

The Honorable Mark Takano
41st District, California
Committee on Energy and Commerce
Members' Day Hearing

Chairman Pallone, Ranking Member Walden, and Members of the Committee, thank you for the opportunity to testify today.

We've all been there. You are shopping online and sign-up for an enticing "risk-free trial offer" only to get hammered later with hidden fees and unexpected costs. You're not alone. Online deals like these have duped consumers out of more than a billion dollars during the last decade. Related complaints to the Federal Trade Commission more than doubled between 2015 and 2017. My office obtained a consumer complaint to the FTC from a constituent in my district demonstrating what so many customers experience:

"When you place an order, you are automatically enrolled in a monthly "membership" which incurs an automatic charge each month to your account and credit card of \$40 without permission! This is not clear at all when ordering. I never agreed to it!"

Amazingly, the reason why my constituent and so many online shoppers are getting swindled isn't in dispute – its obvious. These deals rely on a murky sales tactic known as "negative option billing" which reverses the structure of a typical consumer purchase. These transactions allow a business to interpret a customer's *lack* of action to reject an offer as *approval* to be charged for goods or services. Expensive obligations can go misunderstood or unnoticed for months while costs pile up. Making matters worse, customers seeking to terminate their purchase or enrollment are often met with cumbersome and confusing cancellation and return policies. These outcomes are unacceptable.

That's why I encourage the Committee to consider legislation that I have introduced which addresses this important topic. My bill, **the Unsubscribe Act**, will hold companies accountable for deceptive marketing and ensure that buyers are less vulnerable to the confusing nature of online negative option agreements. The bill achieves this in three ways:

One – require a straightforward cancellation process.

- Businesses are required to provide a cancellation mechanism that mirrors customers' method of enrollment. A simple "click-to-cancel" option allows buyers to escape an unwanted deal as easily as they were lured into it.

Two – protect consumers from getting stuck in an expensive, unwanted deal.

- Sellers are required to obtain additional affirmative consent to bind consumers at the end of free-trial periods. This way consumers are protected from accidentally enrolling in a pricey "membership" plan if they only intended on making a single purchase.

And lastly, three – ensure consumers remain fully and fairly informed.

- The bill also ensures shoppers receive periodic notification of any and all obligations or changes to their contracts. Proactively reminding buyers of recurring charges, reenrollment details, and agreement changes will help decrypt the complex nature of negative option agreements.

Members of this Committee understand how critically important it is for consumers to receive protections that *keep pace* with today's gigantic online marketplace. During the first quarter of 2019 alone, U.S. online retailers raked in over \$135 billion dollars, and the proportion of online sales in the retail market jumped from under 4 percent to over 10 percent during the past decade. At a time when more and more Americans use their phone or computer to shop, Congress *must* step up to ensure no consumer is left unfairly vulnerable to misleading and abusive online deals.

Thank you, I yield back.