



# Client Insight: Eighth Circuit Vacates FTC's "Click-to-Cancel" Rule

## Insights

July 17, 2025

On July 8, 2025, just days before it was set to take effect, the Eighth Circuit Court of Appeals has vacated the Federal Trade Commission's "Click-to-Cancel" rule, halting a major update to the agency's long-standing rules on negative option billing. The decision effectively nullifies the FTC's effort to require businesses to make canceling subscriptions as easy as signing up for them.

*For additional background on the FTC's original rule and a detailed breakdown of state-level automatic renewal laws—which remain in effect—we encourage readers to refer to our prior client alert [here](#). While the federal rule has been struck down, many of the state law considerations outlined there remain highly relevant.*

## Quick Background

The FTC introduced the Click-to-Cancel rule to amend its 1973 Negative Option Rule. The update would have meant that businesses offer consumers a simple, straightforward cancellation method—ideally in the same medium used for sign-up. The rule was set to become enforceable on July 14, 2025.

## Reason for Striking it Down

The Eighth Circuit ruled that the FTC failed to follow required rulemaking procedures under the FTC Act. Specifically, the agency did not publish a preliminary regulatory analysis once it determined the rule would impose compliance costs exceeding \$100 million. This procedural step is mandatory for economically significant rules and must

be completed before finalization. The court found that this omission deprived stakeholders of a meaningful opportunity to comment on alternatives and justified full vacatur of the rule.

## Key Implications

- Enforcement on Hold – The FTC’s new rule is no longer in effect. The agency now faces a decision: appeal to the Supreme Court, reinstitute the rulemaking process with proper procedural steps, or abandon the rule altogether. A reissued rule could take many months, likely delaying any federal update until 2026 or beyond.
- Existing Rules Still Apply – The original 1973 Negative Option Rule remains in force. Additionally, businesses must continue to comply with other federal laws like the Restore Online Shoppers’ Confidence Act (ROSCA), which already imposes requirements around clear disclosures, consent, and cancellation options.
- State Laws Remain Critical – Many states (e.g., California, New York, Minnesota) have their own automatic renewal laws with cancellation requirements that mirror or exceed the now-vacated FTC rule. These state laws remain enforceable and often carry hefty penalties for noncompliance.

## What Businesses Should Do

- **Subscription services** – Review cancellation flows to ensure they’re user-friendly and compliant with existing state and federal law.
- **Compliance teams** – Audit marketing practices and negative option disclosures; document procedures to show good-faith compliance.
- **Legal departments** – Monitor potential FTC appeals or new rulemaking efforts that could reintroduce similar obligations.

## Final Takeaway

While the FTC’s Click-to-Cancel rule is off the table for now, the broader regulatory focus on consumer-friendly cancellation options is here to stay. Businesses should avoid reverting to outdated practices and instead focus on maintaining compliance with current state and federal requirements.

## How Can GD Help?

Stay updated with Gunderson as we continue monitoring the latest regulatory developments. If you have any questions regarding this client alert, please do not hesitate to reach out to your Gunderson Dettmer attorney.

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