

Consumer Awareness in the Digital Age

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Federal Trade Commission

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The views expressed herein are those of the speaker and do not necessarily represent the views of the Federal Trade Commission or any individual Commissioner

What are consumers aware of online?

- Manipulative Design
- Ad Transparency
- Pricing

What are consumers aware of online?

- **Manipulative Design**

- Ad Transparency

- Pricing

Amazon Prime Signups

No thanks, I do not want fast, free shipping

Get FREE Two-Day Shipping

Enjoy Prime FREE for 30 days

Amazon Prime Signups

Start a 30-day free trial of Amazon Prime

No thanks, I do not want fast, free shipping

Get FREE Two-Day Shipping

Enjoy Prime FREE for 30 days

By signing up, you agree to the [Amazon Prime Terms](#) and authorize us to charge your default payment method or another payment method on file after your 30-day free trial. Your Amazon Prime membership continues until cancelled. If you do not wish to continue for \$12.99/month + any taxes, you may cancel any time by visiting [Your Account](#).

Amazon Prime Signups

No thanks, I do not want fast, free shipping

Get FREE Two-Day Shipping

Enjoy Prime FREE for 30 days

elements. For example, according to the same 2018 document: (1) the button to enroll in Prime “does not make it clear that consumers are signing up for Prime”; (2) the option to decline Prime enrollment “is not clear/prominent so customers miss it” and click on the enrollment option inadvertently; (3) Prime branding is not prominent on the UPDP “so customers did not realize this was a Prime upsell”; and (4) the price of Prime and the fact that the subscription service would auto-renew “was not prominent so customers did not realize the associated cost.”

Prime Cancellation Flow



“Dark Patterns”: Manipulative Design

16 **Second**, it is now clear many of the withheld documents were *nowhere close to*
17 privileged. Rather, they contain probative, inculpatory, and entirely nonprivileged statements.
18 For example, one document reveals that, during a December 3, 2020, meeting Doug Herrington,
19 currently the CEO of the Amazon retail business, stated “subscription driving is a bit of a shady
20 world” and referred to then-Amazon CEO Jeff Bezos as Amazon’s “chief dark arts officer” in
21 that regard. Stunningly, Amazon withheld this portion of the document from the FTC as
“privileged,” even though it did not contain any attorney-client communications.

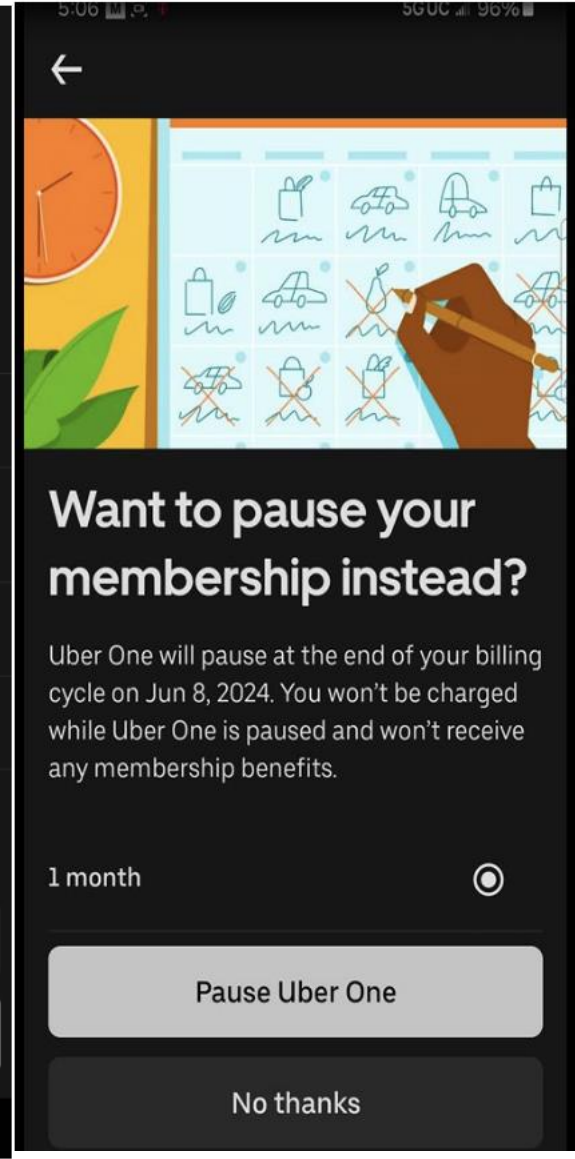
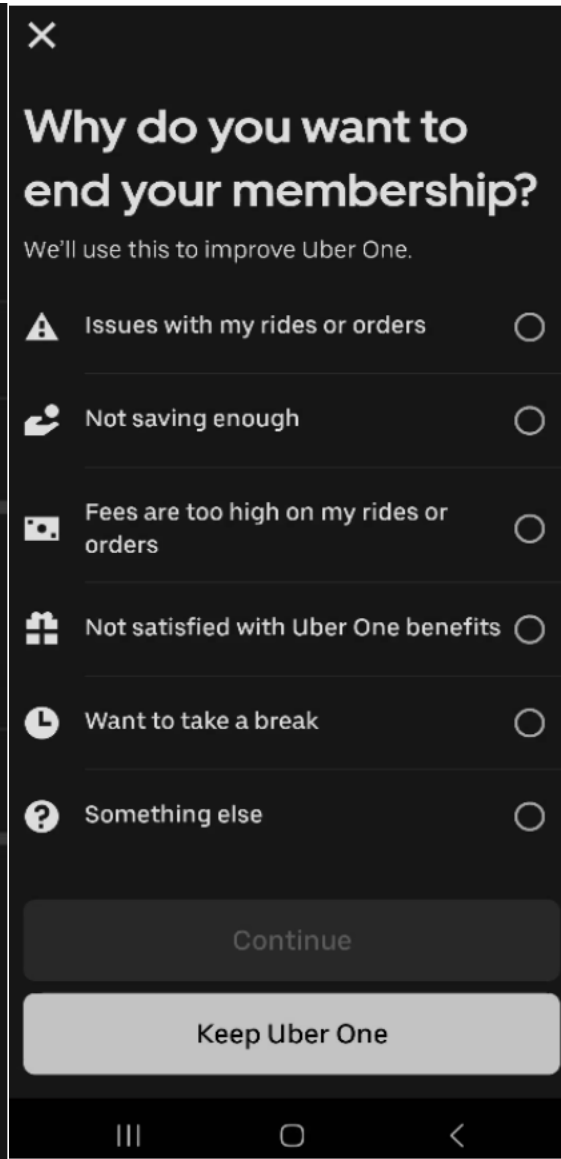
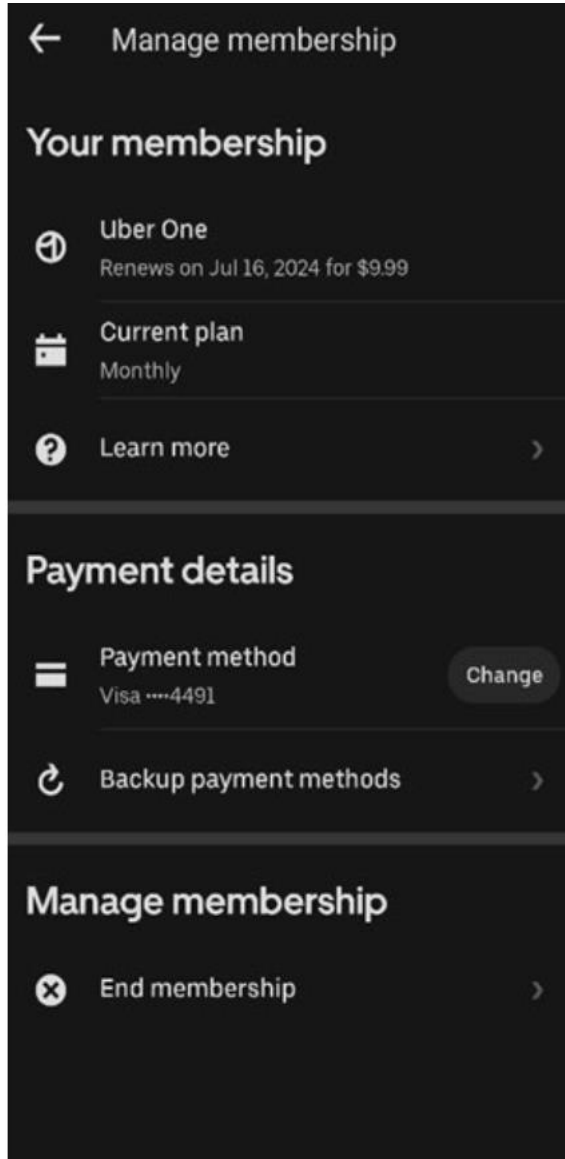
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hard for people to end membership.”

