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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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THOMAS DOROBIALA,

10
                                        Plaintiff,

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          v.

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AMAZON.COM, INC., a Delaware
13   corporation,

14
                                        Defendant.

Case No. 2:22-cv-01600

CLASS ACTION COMPLAINT

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Plaintiff alleges the following based on personal knowledge as to his own acts and experiences and, as to all other matters, based on the investigation of counsel:

I.   INTRODUCTION

1.   Amazon, the largest online retailer in the United States, is open to all shoppers, but it offers benefits, including free shipping on Prime items, to its 163 million U.S. subscribers.[1] Globally, Amazon collects $25 billion a year in Prime subscription fees with U.S. subscribers accounting for about three-quarters of its subscription revenue.[2] Amazon values its Prime members not only for the subscription fees it collects from them, currently $139 a year, but also because Prime members spend more than twice as much as other Amazon customers, averaging about $1,400 per year.[3]

2.   Having so many Prime members also increases Amazon's share of online retail commerce. On average Prime members in the U.S. do 53% of their shopping online and make most of their online purchases on Amazon.[4] Among Prime members, 92% look forward to being able to order all goods through one retailer and 93% are more likely to buy from Amazon Prime than directly from a retailer's online site.[5]

3.   Amazon also values Prime members for the wealth of data they provide Amazon.[6] As the Guardian reports, "whether it's the shopping app, the Kindle e-reader, the Ring doorbell, