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: 6750–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to reinstate and extend for three additional years the information collections contained in the FTC's rule entitled "Use of Prenotification Negative Option Plans" ("Negative Option Rule" or "Rule") as that rule was written before courts vacated the final rule promulgated on November 15, 2024. The current clearance expires on November 30, 2027.

DATES: Comments must be filed by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Paperwork Reduction Act Comment: FTC File No. P044403" on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Mail Stop H-144 (Annex E), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Hong Park, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326-2158; hpark@ftc.gov.

SUPPLEMENTARY INFORMATION:

Title: Use of Prenotification Negative Option Plans, 16 CFR part 425.

OMB Control Number: 3084-0104.

Type of Review: Reinstatement of and extension of a previously approved collection.

Background:

On February 13, 2024, the Office of Management and Budget (OMB) approved an extension of the information collections associated with the version of the Negative Option Rule effective at the time.[1] On November 15, 2024, the Commission published a final rule ("2024 Rule") amending the Negative Option Rule.[2] On November 18, 2024, the OMB approved the additional information collections associated with the final rule amendments through November 30, 2027.[3]

On July 8, 2025, the U.S. Court of Appeals for the Eighth Circuit vacated the 2024 Rule.[4] On February 12, 2026, the Commission issued a final rule revising the Negative Option Rule to restore it in the form it existed before the 2024 Rule became effective.[5] Thus, only the information collections associated with the OMB's February 13, 2024 approval of an extension for information collections are now in effect and need to be extended for three additional years.

The Negative Option Rule, as now restored, governs the operation of prenotification subscription plans. Under these types of plans—which can include things such as a book-of-the-month club, food-of-the-month club, or clothing-items-of-the-month club—a seller provides a consumer with automatic shipments of merchandise unless the consumer affirmatively notifies the seller they do not want the shipment. The Rule requires that a seller notify a member that they will automatically ship merchandise to the member and bill the member for the merchandise if the subscriber fails to expressly reject the merchandise beforehand within a prescribed time.

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[1] Extension without change of a currently approved collection, ICR Ref. No. 202307-3084-005, OMB Control Number 3084-0104, 02/13/2024, available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202307-3084-005.

[2] FTC, Final Rule: Negative Option Rule, 89 FR 90476 (Nov. 15, 2024).

[3] Revision of a currently approved collection, ICR Ref. No. 202411-3084-002, OMB Control Number 3084-0104, 11/18/2024, available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202411-3084-002.

[4] *Custom Commc'ns, Inc. v. FTC*, 142 F.4th 1060, 1074 (8th Cir. 2025).

[5] 91 FR 6507 (Feb. 12, 2026).

The Rule protects consumers by: (1) requiring that promotional materials disclose the terms of membership clearly and conspicuously; and (2) establishing procedures for the administration of such "negative option" plans.

Affected Public: Sellers of prenotification subscription plans.

Estimated Annual Burden Hours: 2,500 hours.

Estimated Annual Labor Costs: $160,755 (solely related to labor costs).

Estimated Annual Non-Labor Costs: $0 or de minimis.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB reinstate and extend the clearance for the information collection requirements contained in the Negative Option Rule.

Burden Statement

Estimated Annual Burden Hours: 2,500.

Based on industry input, FTC staff estimates that no more than 25 sellers are subject to the disclosure requirements contained in the Rule.[6] FTC staff further estimates that each seller will require annually about 100 hours to comply with the Rule's disclosure requirements. This yields a total annual burden of 2,500 hours (25 sellers × 100 hours).

Estimated Annual Cost Burden: $160,755 (solely related to labor costs).

Based on recent data from the Bureau of Labor Statistics, the mean hourly wage for advertising and promotion managers is approximately $74.18 per hour;[7] compensation for office

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[6] In 2023, FTC staff estimated 25 sellers were subject to the Rule's disclosure requirements based on industry input. 88 FR 59922 (Aug. 30, 2023). That estimate reflected a severe decline from 75 sellers estimated in 2020. 85 FR 46628 (Aug. 3, 2020). FTC staff anticipates that the number of sellers subject to the Rule's requirements continues to decline as firms offering prenotification negative option plans exit the market and other firms increasingly adopt a subscription-based approach without a prenotification feature. *See, e.g.,* Sam Spratford, *Subscription Addiction,* Publishers Weekly (May 8, 2026), https://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/100363-subscription-addiction.html (last visited Sept. 15, 2026) (noting book-of-the-month sellers offering monthly subscription without prenotification negative option feature); Jordan Valinsky, *Columbia House – yes, it still exists – is going out of business*, CNN (Aug. 19, 2026), https://www.cnn.com/2026/08/19/media/columbia-house-shut-down (last visited Sept. 9, 2026) (reporting that Columbia House, a pioneer of product-of-the-month plans with prenotification negative option feature, is ceasing operations).

[7] *See* Occupational Employment and Wages—May 2025, Table 1, at

and administrative support personnel is approximately $24.79 per hour.[8] Assuming that managers perform the bulk of the work, and clerical personnel perform associated tasks (*e.g.,* placing advertisements and responding to inquiries about offerings or prices), the total cost to the industry for the Rule's information collection requirements would be approximately $160,755 [(80 hours managerial time × 25 sellers × $74.18 per hour) + (20 hours clerical time × 25 sellers × $24.79 per hour)].

Because the Rule has been in effect since 1974, the vast majority of the negative option sellers have no current start-up costs. For new sellers entering the market, the costs associated with the Rule's disclosure requirements, beyond the additional labor costs discussed above, are *de minimis*. Negative option sellers already have access to the ordinary office equipment necessary to comply with the Rule. Similarly, the Rule imposes few, if any, printing and distribution costs. The required disclosures generally constitute only a small addition to the advertising for negative option plans. Because printing and distribution expenditures are incurred to market the product regardless of the Rule, adding the required disclosures results in marginal incremental expense.

Request for Comment:

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will be practically useful; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

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https://www.bls.gov/news.release/ocwage.t01.htm (mean hourly wage rate for advertising and promotion managers).

[8] *See id.* (mean hourly wage rate for office and administrative support occupations).

For the FTC to consider a comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you file your comment on paper, write "Paperwork Reduction Act Comment: FTC File No. P044403" on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Mail Stop H-144 (Annex E), Washington, DC 20580.

Because your comment will become publicly available at *https://www.regulations.gov*, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled "Confidential," and (3) comply with FTC Rule 4.9(c).

In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov*, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Josephine Liu,

Assistant General Counsel for Legal Counsel.

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