

Three AGs Announce \$1 Million Settlement with Internet Marketer

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Attorneys General in New York, Pennsylvania, and Washington recently announced a settlement with an online marketing company over its “negative option” marketing plans. Internet Order LLC advertises an offer whereby consumers can buy foreign language-learning audio courses for “only \$9.95.” Consumers who signed up for the offer, however, were automatically enrolled in a plan in which they receive additional courses for \$256 each, for a total cost of up to \$1,024. The only way to avoid the additional charges is to cancel within a 30-day window. Consumers who did so were required to pay return shipping, despite a “100% Money Back Guarantee” and a promise that the offer was “Risk Free.”

Among other things, the AGs accused the company of making various misrepresentations about the offer, failing to clearly disclose the material terms, failing to obtain adequate consent from consumers, and failing to provide simple cancellation mechanisms. The AGs alleged that this violated state consumer protection laws, as well as the [Restore Online Shoppers’ Confidence Act](#).

The terms of the settlement impose various restrictions on the company that are worth noting. For example, the company must clearly disclose the terms of any negative option program at various points in the transaction flow. It must also obtain “express consent” before enrolling consumers in a negative option plan, and this cannot be done with a pre-checked box. Instead, consumers must affirmatively indicate that they agree to the terms. If the company advertises a “free trial period,” it cannot charge consumers any fee to return items. And the company has to make cancellation easier. In addition, the settlement also requires Internet Order to pay \$1,002,000 in restitution to consumers.

As we’ve [noted before](#), regulators closely scrutinize free trials in which consumers are required to cancel in order to avoid charges. If you offer a negative option plans or free-to-pay trials, you should pay close attention to the recent settlements to avoid making the same mistakes.