UberOne: Uber's Subscription Service

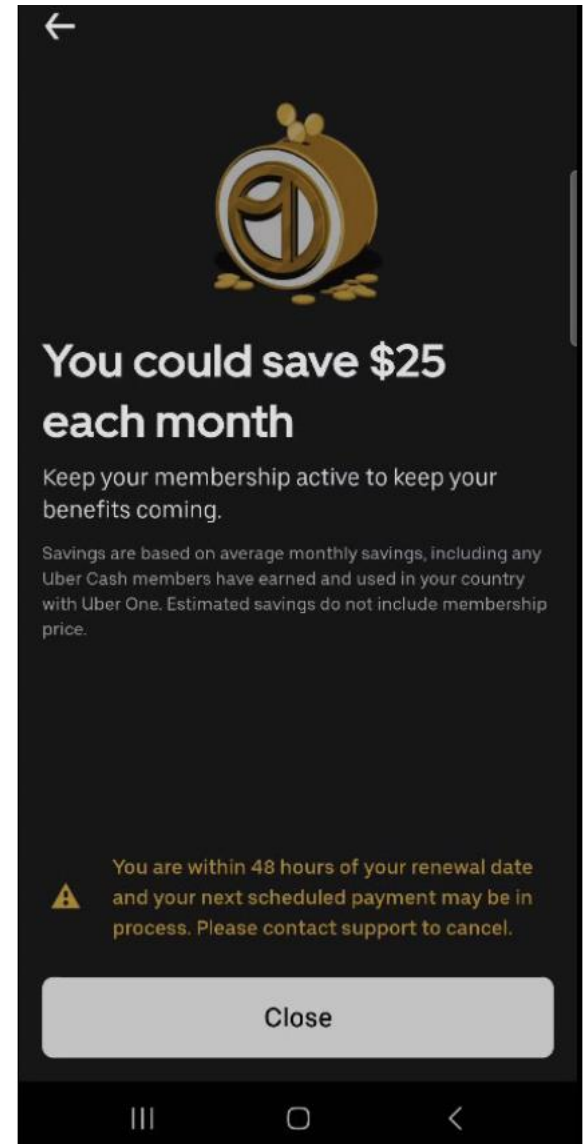
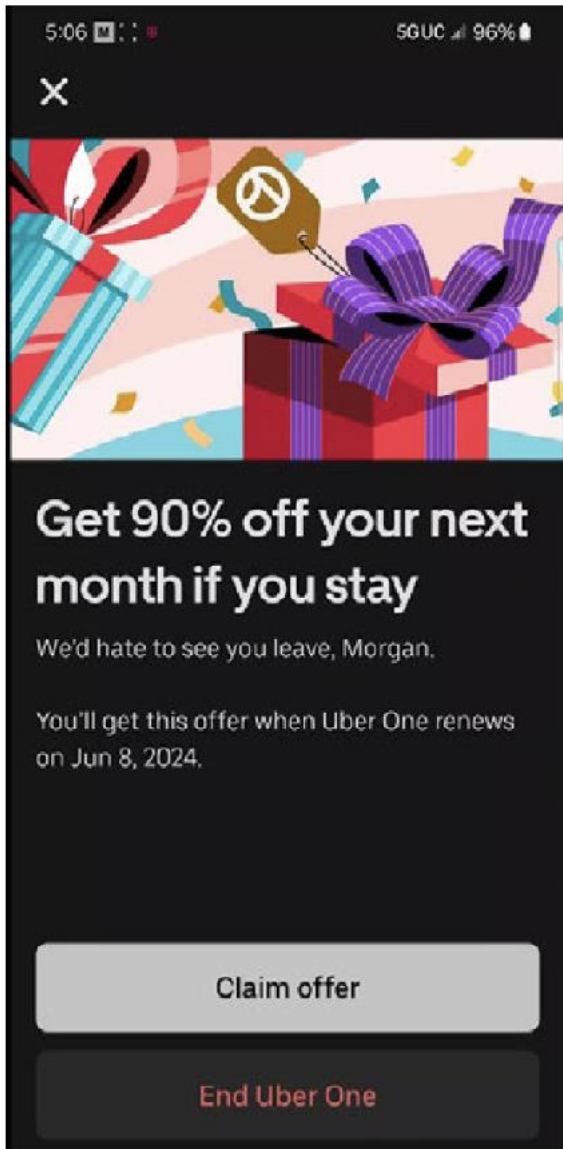
FTC Takes Action Against Uber for Deceptive Billing and Cancellation Practices

