

June 1, 2022

The Honorable Wil Schroder – Co-Chair
The Honorable Russell Webber – Co-Chair
Interim Joint Committee on Economic Development & Workforce Investment
NKY Convention Center-Ballroom B
1 River Center Boulevard
Covington, KY 41011

Re: Oppose HB 106: An Act relating to the termination of automatic renewal offers and continuous service offers.

Dear Senator Schroder and Representative Webber:

MPA - the Association of Magazine Media (MPA) writes to share our opposition and concerns with HB 106 as written and requests the state instead pass legislation in line with several other states in this area, such as Tennessee's [recent law](#).

MPA represents about 500 magazine media brands. Our members provide trusted, edited and curated content that informs, inspires and entertains more than 90 percent of all U.S. adults. Kentuckians receive more than 3.3 million magazine subscriptions, representing an average of 1.9 subscriptions per household. Our readers depend on our publications for reliable news and information – needed by society now more than ever. Further, magazines are an important part of the Kentucky economy, part of the 15,000 jobs in the Arts, Media, and Sports industry, and paying more than \$23 million in annual wages to magazine industry employees in Kentucky in 2020.

MPA appreciates the opportunity to share why KY HB 106 is not the appropriate approach to regulating automatic renewals and continuous service offers. These offers provide consumers with convenience and ease of use to continue services they love with no hassle. We want to ensure they are regulated in ways that encourage this ease while making sure consumers are protected.

First, we believe the notices mandated by the bill will confuse and mislead consumers. Kentucky consumers who sign up for an automatic renewal magazine subscription would have to be sent a notice that their subscription will end under the bill, which is not the case when they've already signed up to have their subscription continue. This puts publishers and consumers in a confusing and conflicting situation where a mandated notice seemingly contains inaccurate information.

In fact, many states do not require reminders *at all* if there is an upfront requirement to get consent to clear and conspicuous terms for automatic renewals at the outset. New York, Oregon, Virginia, and now Tennessee take this approach. For states that do require reminders, they usually have them only for the renewal of longer-term contracts to let the consumer know there

will be a charge to their payment mechanism coming up unless they wish to cancel the service. This is in line with what they've previously agreed to.

Another concern is that the enforcement provisions are out of proportion to any consumer harm. It is unclear whether the bill creates a new private right of action, which is of great concern to businesses which can be hit with costly and frivolous lawsuits even when they have done nothing wrong. The bill not only makes consumers whole with a free gift provision, but also creates a \$5,000 per violation civil fine. Other fines in the statute are generally no more than \$1,000, and it is highly unlikely that services for household use are going to come near this type of financial loss. Certainly in the case of magazine subscriptions, prices to consumers are quite affordable. The risk of such high penalties is likely to discourage the offering of automatic renewal subscriptions, which provide subscribers convenient uninterrupted service, to consumers in Kentucky.

Further, it is important for Kentucky businesses that want to broaden their distribution beyond the commonwealth to have uniformity where possible. However, HB 106 has numerous outlier provisions not seen in any other state. Every unique provision means increased costs for Kentucky businesses that must create one system for use in their home state and one for use elsewhere. For national businesses, they may find it easier to limit services to Kentuckians rather than build new systems to comply. There is no compelling reason to have widely divergent provisions when consumers can be protected with consistent provisions state to state.

Finally, it is important that Kentucky businesses be given time to come into compliance. Kentucky businesses that are not national in scope will have to build systems so that acknowledgments or reminders can be sent. National businesses serving Kentucky customers will have to revamp their disclosures and procedures in order to be compliant if there are broad differences from other states.

Again, MPA appreciates your consideration of the information presented herein, and we urge you to consider other proposals for protecting consumers in this area. If you have any questions or comments, please contact Rita Cohen, CEO, at rcohen@magazine.org or (202) 369-1237.

Sincerely,



Rita Cohen
President and CEO
MPA – The Association of Magazine Media