ARIZONA STATE UNIVERSITY

CORPORATE & BUSINESS LAW JOURNAL FORUM

Volume 8	August 2026	Number 1

COMMENTARY

Dark Patterns, Bright Line: What Amazon's Settlement Teaches Businesses

BY ELLIOTT ADAIR*

The Odyssey received all the attention this summer, but last year it was the Iliad that made news in the legal world. Amazon agreed last September to a record $2.5 billion settlement with the FTC over allegedly deceptive enrollment and cancellation practices tied to its famous Prime subscription.[1] Prime's cancellation process had a reputation for being notoriously difficult.[2] Rather tellingly, Amazon employees allegedly nicknamed the cancellation process the "Iliad," perhaps in a nod to the epic ordeal they hoped to create for customers attempting to cancel.[3]

The FTC alleged that Amazon intentionally engineered that difficulty.[4] "Project Iliad" thus offers a great example of what can happen when companies are too aggressive with their subscription retention practices. The record settlement offers an opportunity to ask a broader question: at what point does an attempt to retain a customer cross the line from legitimate persuasion to illegal conduct?

* J.D. Candidate, Class of 2028, Sandra Day O'Connor College of Law at Arizona State University

1 *FTC Secures Historic $2.5 Billion Settlement Against Amazon*, FED. TRADE COMM'N (Sept. 25, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-secures-historic-25-billion-settlement-against-amazon.

2 Eugene Kim, *Internal Documents Show Amazon Has for Years Knowingly Tricked People into Signing Up for Prime Subscriptions. "We Have Been Deliberately Confusing," Former Employee Says.*, BUS. INSIDER (Mar. 14, 2022), https://www.businessinsider.com/amazon-prime-ftc-probe-customer-complaints-sign-ups-internal-documents-2022-3.

3 Edward D. Rogers, Erin L. Fischer & Edmund Nyarko, *Federal Judge Allows FTC "Dark Patterns" Suit Against Amazon to Proceed*, BALLARD SPAHR (May 8, 2024), https://www.ballardspahr.com/insights/alerts-and-articles/2024/05/federal-judge-allows-ftc-dark-patterns-suit-against-amazon-to-proceed.

4 *FTC Takes Action Against Amazon for Enrolling Consumers in Amazon Prime Without Consent and Sabotaging Their Attempts to Cancel*, FED. TRADE COMM'N (June 21, 2023), https://www.ftc.gov/news-events/news/press-releases/2023/06/ftc-takes-action-against-amazon-enrolling-consumers-amazon-prime-without-consent-sabotaging-their.

The Rise of the Subscription Model

Subscription services continue to gain popularity and utility. Businesses value them because they provide a steady, reliable stream of recurring revenue. Consumers have embraced subscriptions too, drawn in by their convenience and loyalty discounts. Companies use a variety of strategies to grow their subscriber base:

- Free Trials: A common strategy used across mobile apps.
- Sign-Up Bonuses: For example, additional free items bundled with clothing subscription boxes.
- Freemium Offerings: Utilized by apps such as Spotify or Wealthfront.

By 2026, most adults have likely been drawn into a subscription by one of these tactics. But regardless of marketing techniques, the younger generations seem to appreciate the subscription model. A recent poll showed that 39% of millennials used product subscriptions for most or all the products they regularly used over the last six months.[5] Gen Z was not far behind at 31%.

Dark Patterns and Subscriber Retention

Not only have most adults tried a subscription, but most have also endured the frustration of trying to cancel one. Many businesses try equally hard to keep their customers as they do to get them to sign up in the first place. That can benefit consumers when it takes the form of a genuinely generous retention offer, but there are often more sinister intentions behind subscriber retention. These intentionally difficult cancellation processes are called "dark patterns" or "deceptive design patterns."[6] The goal of these patterns is to lower the percentage of customers willing to go to the effort of canceling a subscription, thereby reducing "churn."[7] These aggressive retention tactics often follow similar patterns:

- Long labyrinths through a company's website just to find the hidden cancellation page.
- Numerous pages to click through and survey questions to answer before cancellation is finalized.
- Forced detours through multiple retention offers.