FTC says company enrolled consumers in subscription service and charged them without their consent, made it difficult for users to cancel

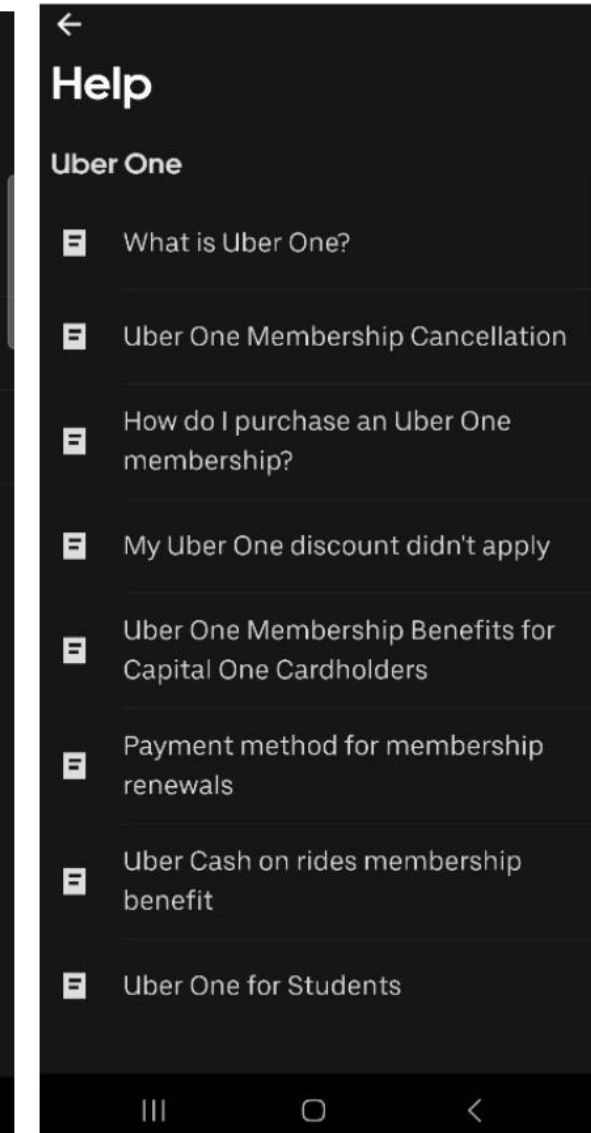
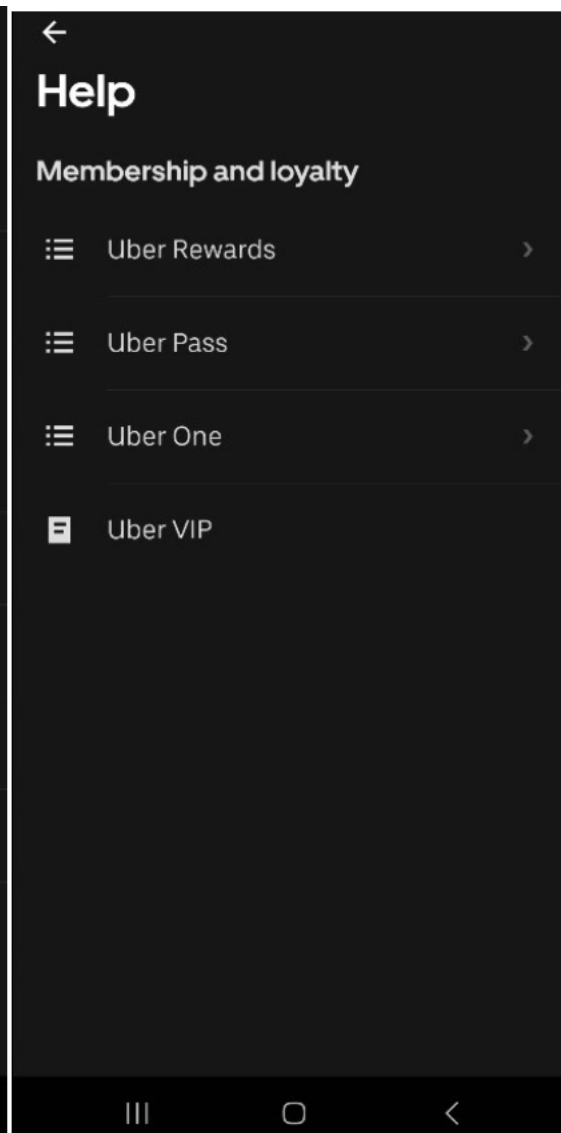
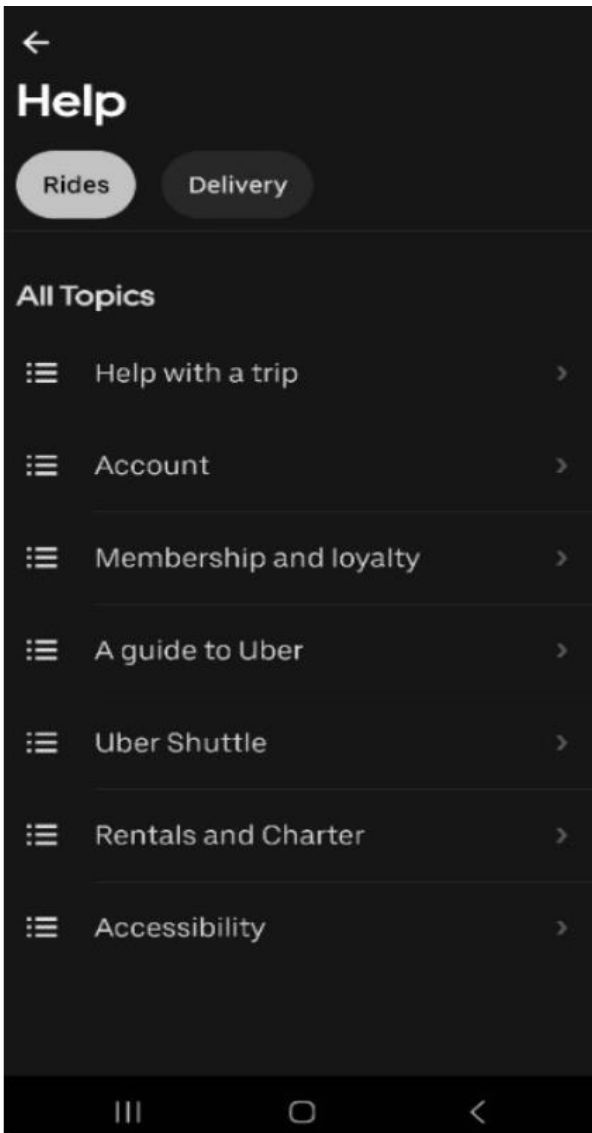
UberOne Cancellation Flow



