Brightback

New York Introduces New Regulations for Subscription-Based Businesses: The 7 Keys to Compliance

Executive summary

Earlier this year, the New York State legislature passed Senate Bill S1475A, a consumer protection law aimed at the rapidly-growing number of businesses employing subscription-based service models. The law, which went into effect February 9, 2021, sets forth an array of new guidelines and regulations that subscription services must follow in order to operate legally in the state of New York.

The New York law is closely modeled after California's automatic renewal law, which went into effect in 2018. While New York's legislation is similar to California's, the two states are far from alone in their efforts to regulate subscription-based businesses. In fact, New York joins 25 other states to have already passed or tightened automatic renewal laws.

In case you missed it, the writing's on the wall. And all signs point towards more states passing similar laws in the months and years to come. Whether the rest of the U.S. comes aboard or not, though, the scales have already tipped far past the point at which these new regulatory standards apply in a de facto capacity nationwide.

From marketing practices to cancellation processes, regulations are being implemented across practically every aspect of the subscription-based business model. Given the scope of this new law, we've decided to spare our readers some headaches by unpacking the legalese and distilling it into a 7-part, compliance checklist.

7 Key Takeaways Every Subscription-Based Business Needs to Know

Note: The information provided in this article does not constitute official legal advice. and should not be treated as a substitute for official legal counsel.

SECTION 1
Compliance Checklist

1. Easy, Online Cancellation Required
Perhaps the most significant piece of regulation introduced by this law pertains to cancellation policies. The new law mandates that any business that lets customers sign up or enroll online, must also provide a means of canceling one's subscription online. Furthermore, these online cancellation flows must be "cost-effective, timely, and easy to use". Most have interpreted this stipulation to mean that single-click, online cancellation is the new standard.

2. Terms of Service Must be Stated Loud and Clear
This aspect of the legislation applies primarily to marketing and advertising assets. However, it isn't limited to those venues. The new regulation requires businesses to display their terms of service in type that is more clear and conspicuous than the surrounding text. In other words, "the fine print" can no longer be displayed as such. To avoid running afoul of regulators, businesses would be wise to err on the side of caution when it comes to stating their terms loud and clear.

3. Service Details Must Be Explicit
For this piece of regulation, the New York legislature created a 5-point checklist of must-have statements and disclosures for all subscription services. Firstly, businesses must clearly state that the subscription will continue/renew until canceled by the customer; A clear description of the cancellation policy must be disclosed; A detailed outline of any and all recurring charges must be stated, along with notification of any changes to those costs; Explicitly define the length of subscription, or if it is continuous; Any minimum purchase obligations.

4. Clear, Unequivocal Consent Required
Businesses must first obtain clear, affirmative customer consent prior to initiating a subscription. This one should go without saying...

5. What Comes After the Free Trial?
If your business offers any kind of free trial period or gift upon registration, mention of either must be accompanied by a clear and conspicuous explanation of how much the customer will be charged after the trial period ends.

6. Customers Must Be Alerted to Any & All Changes in Terms
Businesses must clearly notify customers of any "material" changes to the terms or details of the service. Additionally, such notices must include clear instructions on how to cancel the service.

7. The Cost of Non-Compliance

Businesses that fail to meet these new regulations can expect an injunction from the New York Attorney General, along with an order for restitution. Civil penalties can amount to $100 per individual violation, and up to $500 for every "knowing" violation.

SECTION 2

What's at Stake for Your Subscription-Based Business

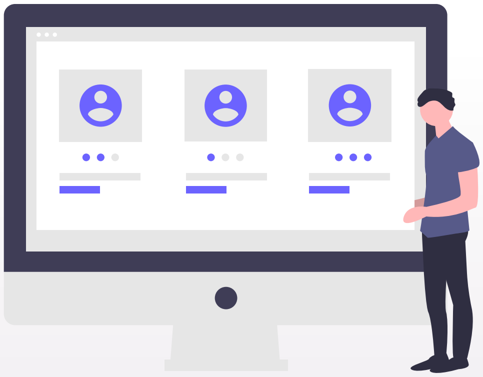
Upon learning of these new regulations, nearly every subscription-based business owner is immediately consumed by the same question: "Will I lose customers?". In most cases, the answer to that question will be "yes". However, business owners shouldn't despair.

