On July 9, 2021, the Colorado Governor signed Colorado House Bill No. 1239 into law, resulting in Colorado becoming the latest state to enact new automatic renewal and cancellation procedures applicable to consumer sales contracts. In addition to addressing general automatic renewal contracts, the new Colorado law establishes certain requirements regarding the execution and enforcement of dating service contracts.

As we have discussed previously, subscription-based business models and automatic renewal techniques continue to attract attention from legislators, regulators, and plaintiff’s attorneys. Further, individual states continue to enact new automatic renewal laws, or enhance existing ones. The result is a system whereby the requirements vary state to state.

Key requirements of the Colorado bill are outlined below:

1. **Automatic Renewal Provisions in Consumer Sales Contracts**
   1. The automatic renewal offer terms must be displayed in a clear and conspicuous manner before the automatic renewal contract is executed. Clear and conspicuous, however, is defined as more conspicuous than the surrounding text, or set off by a symbol that calls attention to the language.
   2. The seller cannot simply include an online link that redirects to detailed information about the automatic renewal contract unless the online link is available before the consumer elects to purchase any good or service subject to the automatic renewal contract, the link appears directly adjacent to any online link used by the consumer to purchase a good or service subject to the automatic renewal, and the link is labeled with or is directly adjacent to a clear and conspicuous disclosure that states that by purchasing the good or service the consumer agrees to enroll in an automatic renewal contract.
   3. The seller must provide a written acknowledgement that includes the automatic renewal offer terms, the cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the automatic renewal offer includes a trial period offer, the seller must also disclose in the written acknowledgement how the consumer may cancel the automatic renewal, and the seller shall allow the consumer to cancel before being required to pay for the goods or services.
   4. The seller must provide a simple, cost-effective, timely, and easy-to-use mechanism for cancelling an automatic renewal. A one-step cancellation link located on the seller’s website is deemed to be sufficient.
   5. If there is a material change to the automatic renewal plan that the consumer has accepted, then the seller must provide the consumer with a clear and conspicuous notice of the material change and information regarding how to cancel.
   6. The seller of a contract that will automatically renew must notify the consumer that the contract will automatically renew unless the consumer cancels. Such notice must be provided at least 25 days and not more than 45 days before the cancellation deadline for each automatic renewal period.
7. These provisions do not apply in certain circumstances, including with respect to services provided by a person that is regulated by the Federal Communications Commission, the Federal Energy Regulatory Commission, or the Public Utilities Commission, an entity regulated by the Division of Insurance, a bank or bank holding company that is licensed under state or federal law, or a credit union or other financial institution that is licensed under state or federal law.

2. Social Referral Service Contracts

1. A buyer has a right to cancel a dating service contract until midnight of the third business day after the day on which the buyer signs the contract.

2. The seller must include specific language to notify the buyer of his/her cancellation rights.

Takeaway: The Colorado legislation is the latest addition to the various state automatic renewal laws. The good news is that compliance under this law is consistent with some of the more onerous laws, such as California and New York renewal laws.

Tags: Advertising Law, Automatic Renewal, Colorado