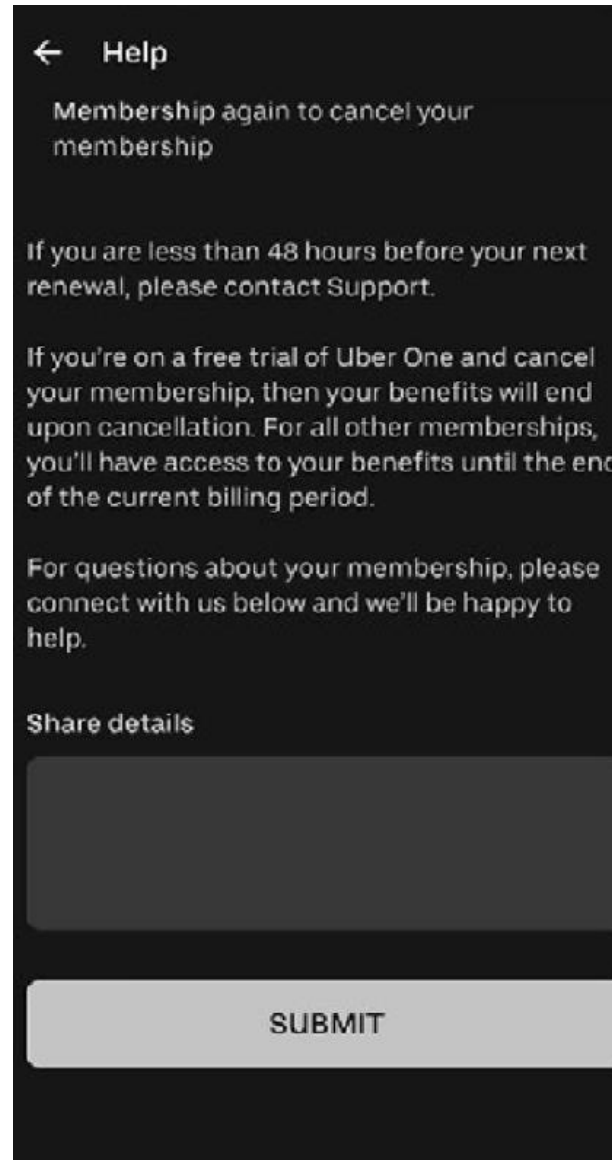
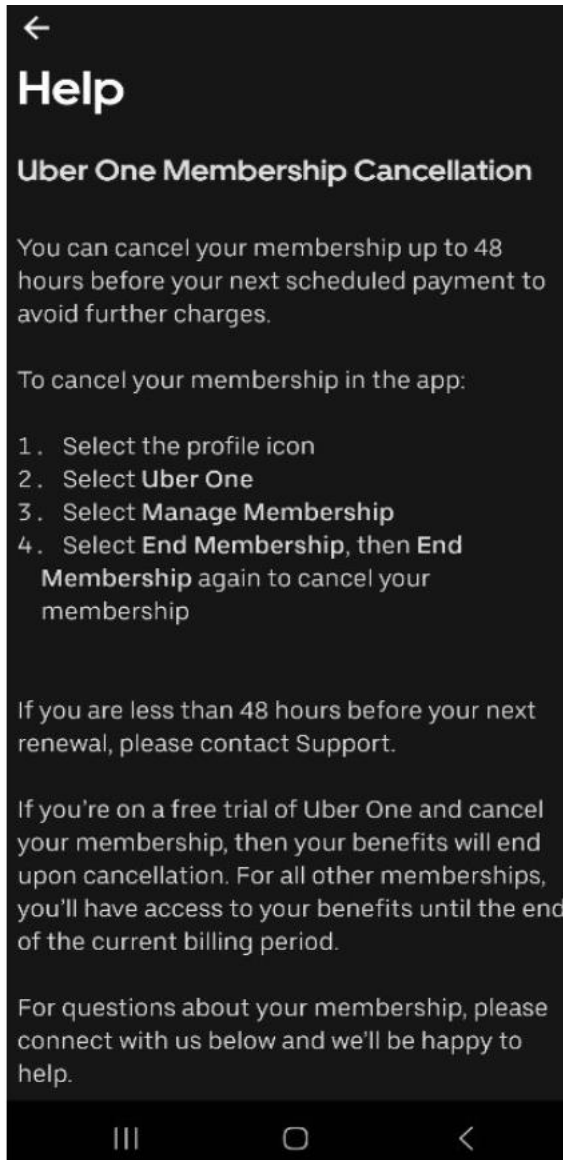
UberOne Cancellation Flow



Within 48 Hours: Alternative Flow



Within 48 Hours: Alternative Flow



What are consumers aware of online?

- Manipulative Design

- **Ad Transparency**

- Pricing

Fake Reviews

Skin care brand Sunday Riley wrote fake Sephora reviews for almost two years, FTC says

Hi All,

Now that Saturn is up and Space Race coming up next week, we need to make sure the reviews for clients stay positive and help generate and confidence in the products.

Credibility is key to the reviews!

If everyone could write *at least* 3 reviews for Saturn over the next week, and some for Space Race the week after. I would encourage you to create profiles ASAP and write a couple reviews on a makeup, hair or nail product to build a profile history. Please make sure to follow the guidelines for VPN (see below) as this is essential so the reviews don't get traced back to our IP address.