While an initial shedding of subscribers can be expected, research has shown that straightforward, easy-to-navigate subscription service flows are better for business in the long run. And yes, that includes cancellation processes. In our recently published, 2021 State of the Industry Report, Brightback polled over a thousand U.S.-based subscription-service customers and discovered a number of compelling trends. Among those trends was the revelation that businesses that made cancellation easier (especially via online cancellation, enjoy a number of positive business outcomes, outweigh the one-time surge in cancellations.

For example, over 80% of respondents said they'd be more likely to try a new subscription if they could pause or cancel the service online. The same proportion of respondents also reported being less likely to re-engage with a company if their cancellation process was cumbersome. Finally, some 79% of respondents said they'd be less likely to recommend a service if cancellation was difficult or confusing.

So, for most businesses, the new law's short-term impact on subscription totals shouldn't be what keeps them up at night.

Instead, the most daunting challenges can be found on the path to compliance itself. With new regulations being implemented across virtually every step of the customer journey — from advertising, to acquisition, to cancellation — businesses will have to make significant changes across their operations in order to remain compliant and competitive.



SECTION 3

How NY's Regulations Stand to Reshape Your Business

At this point, it's probably abundantly clear that Senate Bill S1475A covers a lot of ground. As is typically the case when a nascent industry is faced with its first significant series of regulations, the legislation comes as a bit of a shock to the system. For a business to survive this first bit of regulatory tumult, every aspect of their operations must be ready to adapt.

1. Marketing & Product

Because the introduction of an online cancel flow almost inevitably elicits a short-term jump in cancellations, it's imperative that one's Marketing and Product departments are poised and at the ready. As discussed earlier, the long-term effects of an online cancellation flow are almost entirely positive — improved customer loyalty, easier acquisition, increased brand recognition, etc.

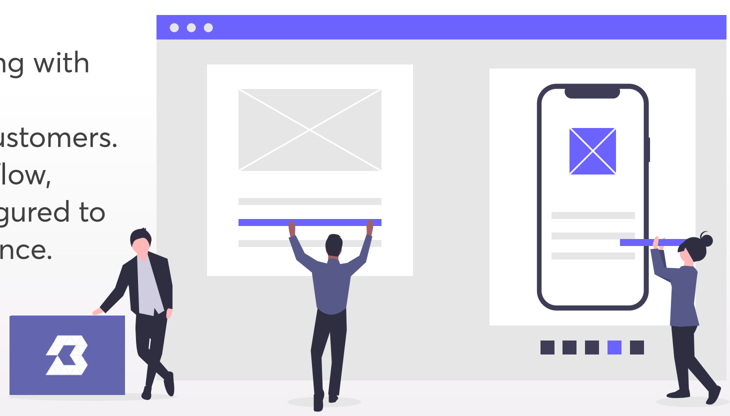
However, in order to minimize one's initial losses, and maximize those long-term gains, one's marketing and product departments must pivot their messaging and service offerings accordingly. Focus will largely shift away from acquisition and towards retention, placing even greater significance on product/service differentiators, as well as the use of incentives to dissuade cancellation.

2. Business Operations and Finance

A change to retention-focus can lead to some questions from finance. While CAC/LTV modeling is common in the world of customer acquisition, most finance teams won't have a ready-made way of modeling offers or discounts to retain customers. Business Operations, analytics, and finance teams will need to find ways to measure and model incremental revenue saved from offer acceptance. Brightback offers easy to read dashboards and measurements of saved revenue.

3. IT

Many subscription companies are working with an array of legacy IT systems to process cancelations and nurture and support customers. To properly build an online cancelation flow, each of these systems needs to be configured to communicate with the front-end experience.



In addition, the communication needs to be relatively instantaneous, so that cancelations are processed within the timeframe communicated to the customer. This generally leads to complex integration projects that can drag on for months.

Brightback comes equipped with integrations with popular Billing systems like Chargebee, Recurly, and Stripe to bypass complex IT builds. In addition, Brightback has built flexible webhooks for integration with the array of tools your team works with.

4. Customer Service

Customer service teams have historically staffed call centers to minimize cancelation attempts with an array of offers. With online cancel flows, this function is largely being automated within the cancel flow itself. This may naturally lend itself to a reduction in size of customer service teams; however, Brightback has found that CS can play a vital role in reducing online cancel flows through online chat within the cancelation process.

5. HR and Organizational Strategy

Strategically, the shift to an online cancelation model should be met with a similar shift in the organization. An internal decision needs to be made for who "owns" cancelation and the customer lifecycle, and growth teams should be staffed and empowered to test offers with the customer. We've seen a migration of cancelation flows to dedicated product or marketing leaders, with a P&L responsibility to minimize cancelation.