

# United States Senate

WASHINGTON, DC 20510

June 23, 2023

Lina Kahn  
Chair  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Washington, DC 20580

Dear Chair Khan:

We write to support the Federal Trade Commission's effort to revise its Negative Option Rule, as outlined in the Notice of Proposed Rulemaking published on April 24, 2023. We commend the Commission's efforts through individual enforcement actions and policy statements to address illegal practices sometimes used by unscrupulous sellers in automatic renewal subscriptions, continuity plans, free-to-pay conversions, and pre-notification plans. Nevertheless, problems persist. Industry, consumers, and regulators need a consistent legal framework to address negative option marketing across media and offers.

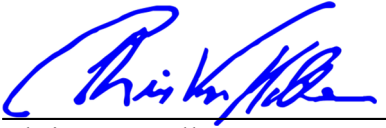
Every year, our constituents submit thousands of complaints to the Commission about negative option transactions, in which sellers interpret their failure to take affirmative action, either to reject an offer or cancel an agreement, as assent to be charged for goods or services. While negative option billing can be legitimate and beneficial with proper disclosure and consent, many consumers fall victim to deceptive tactics and suffer financial harm when marketers fail to be transparent or make cancellation difficult or impossible.

The proposed rule would help address these problems. Updating and strengthening existing regulations will safeguard consumers from deceptive practices and allow the Commission to adapt to market changes. Providing key information on trial periods, subsequent charges, and cancellation processes will enable customers to make informed decisions. The proposed rule focuses on clear disclosures in negative option marketing, ensuring consumers are fully informed about trial offers to prevent unintentional enrollment in recurring payments. The rule emphasizes the importance of transparency and fairness by requiring businesses to obtain explicit consent before charging consumers. It recognizes that accessible cancellation mechanisms like "click to cancel" are essential to protect consumer rights and foster trust in the marketplace. And critically, prohibiting businesses from sharing billing information without consent safeguards personal and financial privacy and prevents unauthorized charges.

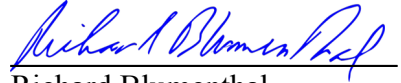
The Consumer Online Payment Transparency and Integrity Act (Consumer OPT-IN Act) that we co-sponsor in Congress aligns closely with these objectives. We believe that our collective efforts can effectively address the challenges associated with negative option marketing.

Thank you for your determined enforcement efforts and continued attention to consumer welfare and a fair and transparent marketplace.

Sincerely,



Chris Van Hollen  
United States Senator



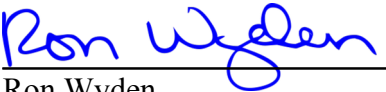
Richard Blumenthal  
United States Senator



Jack Reed  
United States Senator



Peter Welch  
United States Senator



Ron Wyden  
United States Senator