When reviewing Saturn please address things like how cooling it felt, the green color, the non-drying mask effect, radiance boosting, got rid of your acne after a couple uses. The biggest points of difference for this mask and other acne masks are how this mask increases radiance and doesn't dry out the skin like all other acne masks do. It helps to make yourself seem relatable - like you know how hard acne is and you've tried everything, and this one actually works or mention things like yes, it's a little more expensive, but works incredible well compared to the cheaper masks out there. If you need any help with things to come up with to say, feel to ask myself, Sunday or Addison. As reviews come in, read them too. If you notice someone saying things like I didn't like "x" about it, write a review that says the opposite. The power of reviews is mighty, people look to what others are saying to persuade them and answer potential questions they have.

Below are the ExpressVPN instructions, please do not forget to do any of the steps:

1. Download and Install ExpressVPN on your computer <https://www.expressvpn.com>
2. Erase all cookies from your computer.
3. Login to the VPN to hide your IP address. (Email: [Hollen](#) Password [\[REDACTED\]](#))
4. Create an email account (gmail/yahoo/etc) and then a sephora account with the same log in. Keep track of your usernames because you will want to use them again periodically on our products and others. When you create your Sephora profile mix and match your identities, pick different ages, locations, etc.
5. Leave reviews for 3-4 non-SR products before you leave any for an SR product. The SR product review should be glowing, but DO NOT mention other brands/products or it will be flagged and pulled. Screenshot your review before you submit it. Reviews can be lengthy or short, just make sure they are effective with trying to sell the product to someone who may relate to what you say about it.
6. Log out of VPN when done because only 3 users can be on at a time.
7. Email Hollen your screenshot for SR products reviews
- 8.

If you skip any of step 2-5, it's a waste of time because your review will be pulled.

Happy reviewing and if you have any questions please let me know.

Fake Reviews

Skin care brand Sunday Riley wrote fake Sephora reviews for almost two years, FTC says

Fashion Nova will Pay \$4.2 Million as part of Settlement of FTC Allegations it Blocked Negative Reviews of Products

Case is first to challenge a company's failure to post negative reviews

Influencers

Social Media Bot Company
Devumi LLC Reaches \$2.5
Million Settlement with FTC
for Sale of Misleading Social
Media “Influence Indicators”

FTC Warns Two Trade Associations and a Dozen Influencers
About Social Media Posts Promoting Consumption of
Aspartame or Sugar

Letters say influencers failed to adequately disclose that they were paid by industry

Fraudulent Advertising

Assurance IQ and MediaAlpha to Pay a Total of \$145 Million to Settle FTC Charges That They Misled Consumers Seeking Health Insurance

Companies also will be prohibited from misrepresenting healthcare products as part of separate proposed orders with the FTC

Fraudulent Advertising

 **Obamacare Plans**
Sponsored ...
ID: 584671053465291

Health Insurance Open Enrollment UPDATE 📢

The Administration has approved FREE Health Insurance Plans in 2023 for 65%+ of Americans.

Thanks to the Affordable Cart Act, Americans earning less than \$100k/year may now qualify to get these FREE Health Insurance Plans in 2023.

An AMAZING new Health Giveback Program has been rolled out nationally to help everyday Americans get the coverage they deserve! ✅

4 out of 5 people who qualify & call the FREE helpline are finding Health Plans in their state.

If you're born between 1967-1997, we're urging you to call immediately before it's too late... ⏰

📢 BREAKING NEWS 📢

Americans earning less than \$50k/year now qualify for a:

FREE HEALTH INSURANCE PLAN

All thanks to a new stimulus rolled out by the current administration to help out during these uncertain times.

CALL TODAY TO SEE IF YOU QUALIFY 📞

WWW.OBAMACAREPLANS.COM
Claim Your FREE Health Insurance Plan
During This Open Enrollment 🌟

[Learn more](#)

Fraudulent Advertising

Ad · <https://www.connecticuthealthplans.org/> ⋮

Open Enrollment Extended: 1/15 - Connecticut Health Insurance

Obamacare Coverage Does Not Expire Until the End of 2023. CT Plans from \$30/Month! Don't Miss the Jan 15 Deadline. If You Live in CT, **Enroll** Today and Save 75%! Lowest Rates Possible. Platinum Plans. Affordable Health Care. Stop the Tax Penalty.

[Open Enrollment](#) · [Obamacare Enrollment](#) · [Obamacare FAQs](#) · [Silver Health Plans](#)

Image H (Google ad – search for “connecticut open enrollment”) (Jan. 2023)

Fraudulent Advertising

Ad · <https://www.obamacare-plans.com/> ⋮

ObamaCare Enrollment 2023 - Enroll Online or On the Phone

Quick and Easy Eligibility Process. Health Plans from \$1 per Day. Apply Here Now! Health...

[Find ObamaCare Plans](#) · [Get Obamacare Today](#) · [Open Enrollment is on Now](#)

[Bronze Plan](#) - from \$40.00/mo - Low Monthly Cost · [More](#) ▾

Image F (Google ad – search for “obamacare insurance”) (Jan. 2023)

Sponsored



obamacare-plans.com

<https://www.obamacare-plans.com/open-enrollment/2025> ⋮

2025 Affordable Care Act Plans - Open Enrollment 2025

Healthcare Coverage Does Not Expire Until the End of 2025. Plans from \$30 per Month. Quick and Easy Eligibility Process. Health Plans from \$1/Day. Apply Today! 2024 Obama Care Plans. Subsidy Rates Available.

[Find ObamaCare Plans](#) · [Open Enrollment is on Now](#) · [Get Obamacare Today](#)


[Bronze Plan](#) - from \$40.00/mo - Low Monthly Cost · [More](#) ▾


 Call us

Image G (Google ad – search for “aca plans”) (Nov. 2024)

Fraudulent Advertising

ObamacarePlans.com is not a government website and is privately owned. [Learn more.](#)





 **Obamacare plans.com**

 **Talk to an Agent!**
[\(844\) 538-4682](tel:(844)538-4682)

The Deadline for 2023 Enrollment is Jan 15:
You Only Have 2 Days 14 Hours 15 Min 47 Sec Left!







Rates as low as \$1/day in Colorado

80107 [See Plans & Prices >](#)

 Rates as Low as \$30/Month*  Compare in Minutes  Top Carriers & Brokers  100% Safe & Secure

Coverage Lasts Until the End of 2023!

A few of the leading carriers and brokers we work with in Colorado include:

What are consumers aware of online?

