

## **Alert** | Financial Regulatory & Compliance



July 2024

### **FTC Targets Adobe for Hidden Fees and Deceptive Subscription Practices**

#### **Go-To Guide:**

- The Federal Trade Commission (FTC) filed a complaint against Adobe and two of its executives, alleging that the company deceived consumers by failing to adequately disclose that its annual subscription plans were subject to an early termination fee (ETF) and by making it difficult for consumers to cancel their annual subscription plans.
- The FTC’s complaint alleges that Adobe’s conduct violated the Restore Online Shoppers’ Confidence Act (ROSCA), which requires companies using negative option offers, including automatic renewal offers, to (a) clearly and conspicuously disclose all material terms of the transaction before obtaining the consumer’s billing information; (b) obtain the consumer’s express, informed consent before making the charge; and (c) provide simple mechanisms to stop recurring charges.
- The FTC’s complaint against Adobe is another development in the Biden administration’s ongoing effort to combat so-called “junk fees” or “hidden fees.” Businesses—and especially businesses using automatic renewal offers—should consider carefully reviewing their fees structures and related disclosures to ensure they do not create unnecessary regulatory risk.

On June 17, 2024, the FTC filed a **federal court complaint** against Adobe and two of its executives. The complaint alleges that Adobe deceived consumers by failing to adequately disclose that its annual

subscription plans were subject to an ETF and by making it difficult for consumers to cancel their annual subscription plans.

“Adobe trapped customers into year-long subscriptions through hidden early termination fees and numerous cancellation hurdles,” FTC Bureau of Consumer Protection Director Samuel Levine said in a separate [press release](#). “Americans are tired of companies hiding the ball during subscription signup and then putting up roadblocks when they try to cancel. The FTC will continue working to protect Americans from these illegal business practices.”

### **The FTC’s Complaint**

The FTC alleges that Adobe markets its software products, including Acrobat, Photoshop, Illustrator, and Creative Cloud, via various automatic renewal offers. In other words, Adobe uses “a subscription-based licensing model, where consumers must pay for monthly or yearly access to Adobe’s products, and where their subscriptions renew automatically.”

The complaint focuses on one of Adobe’s automatic renewal offers—its “Annual Paid Monthly” offer, which the company sometimes called a “yearly, billed monthly” plan.

Since at least 2019, Adobe’s Annual Paid Monthly plan has included the following material terms, among others:

- Subscribers were automatically charged each month until they affirmatively cancelled.
- Subscribers that cancelled within 14 days of their first monthly payment received a full refund.
- Subscribers that cancelled more than 14 days after their first monthly payment were charged an early termination fee (ETF) equal to 50% of the “remaining contract obligation” on the one-year subscription plan.
- Subscribers that cancelled no longer received the service as of end of the monthly billing period in which they cancelled.

Examining the “enrollment flows” for the Annual Paid Monthly plan, the FTC alleges that Adobe buried the ETF for the plan and its amount in small print or required consumers to hover over small icons to find the disclosures. The FTC also alleges that Adobe was aware of consumers’ confusion about the ETF but did not take corrective actions.

In addition, the FTC alleges that Adobe “ambush[ed] subscribers with the previously obscured ETF when they attempt[ed] to cancel” their subscriptions, and that Adobe’s “cancellation processes [were] designed to make cancellation difficult for consumers” by, for instance, requiring consumers “to navigate numerous pages with multiple options, much of which [was] wholly unnecessary to honor consumers’ cancellation request.” Beyond that, the FTC alleges that consumers attempting to cancel their service faced other obstacles, including “dropped” calls and chats and transfers “to one or more Adobe representatives during their call or chat.”

The FTC contends that Adobe’s practices violated the [ROSCA](#), which requires companies using negative option offers, including automatic renewal offers, to (a) clearly and conspicuously disclose all material terms of the transaction before obtaining the consumer’s billing information; (b) obtain the consumer’s express, informed consent before making the charge; and (c) provide simple mechanisms to stop recurring charges.

## Takeaways

The FTC’s complaint against Adobe is another development in the Biden administration’s ongoing effort to combat so-called “junk fees” or “hidden fees.”

In light of the Biden administration’s focus on these fees, businesses—and especially businesses using automatic renewal offers—should consider carefully reviewing their fees structures and related disclosures to ensure they do not create unnecessary regulatory risk.

We have provided ongoing analysis and commentary on this issue as it has developed. See below for more context on legislative and regulatory efforts to curb “junk fees:”

- [Tim Butler Quoted in LA Times Article on California 'Junk Fees'](#)
- [California Bans Hidden Fees, Effective July 1, 2024](#)
- [CFPB Releases Report Highlighting Junk Fees on Mortgage Servicing](#)
- [CFPB Unveils Final Rule Banning ‘Excessive’ Credit Card Late Fees](#)
- [CFPB Issues Proposed Rule to Stop ‘Junk Fees’ on Bank Accounts](#)
- [CFPB Issues Advisory Opinion on ‘Illegal Junk Fees’ By Large Financial Firms](#)
- [FTC Proposed Rule Targeting ‘Junk Fees’](#)
- [California AG Publishes FAQs on California’s ‘Junk Fee’ Law](#)
- [FTC Takes Action Against Doxo, Citing Junk Fees](#)
- [CFPB Launches Public Inquiry into Rising Mortgage Closing Costs and ‘Junk Fees’](#)

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