



1107 9th Street, Suite 625 • Sacramento, CA 95814 • (916) 498-9608 • mail@consumercal.org

September 25, 2017

The Honorable Edmund G. Brown, Jr.
Governor, State of California
California State Capitol, Room 1173
Sacramento, CA 95814

RE: SB 313 (Hertzberg) - Request for Signature

Dear Governor Brown:

The Consumer Federation of California (CFC) respectfully urges you to sign SB 313, authored by Senator Hertzberg. This bill ensures that California residents signing up for free trial offers are presented with clear and conspicuous language explaining the price that will be charged after a free trial offer ends, or the manner in which the subscription or purchasing agreement pricing will change upon conclusion of the trial. SB 313 also requires businesses to allow consumers who sign up for a free trial online to cancel online as well.

SB 313 enjoys support from senior citizen advocates, legal aid organizations, and district attorney's offices throughout the state. Amendments taken in SB 313's final policy committee have removed all opposition.

Businesses often use a free trial offer as a lure and rely on obscure "gotcha" clauses to hook a consumer to keep paying for an unwanted product or service. Though businesses make it easy for consumers to agree to free trials or reduced price introductory offers, the same convenience does not always exist when it comes to cancellation. Consumers frequently encounter unnecessary and time consuming obstacles as they try to terminate the free trial.

Free trials offers for wrinkle creams¹, gym memberships², and baby products³, among others^{4 5}, have provoked customer complaints relating to surprise billing and undisclosed charges. This tactic is also referred to as negative option billing; using a consumer's credit or debit card to make an initial purchase that is then automatically charged for the price of the product unless the consumer cancels the product by the end of the free trial period. Negative option billing is a common method across industries; more so now than ever, given the prevalence of online commerce.

¹ Cristin Severance, [Free Trial Of Beauty Cream Ends Up Being Quite Costly](http://dfw.cbslocal.com/2017/03/03/free-trial-of-beauty-cream-ends-up-being-quite-costly), CBS 11 News, <http://dfw.cbslocal.com/2017/03/03/free-trial-of-beauty-cream-ends-up-being-nothing-close-to-free/>.

² Laura Northrup, [Beware Of The Not-So-Free Trial At Gold's Gym](https://consumerist.com/2012/09/14/beware-of-the-not-so-free-trial-at-golds-gym/), The Consumerist, <https://consumerist.com/2012/09/14/beware-of-the-not-so-free-trial-at-golds-gym/>.

³ Matt Novak, [Jessica Alba's Honest Company Makes Canceling a Subscription Virtually Impossible, Consumers Allege](http://gizmodo.com/jessica-albas-honest-company-makes-canceling-a-subscrip-1787398311), Gizmodo, <http://gizmodo.com/jessica-albas-honest-company-makes-canceling-a-subscrip-1787398311>.

⁴ Anthony Giorgianni, [Free trials can end up costing you](http://www.consumerreports.org/cro/news/2014/12/free-trials-can-end-up-costing-you/index.htm), Consumer Reports, <http://www.consumerreports.org/cro/news/2014/12/free-trials-can-end-up-costing-you/index.htm>.

⁵ Catherine Fredman, [Think twice before signing on for a free trial](http://www.consumerreports.org/cro/news/2015/07/think-twice-before-signing-on-for-a-free-trial/index.htm), Consumer Reports, <http://www.consumerreports.org/cro/news/2015/07/think-twice-before-signing-on-for-a-free-trial/index.htm>.

A business should rely on the quality and value of its product or service, and not depend on obstacles to cancellation, to retain a consumer's loyalty. SB 313 will enact common sense consumer protections that ensure fairness and transparency in contract renewals.

For these reasons, we respectfully urge you to sign SB 313. Thank you for your attention to this request.

Sincerely,

A handwritten signature in black ink that reads "Richard Holober". The signature is written in a cursive, flowing style.

Richard Holober
Executive Director

Cc: Senator Robert Hertzberg