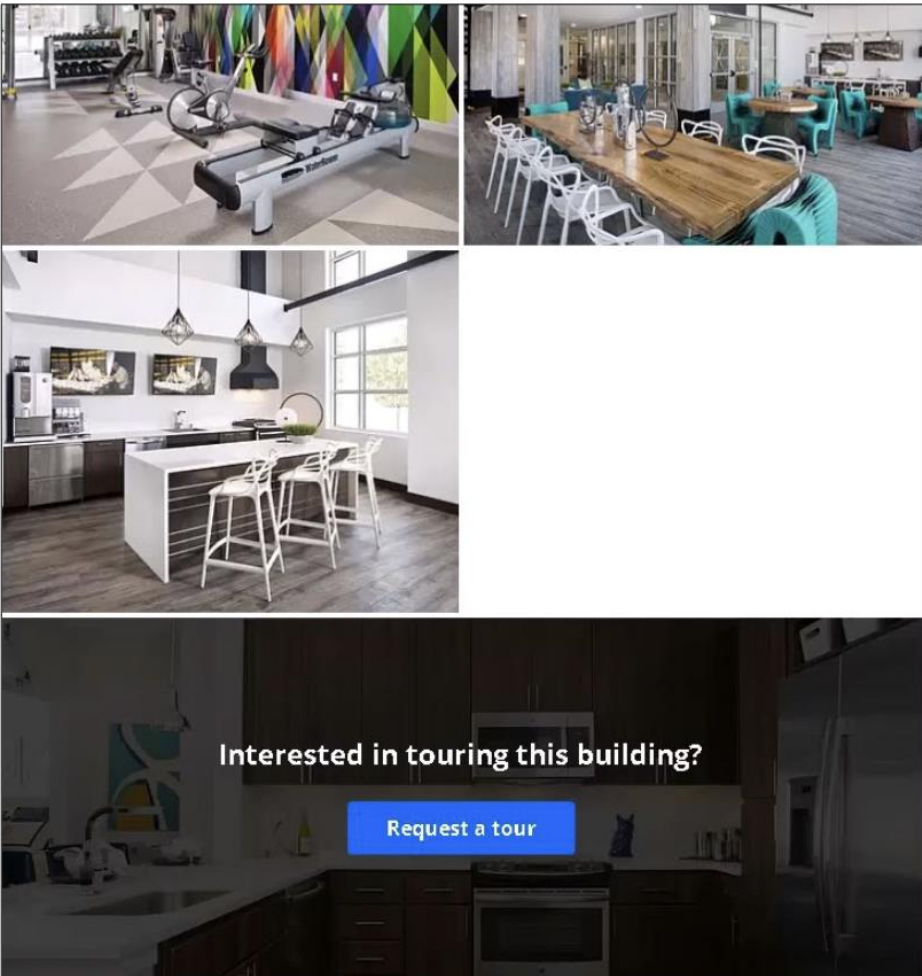
- Manipulative Design
- Ad Transparency
- **Pricing**

Price Transparency: Apartment Rentals

FTC, State of Colorado Take Action Against Greystar, Nation's Largest Multi-Family Rental Property Manager, For Deceiving Consumers About Rent Prices

Complaint charges that Greystar falsely advertises rental prices that do not include numerous mandatory fees, adding up to hundreds of millions of dollars

Rental Prices on Search Platforms



Zillow Save Share More

Broadstone on 9th

4300 E 9th Ave, Denver, CO 80220

[Request to apply](#) [Request a tour](#)

Units Property Overview Facts & features Policies Ne >

Please call our Leasing Office for comple

Rental costs & fees

Select a unit-type to view your estimated move-in costs.

Studio

Monthly costs	
Monthly rent	\$1,562 - \$1,633
Parking fee	\$---/mo
Pet fee	\$70/mo
Est. monthly cost	\$1,632 - \$1,703

Interested in touring this building?

[Request a tour](#)

Rental Prices on Search Platforms

The screenshot displays the 'Broadstone on 9th' property page on Apartments.com. The 'Fees and Policies' section is active, showing a table of one-time move-in fees. A sidebar on the right contains contact options like 'Request Tour' and 'Send Message'. The 'Details' section is partially visible at the bottom.

Map **Menu** **English** **Apartments.com** **Manage Rentals** **Sign Up / Sign In**

Broadstone on 9th **GREYSTAR**
The Global Leader in Rental Housing

Pricing **Property Map** **About** **Contact** **Amenities** **Fees and Policies** **Location** **Education** **Transportation** **Points of Interest** **Reviews**

Fees and Policies

The fees below are based on community-supplied data and may exclude additional fees and utilities.

Required Fees **Pets** **Parking** **Storage**

One-Time Move-In Fees

Administrative Fee	\$200
Application Fee	\$50

Details

Lease Options

- Available months 3,4,5,6,7,8,9,10,11,12,13,14,15

Property Information

- Built in 2015
- 324 units/4 stories
- Energy Star Rated
- Property License Number: 2022-BFN-0015862