The Evolving Regulatory Landscape

The FTC has combatted deceptive subscription practices since 2011 through the Restore Online Shopper's Confidence Act (ROSCA).[8] But as subscriptions have grown and the landscape has evolved, regulators have sought additional tools in the fight to protect consumers.

---

[5] *4 in 10 Millennials Rely Mainly on Retail Subscriptions for Everyday Shopping Needs*, PYMNTS (Nov. 30, 2023), https://www.pymnts.com/subscriptions/2023/4-in-10-millennials-rely-mainly-on-retail-subscriptions-for-everyday-shopping-needs/.

[6] Kathleen Benway, Graham Gardner & Alexander G. Brown, *FTC's $2.5 Billion Settlement with Amazon Over Prime Subscription Practices*, ALSTON & BIRD (Oct. 2, 2025), https://www.alston.com/en/insights/publications/2025/10/ftc-settlement-prime-subscription-practices.

[7] Huileng Tan, *Amazon Used a Sneaky Tactic to Make It Harder to Quit Prime, and Cancellations Dropped*, BUS. INSIDER AFRICA (Mar. 16, 2022), https://africa.businessinsider.com/news/amazon-used-a-sneaky-tactic-to-make-it-harder-to-quit-prime-and-cancellations-dropped/c2ddtg9.

[8] Restore Online Shoppers' Confidence Act, 15 U.S.C. §§ 8401–05 (2018)

In 2024, the FTC moved forward with a new "Click to Cancel" rule. [9] It was, however, vacated by the Eighth Circuit in 2025 for violating the Administrative Procedure Act.[10] Still, close to 30 states have adopted their own automatic renewal laws, and some are even more strict than what the FTC had proposed.[11] The FTC has not backed down either. It continues to challenge subscription practices under section 5 of the FTC Act which empowers them to take "action against unfair or deceptive acts or practices" in commerce.[12] It also pledged to revive the "Click to Cancel" rule through an Advance Notice of Proposed Rulemaking (ANPRM) in March of 2026.[13]

What Lies Ahead for Businesses and Consumers

Although no formal "Click to Cancel" rule is currently in effect, subscription practices will remain under close regulatory scrutiny and may still be subject to enforcement under state consumer protection laws and the current version of the ROSCA. As a result, companies that offer subscriptions should exercise caution by avoiding retention practices that could be seen as deceptive or overly burdensome. While consumers will still encounter frustration when attempting to cancel subscriptions, they are likely to see the most aggressive retention tactics become less common as companies adapt to this new environment of heightened enforcement.

The Amazon settlement does not signal the end of the subscription model. Customers value the convenience of subscriptions, and businesses value the predictable revenue they generate. Companies will continue to use marketing and psychological tactics to attract and keep their subscribers. What has changed is the legal risk associated with those tactics when they impede a consumer's ability to cancel. The FTC drew a line and made it clear what it will cost companies to cross it.

---

[9] *Federal Trade Commission Announces Final "Click-to-Cancel" Rule, Making It Easier for Consumers to End Recurring Subscriptions and Memberships*, FED. TRADE COMM'N (Oct. 16, 2024), https://www.ftc.gov/news-events/news/press-releases/2024/10/federal-trade-commission-announces-final-click-cancel-rule-making-it-easier-consumers-end-recurring.

[10] *Eighth Circuit Cancels "Click-to-Cancel" Rule*, CROWELL & MORING (July 18, 2025), https://www.crowell.com/en/insights/client-alerts/eighth-circuit-cancels-click-to-cancel.

[11] Larissa C. Bergin, Alisha M. Crovetto, Michael Dawson & Ian Fraser, *FTC Revives Click-to-Cancel Rule: New Risks for Subscription Businesses*, JONES DAY (May 2026), https://www.jonesday.com/en/insights/2026/05/ftc-revives-clicktocancel-rule-new-risks-for-subscription-businesses.

[12] *Id.*

[13] *FTC Seeks Public Comment in Response to Advance Notice of Proposed Rulemaking Regarding Negative Option Practices*, FED. TRADE COMM'N (Mar. 11, 2026), https://www.ftc.gov/news-events/news/press-releases/2026/03/ftc-seeks-public-comment-response-advance-notice-proposed-rulemaking-regarding-negative-option.