

January 14, 2021

Chairman Joseph J. Simons
Commissioners Noah Joshua Phillips, Rohit Chopra,
Rebecca Kelly Slaughter, and Christine S. Wilson
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

Re: *You Can Log Out, But You Can Never Leave: How Amazon Manipulates Consumers to Keep Them Subscribed to Amazon Prime*

Dear Chairman Simons:

We, the undersigned organizations, write to draw your attention to a report by the Norwegian Consumer Council (NCC) released today which investigates the “dark patterns,” or manipulative design choices in Amazon Prime’s subscription model. The report: [You Can Log Out, But You Can Never Leave: How Amazon manipulates consumers to keep them subscribed to Amazon](#), examines unnecessary hurdles facing consumers who attempt to cancel their Amazon Prime free trial membership.

The research for this report was conducted in the U.S., the U.K., and the E.U., and the results point to a single conclusion — Amazon Prime’s subscription model is a “roach motel,” where getting in is almost effortless, but escape is an ordeal. The report concludes that Amazon’s practices are designed to unfairly and deceptively undermine the will of the consumer. The practices examined in the report include “forced continuity programs that make it difficult to cancel charges, trick questions to frustrate user choice, and free trials that automatically convert into paid memberships,”¹ which violates a consumer’s right against being charged for products sold through online negative options without a simple cancellation mechanism.

We request that the FTC investigate Amazon’s practices and analyze whether they violate Section 5 of the FTC Act, as well as the Restore Online Shoppers’ Confidence Act (ROSCA), which requires “simple mechanisms” to stop recurring charges² and the CAN-SPAM Act’s prohibition of deceptive subject headings.³

At a time where more consumers than ever rely on digital services, the threat of design features that “deceive, steer, or manipulate users into behavior that is profitable for an online service, but

¹ <https://www.ftc.gov/news-events/blogs/business-blog/2020/09/10-million-abcmouse-settlement-avoiding-auto-renewal-traps>

² 15 U.S.C. § 8403.

³ 15 U.S.C. § 7704, “It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message if such person has actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that a subject heading of the message would be likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the contents or subject matter of the message (consistent with the criteria used in enforcement of section 5 of the Federal Trade Commission Act (15 U.S.C. 45)).”

often harmful to users or contrary to their intent”⁴ is greater than ever. In the wake of the COVID-19 pandemic, Americans are depending increasingly on online platforms like Amazon to serve their basic daily needs.⁵ As the NCC report notes, many of these consumers, especially users that are unaccustomed to online services, are vulnerable to being diverted away from their intended choices and enrolled into recurring subscriptions that are intentionally difficult to cancel. The report recommends that, “as a general rule, it should not be more difficult to unsubscribe than to subscribe from a digital service.”

Specifically, the report details the following issues:

- With an increasing number of online platforms reaching high levels of popularity among consumers, and a variety of free trial subscriptions lowering the cost of entry, consumers are signing up for ever-more services and the prospect of keeping track of every service becomes complicated. In short, it is very easy to sign up for services, but cancelling subscriptions can be challenging by design.
- User interfaces can be employed to steer consumers into prioritizing Amazon’s preferred choices over others, to hide or omit relevant information, or to otherwise trick, confuse, or frustrate users.
- Amazon misdirects consumers and challenges their choices through negatively charged statements intended to discourage users from attempting to stop paying for the service, and it employs graphic designs that may steer users away from unsubscribing through a variety of “visual interference” techniques.
- Before cancelling their Amazon Prime subscription, users must scroll past a number of graphics and statements about “Exclusive Prime benefits” they will lose, a tactic that manipulates users through the fear of loss, and Amazon uses this practice to discourage the user from ending their subscription by repeatedly offering a bevy of identically-designed buttons designed to divert the user’s attention away from cancelling or delay their decision.
- If a user manages to cancel their Amazon Prime subscription, they received a message titled “Oh no! Your Prime benefits are ending!”. While titled as a “confirmation” email, the contents are written in the style of a warning, informing the user that they would soon lose benefits by ending their Amazon Prime membership while offering bright yellow button that would allow them to retain these benefits. Clicking this button instantly took the user back to their Amazon account, with a message stating that their Prime membership had been reactivated. This is the roach motel in action: unsubscribing from Amazon Prime takes navigating at least 5 pages, but undoing that choice only takes a single click.

⁴ Statement of Commissioner Rohit Chopra, Regarding Dark Patterns in the Matter of Age of Learning, Inc. Commission File Number 1723186, https://www.ftc.gov/system/files/documents/public_statements/1579927/172_3086_abcmouse_-_rchopra_statement.pdf

⁵ Amazon.com Inc. has 126 million members in its Prime loyalty program in the United States as of September, according to a new estimate from Consumer Intelligence Research Partners (CIRP) <https://www.digitalcommerce360.com/article/amazon-prime-membership/>

On the basis of these findings, the NCC is filing a complaint before the Norwegian Consumer Protection Authority (Forbrukertilsynet) against Amazon.

We likewise urge the FTC to investigate the issues detailed in the NCC report and, if warranted, to take appropriate action under the FTC Act.

Digital deception should not be a viable business model, and the FTC has a responsibility to curb unfair or deceptive practices deployed to subvert and confuse consumers who intend to terminate an online service. We believe that the NCC's findings will be of interest to you as you evaluate how the Commission can best protect consumers from sophisticated practices that are designed to confuse and nullify their choices.

Thank you for your attention to this matter.

Sincerely,

Public Citizen
Campaign for a Commercial-Free Childhood
Center for Digital Democracy
Center for Economic Justice
Consumer Federation of America
Electronic Privacy Information Center
U.S. Public Interest Research Group

Cc: Maneesha Mithal, Associate Director
Division of Privacy and Identity Protection

Andrew Smith, Director
Bureau of Consumer Protection