Contact This Property

Request Tour

Send Message

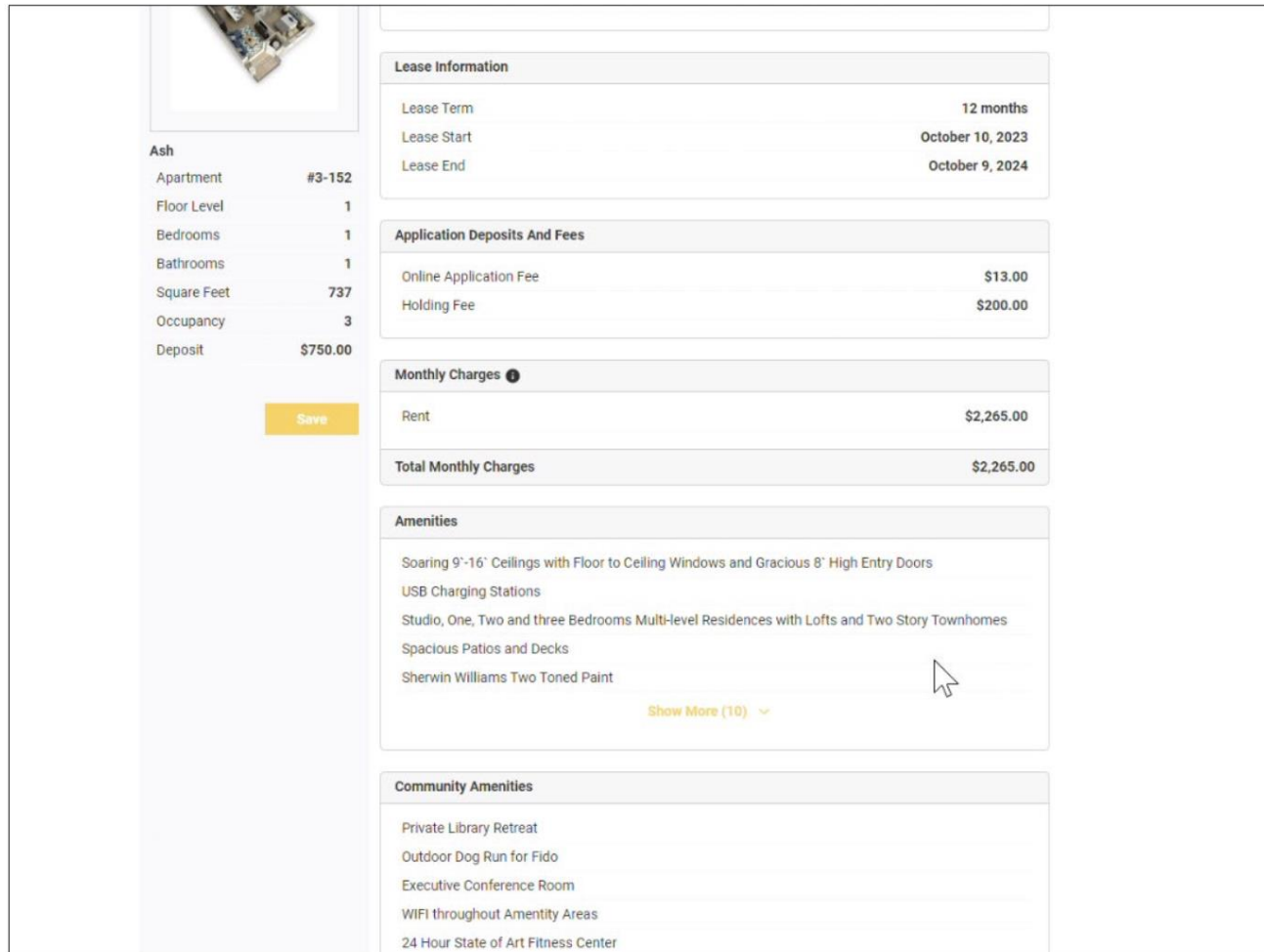
(720) 605-9831

Language: English

Open 11am - 6pm Today

[View All Hours](#)

Rental Prices on Application Website



Ash

Apartment	#3-152
Floor Level	1
Bedrooms	1
Bathrooms	1
Square Feet	737
Occupancy	3
Deposit	\$750.00

[Save](#)

Lease Information

Lease Term	12 months
Lease Start	October 10, 2023
Lease End	October 9, 2024

Application Deposits And Fees

Online Application Fee	\$13.00
Holding Fee	\$200.00

Monthly Charges

Rent	\$2,265.00
Total Monthly Charges	\$2,265.00

Amenities

- Soaring 9'-16' Ceilings with Floor to Ceiling Windows and Gracious 8' High Entry Doors
- USB Charging Stations
- Studio, One, Two and three Bedrooms Multi-Level Residences with Lofts and Two Story Townhomes
- Spacious Patios and Decks
- Sherwin Williams Two Toned Paint

[Show More \(10\)](#)

Community Amenities

- Private Library Retreat
- Outdoor Dog Run for Fido
- Executive Conference Room
- WIFI throughout Amentity Areas
- 24 Hour State of Art Fitness Center

Rental Fees on Lease

j) **Pest Control** service to your apartment will be paid by you either:

directly to the utility service provider; or

pest control bills will be billed by the service provider to us and then allocated to you based on the following formula: 4

If flat rate is selected, the current flat rate is \$ 5.00 per month.

3rd party billing company if applicable Conservice

k) **Valet Trash** service to your apartment and costs will be paid by you either:

directly to the utility service provider; or

bills will be billed by the service provider to us and then charged to you based on the following formula: 4

If flat rate is selected, the current flat rate is \$ 25.00 per month.

Additional, replacement, and missing valet trash containers are \$ 50.00.

3rd party billing company if applicable Billed in house

SPECIAL PROVISIONS (CONTINUED FROM PAGE 2) **PACKAGE LOCKER: This property offers the package locker amenity which shall be used for delivery of resident packages only. Resident will pay a one-time set-up fee of \$20.00 for package locker, which is the amount charged by the service provider and/or administrative and account costs, which Owner may have to expend in the set-up of the service.**

3. When billed by us directly or through our billing company, you must pay utility bills within 21 days of the date when the utility bill is issued at the place indicated on your bill, or the payment will be late. If a payment is late, you will be responsible for a late fee as indicated below. The late payment of a bill or failure to pay any utility bill is a material and substantial breach of the Lease and we will exercise all remedies available under the Lease, up to and including eviction for nonpayment. To the extent there are any new account, monthly administrative, late or final bill fees, you shall pay such fees as indicated below.

New Account Fee:	\$ <u>20.00</u>	(not to exceed \$ <u>25.00</u>)
Monthly Administrative Billing Fee:	\$ <u>5.40</u>	(not to exceed \$ <u>6.00</u>)
Late Fee:	\$ _____	(not to exceed \$ _____)
Final Bill Fee:	\$ <u>20.00</u>	(not to exceed \$ <u>25.00</u>)

If allowed by state law, we at our sole discretion may amend these fees, with written notice to you.

Implicit Price: Privacy and Data Security

FTC Sues Kochava for Selling Data that Tracks People at Reproductive Health Clinics, Places of Worship, and Other Sensitive Locations

Agency Alleges that Kochava's Geolocation Data from Hundreds of Millions of Mobile Devices Can Be Used to Identify People and Trace Their Movements

Geolocation Data

Field name	Description	Example	Data type
device_id_value	Unique device ID associated with the device	-	string
device_id_type	Device type associated with the device (IDFA and ADID only)	-	string
activity_timestamp	Timestamp of when the device hits the location	-	timestamp
latitude	Precise latitude of the device	-	string
longitude	Precise longitude of the device	-	string
horizontal_accuracy	Horizontal accuracy of the precision of the lat and lon (in meters)	-	string
ip_address	IP Address of the device	-	string

Household Mapping

- We determine a home location by looking at the resting lat/long of a given device between the hours of 10pm and 6am and omit known business locations.

