatively agree to terms in a standalone, conspicuous way.
- **Test Your Cancellation Flows:** Customers should be able to cancel using the same method they used to sign up – with no added hurdles.
- **Train Teams:** Your customer service and compliance staff need to know how to implement and monitor the new protocols.
- **Track Legal Updates:** Stay closely tuned to the 8th Circuit's forthcoming decision and any follow-up action from the FTC. The best way to track this litigation is to make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox.

Conclusion

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