



Enforcement Alert from Hudson Cook, LLP: CFPB Charges Payment Processor with Using 'Dark Patterns' to Enroll Consumers into Auto-Renewal Plans

October 19, 2022 | [Michael A. Goodman](#) and [Francis Conlon](#)

HIGHLIGHTS:

- The CFPB sued an online event registration and payment processing service company for allegedly illegally and automatically enrolling consumers into membership subscriptions.
- The agency's complaint alleges that the company generated over \$300 million in subscription fees, and it aims to require the company to reimburse consumers as well as pay a penalty and change its enrollment practices.

CASE SUMMARY:

On October 18, 2022, the CFPB filed suit in Texas federal court against a company that provides online registration and payment processing services to event organizers. The CFPB alleges that the defendant-company deployed "digital duplicity" or "dark patterns" to deceive consumers into signing up for costly membership subscriptions and generating hundreds of millions of dollars in fees in the process.

The defendant operates a platform used by organizers of events like youth camps and charity fundraisers. Consumers signing up for events submit registration and payment information through the platform, and the defendant retains a portion of the payment as its compensation and forwards the remainder to the event organizer. According to the CFPB, during the event enrollment process, the defendant markets to consumers a paid membership that offers discounts on products and events, such as wine tastings, flowers, and travel, that are typically unrelated to the event for which the consumer is registering. It is this membership that is the subject of the CFPB's suit.

In its complaint, the CFPB charges that the defendant signed up and charged consumers for discount club memberships without their knowledge or consent in violation of the Consumer Financial Protection Act. The Bureau alleges that, during the event enrollment process, the defendant presents consumers with a call-to-action button labeled "Accept," which consumers believe is required to accept charges associated with the event they are registering for, but which instead enrolls them in a trial membership that automatically renews each year unless the consumer takes affirmative steps to cancel. Allegedly, the defendant's own marketing tests showed that such an "ambiguous" call-to-action button would lead to higher enrollment than other words or phrases more likely to alert consumers that they were signing

up for a paid membership, and the defendant avoided using those other words or phrases. Over a 10-year period, the defendant allegedly collected more than \$300 million in membership fees through this enrollment process. The CFPB also charges that the defendant's failure to notify consumers in advance that the membership fee would increase when it automatically renewed violated the Electronic Funds Transfer Act and its implementing regulation, known as Regulation E.

In its demand for relief, the CFPB seeks an injunction, redress for consumers, disgorgement of unjust gains, and the imposition of civil money penalties.

RESOURCES:

You can review all the relevant court filings and press releases at the CFPB's Enforcement page.

- [Complaint](#)
- [CFPB Press Release](#)
- [Statement of CFPB Director](#)

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