Sensitive Characteristics

Expecting Parents

LIFESTYLE

11.41M DEVICES

This iteration of this audience segment is created based on consumers' usage of pregnancy, ovulation, or menstruation tracking apps.

Sensitive Locations

69. As another example, on a webpage advertising how Kochava's data could be used to study the effects of COVID-19, Kochava acknowledges that its data has included visitation information to sensitive locations such as hospitals and testing sites:

Points-of-Interest

Unlock insights on visitation to essential brick-and-mortar stores, hospitals, testing sites, and more.

Implicit Price: Privacy and Data Security



PINPOINTING THE PROBLEM —

Data broker allegedly selling de-anonymized info to face FTC lawsuit after all

Kochava tried to argue that selling sensitive info doesn't directly cause harms.

ASHLEY BELANGER - 2/6/2024, 9:02 PM

Tools

1. Legal Authorities

2. Sources of Evidence

Tools

1. Legal Authorities

2. Sources of Evidence

FTC Dual Mandate (Section 5)

Unfair methods of competition

Unfair or deceptive acts or practices

Deception

1. Representation, Omission, or Practice Likely to Mislead
2. Perspective of Reasonable Consumer
3. Material: Will it affect consumer's decision?

Unfairness

1. Substantial Injury to Consumers
2. Not Reasonably Avoidable
3. Not Outweighed by Countervailing Benefits to Consumers or Competition

OPINION ANALYSIS

Justices unanimously reject FTC's authority to compel monetary relief



By **Ronald Mann**
on Apr 23, 2021



VOTE BY IDEOLOGY

VOTE BY SENIORITY

= majority opinion author = concurring opinion author = dissenting opinion author

State Partners

FTC, State of Colorado Take Action Against Greystar, Nation's Largest Multi-Family Rental Property Manager, For Deceiving Consumers About Rent Prices

Complaint charges that Greystar falsely advertises rental prices that do not include numerous mandatory fees, adding up to hundreds of millions of dollars

FTC and States File Amended Complaint Against Uber for Deceptive Billing and Cancellation Practices

Twenty one states and the District of Columbia join amended complaint seeking civil penalties

New Laws for the Digital Economy

- Children's Online Privacy Protection Rule (1998)
- Health Breach Notification Rule (2009)
- Restore Online Shoppers' Confidence Act (2010)
- Consumer Review Fairness Act (2016)
- Better Online Ticket Sales Act (2016)
- Take it Down Act (2025)

New Regulations for the Digital Economy

Federal Trade Commission Announces Bipartisan Rule Banning Junk Ticket and Hotel Fees

Rule targets bait-and-switch pricing for live-event tickets and short-term lodging

Federal Trade Commission Announces Final Rule Banning Fake Reviews and Testimonials

The rule will allow agency to strengthen enforcement, seek civil penalties against violators, and deter AI-generated fake reviews

New Regulations for the Digital Economy

FTC Seeks Public Comment on a Proposed Rulemaking Regarding Unfair or Deceptive Rental Housing Fee Practices

FTC Seeks Public Comment in Response to Advance Notice of Proposed Rulemaking Regarding Negative Option Marketing Practices

Tools

1. Legal Authorities

2. Sources of Evidence

Alternative Metrics: Surveys

177. Amazon knows that Nonconsensual Enrollment is widespread. In fact, Amazon periodically surveys consumers who cancel Prime to determine their reason. For example, from November 2018 to February 2019, █████ of U.S. consumers Amazon surveyed gave “I did not mean to sign up for Amazon Prime” as their “[r]eason for cancellation.”

Alternative Metrics: Data Analytics

178. In September 2020, Amazon also performed an internal study that quantified the number of subscribers “unaware” that they had subscribed to Prime based on five considerations:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Based on these factors, Amazon estimated that [REDACTED] Prime subscribers were “unaware” that they had subscribed to Prime.

Alternative Metrics: Experiments

197. Specifically, Amazon changed the enrollment button from “Get FREE two-day shipping” to “Start your 30-day FREE trial.” Amazon also modified the link declining Prime from “Continue without fast, free shipping” to “No Thanks.” Additionally, Amazon clarified the price of a Prime subscription as well as its auto-renew feature outside of the fine print terms and conditions.

198. Testing revealed, however, that making these clarity improvements would

████████████████████ In particular, the change to “Start your 30-day FREE trial” resulted in ██████████████████████ the change to “No Thanks” ██████████████████████ and the price and auto-renew clarification ██████████████████████

Final Question: Platform Governance?

area of responsibility, which includes the checkout enrollment flow. The primary question at this meeting was “how many Prime signups [is] Amazon . . . willing to lose in order to prevent unintended Prime Signup[.]” At the meeting, Prime Organization representatives opposed changes that would reduce subscription numbers because Amazon evaluates Prime’s performance substantially based on subscription numbers. Shopping Design Organization researchers and leadership favored changes designed to reduce Nonconsensual Enrollment because Amazon evaluates Shopping Design based partly on how many customer “frustrations” it eliminates.

Final Question: Platform Governance?

202. After the Prime Organization failed to address the problems in the Prime enrollment flow that CFEP identified, the Shopping Design Organization escalated the issue to Defendant Grandinetti, who had authority over both Organizations. Within Amazon, “escalations” occur to “break ties” when two organizations within Amazon disagree.

208. Eventually, Defendant Grandinetti vetoed any changes that would reduce enrollment. He directed the Prime Organization to improve the checkout enrollment flow as much as it could—but only “while not hurting signups.” Consequently, Amazon continued to use the designs that caused Nonconsensual Enrollment.

Final Question: Platform Governance?

226. In assisting with the memorandum, one Clarity Working Group member noted the existence of “consumer watchdogs [who] say the manipulative ‘dark pattern’ design makes it hard for people to end membership.”

227. On March 16, 2021, the FTC issued a CID to Amazon seeking information necessary to evaluate whether the Prime enrollment process and the Iliad Flow violated the Restore Online Shoppers’ Confidence Act (“ROSCA”), 15 U.S.C. §§ 8401-05. At that point, Amazon’s in-house counsel (and, later, its outside counsel) assumed greater control over business decisions involving the Prime enrollment process and the Iliad Flow.

228. Clark met with Defendants Lindsay and Ghani on May 6, 2021, less than two months after the CID. Amazon decided to make changes to the enrollment and Iliad flows either during or as a result of this meeting.