

Regulators Continue to Focus on “Dark Patterns” in Negative Option Marketing

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These days, consumers can obtain everything from newspapers to meal kits to credit monitoring services through subscriptions. The prevalence of these services, and the ease with which consumers can sign up, have gotten the attention of regulators who are concerned that some negative option marketing might confuse or trick consumers. The CFPB, FTC, and state AGs have been particularly vocal about practices they deem “dark patterns,” and continue to focus on the area.

Recently, the CFPB put out guidance warning covered companies and service providers that “dark patterns” surrounding negative option marketing violate the Consumer Financial Protection Act’s prohibition on unfair, deceptive, or abusive acts or practices.