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NetChoice
Protecting Free Speech and Free Enterprise Online

NYC Click to Cancel Rule

Letter of Opposition

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New York City Department of Consumer and Worker Protection

Members of the New York City Department of Consumer and Worker Protection:

On behalf of NetChoice, a trade association representing leading internet businesses committed to free expression and free enterprise online, I write to express our opposition to the proposed "Click to Cancel" rule. While NetChoice supports fair, and consumer friendly subscription practices, this proposal would be costly and unfavorable to both consumers and businesses in NYC, as well as cause uncertainty and inconsistency when it comes to the interpretation of NYC requirements compared to existing New York State law.

Subscription management is not merely a technical process but a touchpoint where consumers can make informed financial decisions, including whether to accept a lower price or modified service. Imposing rigid cancellation and notice requirements is rife with redundancy and compliance risks, particularly given existing New York State automatic renewal laws, and would ultimately increase costs and complexity without delivering meaningful consumer benefits. Mandating prescriptive design requirements would be operationally prohibitive, excessively burdensome, and disproportionate to the consumer benefit.

The Proposed rule would be costly and unfavorable to consumers

The proposed rule limits the ability for companies to present a "*discounted offer, retention benefit or information regarding the effect of cancellation"* when a consumer is attempting to cancel a subscription. There is no evidence to suggest that surfacing discounted offers, information about retention benefits or about the effect of cancellation obstructs cancellation.

In fact, millions of customers who are initially planning on canceling their subscriptions are interested in seeing such information during cancellation with many accepting save offers when considering whether

to cancel a subscription or not. Removing these interactions could therefore result in consumers paying higher prices or losing access to savings that, in aggregate, amount to hundreds of millions of dollars annually. In fact, nearly 30% of respondents cancel their subscription "to see if the company will offer [them] a discounted rate to keep [their] subscription active."

Restricting businesses from communicating relevant account information such as the impact of cancellation on accrued credits, rewards, or bundled benefits leaves consumers less informed, not more. A one size fits all cancellation framework does not reflect how consumers actually interact with these services and risks eliminating the personalized, context sensitive communications that consumers often find most valuable.

Additionally, such requirements fail to take into account the technical constraints of different operating systems and the interoperability challenges of third-party billing integration. Users can enter a subscription via various ways, e.g. via the app store, in-app, bundle with phone provider, etc. Any withdrawal function requirement should take into account these multiple possibilities and recognize the operational burdens and costs that a one-size-fits-all approach imposes.

Click to Cancel places an undue burden on companies offering services in NYC

Businesses that operate within NYC already have to comply with New York State Law (the strictest subscription law in the country) and there should be alignment between State and City policy with regards to penalties.

The practical compliance burden imposed by this rule is substantial. Businesses would be required to build, test, and maintain separate cancellation flows, disclosure language, and notice systems specifically calibrated for NYC consumers, distinct from what is already required under state law. For smaller businesses and startups, these costs are not trivial. They divert engineering and legal resources away from product innovation, and toward duplicative regulatory compliance and could ultimately increase consumer costs. Many businesses operating nationally or globally cannot economically justify building city specific cancellation infrastructure and may choose to restrict their offerings in NYC leaving consumers with fewer choices and less competitive pricing.

This is not a hypothetical concern. Regulatory fragmentation has historically caused businesses, small and large to withdraw or limit services in highly regulated jurisdictions. The Department should be mindful that adopting requirements that exceed and diverge from existing state standards would make NYC a less attractive market for innovative businesses, and limit options for lower pricing on subscriptions, ultimately harming the very residents the rule is intended to protect.

Click to Cancel presents inconsistencies with existing New York State Law

The proposed rule introduces new, distinct rules on financial restitution and monetary penalties for failure to comply with the rule than existing New York state law. This approach is unnecessary and risks creating a fragmented enforcement environment. Businesses should not be subject to overlapping and potentially conflicting penalty regimes for the same conduct, particularly where state law already provides a comprehensive enforcement framework. Creating overly burdensome regulations on businesses only incentivizes them to cease innovating and operating in places like NYC, harming everyday consumers who enjoy, and rely on these services every day.

New York State already maintains a comprehensive enforcement structure governing automatic renewal and subscription cancellation practices, capping civil penalties at $500 for a single knowing violation and $1,000 for multiple violations stemming from a single act, with restitution available through the Attorney General via court proceedings. The proposed NYC rule imposes a minimum $525 fine per violation rising to $3,500 for repeat offenses, plus automatic restitution equal to the full amount charged after a consumer's first cancellation attempt, all administered by DCWP operating entirely separately from the AG's office. These regimes not only stack — they conflict.

There is no formal coordination requirement between DCWP and the AG's office, meaning a business could be compelled to negotiate two separate settlements, with two separate agencies, applying two different restitution formulas, to the same underlying conduct. This is not a gap filling exercise — it is duplication that imposes compounding legal exposure on businesses while further pushing companies towards limiting or even ceasing operations in New York City to avoid the risk.

New York State’s existing automatic renewal law already establishes detailed requirements for subscription disclosures, renewal notices, and cancellation rights. NYC’s proposed rule would layer additional, distinct obligations on top of this framework without a clear articulation of how these two

regimes interact or a compelling argument as to how additional citywide regulation would provide an added benefit to consumers. The legal uncertainty created by the proposed rule would itself cause harm to consumers and businesses alike. As stated in the Notice of Public Hearing, New York State has been successful in enforcing its automatic renewal law. However, if the Department believes the current statewide policy is insufficient, the appropriate remedy is to advocate for changes to the law at the State level – not construct a conflicting citywide rule that businesses cannot practically reconcile with their existing compliance obligations.

Conclusion

The proposed rule introduces inconsistencies with existing state law that will create uncertainty, places restrictions on practices that benefit consumers, and imposes undue costs on businesses operating in NYC. While Americans across the nation, and particularly in NYC continue to experience an unprecedented cost of living crisis, it is imperative that local, state, and federal governments do all they can to lower costs for consumers. We urge the Department to oppose the proposed Click to Cancel rule as written, and ensure harmonization between existing statewide policy and city policy, which would be the most effective way to reduce costs for New York City families while ensuring they retain access to services they utilize.

NetChoice stands ready to work constructively with the Department to identify approaches that genuinely protect consumers without introducing unnecessary costs, and legal uncertainty. We welcome the opportunity to discuss these concerns further and to provide additional information that may be helpful to the Department's deliberations.

Sincerely,

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NetChoice is a trade association that works to protect free expression and promote free enterprise online.

[1] The views of NetChoice expressed here do not necessarily represent the views of all NetChoice members.