

FTC Sues Uber for Unlawful Subscription Practices

If you run a subscription-based SaaS or tech business and have not reviewed your subscription practices lately, the FTC is again putting you on notice that subscription practices are an oversight and enforcement priority for the federal agency.

The FTC just recently filed suit against Uber Technologies, Inc. and Uber USA, LLC in the Northern District of California on April 21, 2025, alleging that the defendant utilized deceptive billing and cancellation practices. A copy of the FTC complaint is attached at this **link**. A copy of the press release issued by the FTC on the case is **linked here**.

The key factual allegations of the complaint include as follows:

- Consumers were promised a specific amount of savings that did not take into account the monthly price of the subscription.
- Consumers say they were charged without their consent, and in some cases were charged when they did not even have an account.
- Consumers say they were charged before their billing date, including before their free trials ended, despite being promised by Uber that they could cancel at no charge during their free trials.
- Consumers say that it was extremely difficult to cancel, and that they were often charged the renewal subscription fee while they were waiting on customer service to respond and grant the cancellation.

The FTC alleges that Uber's deceptive billing and cancellation practices violate the FTC Act and the Restore Online Shoppers' Confidence Act ("ROSCA"). According to the FTC, these

regulations require online retailers to do the following:

- clearly disclose the terms of the service;
- obtain consumer's consent before charging them for a service; and
- provide a simple method to cancel recurring subscriptions.

In particular, the FTC alleges in its complaint that Uber failed to clearly and conspicuously disclose before obtaining consumer billing information all the material terms of the transaction, including

- that they are being enrolled in a recurring paid subscription;
- the amount of money that consumers in these subscriptions actually save;
- when they will be billed or charged; and
- the method of cancellation.

According to the FTC, Section 4 of ROSCA, 15 U.S.C. § 8403, prohibits charging consumers for goods or services sold in transactions effected on the Internet through a negative option feature, as that term is defined in the Commission's Telemarketing Sales Rule ("TSR"), 16 C.F.R. § 310.2(w), unless the seller provides text that "clearly and conspicuously discloses all material terms of the transaction before obtaining the consumer's billing information, obtains the consumer's express informed consent for the charges, and provides simple mechanisms for a consumer to stop recurring charges."

Also, the FTC claims that the TSR defines "negative option feature" to constitute a term in an offer or agreement for goods or services "under which the customer's silence or failure to take an affirmative action to reject goods or services or to cancel the agreement is interpreted by the seller as acceptance of the offer."

What are the lessons to be learned from the Uber case by companies operating under a subscription model—particularly SaaS and other technology companies?

First, prior to obtaining credit card information from a consumer, provide clear and very obvious notice of all the material terms of the subscription, including:

- the fact that the consumer is enrolling in a recurring paid subscription;
- the cost of the subscription;
- the frequency of the billing;
- how to cancel.

Second, make sure you have records that this notice was provided to the consumer.

Third, make sure that you have a very simple method for cancellation, i.e. the “click to cancel button,” and refrain from engaging in conduct that appears to frustrate cancellation.

Fourth, refrain from making promises or other statements that are not true about promotions or discounts.

These same lessons apply to any subscription or membership; however, SaaS and tech companies providing software to consumers via a subscription model should review their subscription practices today to ensure that they are in compliance with these best practices. If you have questions or concerns about your company’s current subscription or membership practices, **schedule a consultation** today with The Prinz Law Office to discuss.

Software Industry Concerned About the Potential Impact of AB-5 on Gig Economy

The Software Industry is closely following legislation in California that, if passed, could have a huge impact on Gig workers and the software companies that rely on them.

The legislation at issue is AB 5, which would codify and expand the California Supreme Court's recent decision in **Dynamex Operations v. Superior Court** (2018) 4 Cal. 5th 903. The text of the proposed legislation is available [here](#).

According to **The Intercept**, the bill was sponsored by Lorena Gonzalez, a Democratic assemblywoman from San Diego. **The Intercept** reports that that California is losing an estimated \$7 billion in payroll tax annually due to the misclassification of employees as independent contractors, so the state is eager to close the loophole.

Obviously, Uber and Lyft, directly oppose the legislation, since it would directly impact their current Gig worker business model. In fact, **The Los Angeles Times** has reported that Uber and Lyft have actually paid drivers to organize protests against the legislation.

For Uber and Lyft, the obvious concern is that the passage of AB-5 in California could prompt other states to pass their own versions of the legislation, or even, that similar legislation could be passed at the federal level, which could potentially expand the impact of the legislation far beyond the borders of California.

Both **The Intercept** and **The Los Angeles Times** are reporting that Uber and Lyft have each warned investors of this potential risk in recent regulatory filings. Indeed, an

investment publication, **Investorplace**, warns that the passage of the bill will have a very detrimental impact on both companies.

The bottom line is that software companies who have built business models around the Gig worker model may soon be forced to either cease operations in California or, alternatively, to change their models for the state, if AB-5 is passed and signed into law, so if your company has been developed around this model or you are building a company relying on this model, you will want to follow this legislation closely as it moves through the California legislature.

News Update on California Supreme Court Ruling Establishing New Independent Contractor Test

News Update 5.3.18

Investigation Reportedly Launched by Department of

Justice into Uber's Use of "Greyball" Software

The Department of Justice has launched an investigation into Uber's use of the Greyball software program. For more information on the investigation, please check out the following Silicon Valley Software Law Blog posting on the story:

<http://www.siliconvalleysoftwarelaw.com/investigation-reportedly-launched-by-department-of-justice-into-ubers-use-of-greyball-software/>