



Action Alert: Submit a Vendor Complaint to the Federal Trade Commission Re: the Prenotification Negative Option Rule

September 2012

BACKGROUND

The Federal Trade Commission's (FTC) Prenotification Negative Option Rule currently serves to protect individual consumers, not institutional customers such as libraries, from receiving unwanted merchandise. It specifically refers to

a contractual plan or arrangement under which a seller periodically sends to subscribers an announcement which identifies merchandise (other than annual supplements to previously acquired merchandise) it proposes to send to subscribers to such plan, and the subscribers thereafter receive and are billed for the merchandise identified in each such announcement, unless by a date or within a time specified by the seller with respect to each such announcement the subscribers, in conformity with the provisions of such plan, instruct the seller not to send the identified merchandise.

[16 C.F.R. § 425.1\(c\)\(2\) \(2012\)](#).

In 2009, AALL submitted [comments](#) to the FTC on a rule concerning the [Use of Prenotification Negative Option Plans](#). AALL advocated that the rule should be expanded to include law libraries as institutional consumers needing the same protections afforded to individual consumers.

ACTION NEEDED

In Margie Maes' [May 2012 Vendor Liaison Update](#), she noted the lack of action by the FTC, and recommended that law librarians individually submit complaints to the FTC because an accumulation of such complaints might give the prenotification rule revision higher priority within the agency. AALL's Government Relations Office and Consumer Advocacy Caucus have developed instructions and a sample message ([below](#)) to help you submit individual vendor complaints to the FTC.

At a minimum, you will need to provide:

1. The name of the individual vendor
2. Your name and contact information
3. Your library's information
4. The complaint

We recommend that you also provide the **number of unwanted and unordered materials**, the **cost incurred by your library**, and the **number of hours your library devoted to processing** such materials and attempting to correct unauthorized vendor charges.

Please send the text of your complaint, along with the date filed, to AALL Director of Government Relations Emily Feltren (efeltren@aall.org) so that we can keep track of the complaints submitted. Thank you in advance for taking action.

FTC COMPLAINT FORM INSTRUCTIONS

Go to <https://www.ftccomplaintassistant.gov>

Step 1 - “Let’s Get Started”

On the first page of the complaint form, be sure to select “yes” that you are reporting this on behalf of another as you are reporting it on behalf of your library.

Select “other” for type of complaint.

The screenshot shows the 'Step 1: Let's Get Started' section of the FTC Complaint Assistant form. At the top, there is a progress bar with 'Step 1' highlighted. Below the progress bar, the title 'Step 1: Let's Get Started' is displayed. The main question is 'What kind of company are you complaining about?'. There are two dropdown menus, both currently set to 'Other'. Below the second dropdown menu is a text input field containing the text 'Legal Materials Vendors'. A note at the bottom of the form reads: 'If you do not see a category for the company you are complaining about, please select Other and you will be able to describe the company related to your complaint.'

On this page, select “Other” from both drop-down menus, then fill in the text box with “Legal Materials Vendors” or your own variation.

Step 2 – “Tell Us About The Company”

On this page, fill out this section for each vendor. None of the fields are required, but we suggest you fill in as much contact information as you have on hand.

Step 3 – “Tell Us More About Your Complaint”

The information on this page is not required and is covered in the free text below.

Step 4 – “Consumer Information”

Fill in your contact information and your library’s information here.

Step 5 – “Provide Any Additional Information About Your Complaint”

You can enter your own text or use our language included below, filling in your information in the brackets.

FTC Complaint Assistant

Step 1

Step 2

Step 3

Step 4

Step 5

Step 6

Provide Any Additional Information About Your Complaint

Please do not include any personal or sensitive information such as social security, date of birth, financial account or credit/debit card numbers, driver license number, detailed health or medical history or similar sensitive information.

Additional Info:

You have entered 0 of your 3500 available characters.

Check Spelling

Step 6 – “Please Review Your Complaint”

The last screen will ask you to review your complaint before submitting it. Please send the text of your complaint, along with the date filed, to AALL Director of Government Relations Emily Feltren (efeltren@aall.org) so that we can keep track of the complaints submitted.

SAMPLE COMPLAINT

I am filing a complaint on behalf of the [INSTITUTION] Library. [VENDOR] has sent and billed the Library for unordered and unwanted publications without prenotification, or without adequate prenotification periods and disclosures. The Library has no protection against this unfair business practice because the Prenotification Negative Option Rule (16 C.F.R. § 425) does not apply to institutional buyers. I ask that the FTC consider our complaint as evidence of the need to expand the Rule to include institutional consumers, and to revise it in ways that the American Association of Law Libraries has recommended at <http://www.aallnet.org/main-menu/Advocacy/aallwash/Formal-Statements/2009/ftccomments100809.pdf>

As a law library, we constantly receive a large volume of publications and updates. Most of our materials are serial in nature, including replacement pages and supplements that are purchased on an annual, subscription basis. Without the benefit of the Rule’s protections, the library staff often process unwanted and unordered serial materials before the mistake is caught, costing the library money we would have spent elsewhere. In our library, I estimate that from [VENDOR] alone, there were [NUMBER] unwanted and unordered materials sent costing us at least [\$AMOUNT] last year, not including staff time to process. I estimate that the Library devoted [X] hours to processing such materials and attempting to correct unauthorized [VENDOR] charges.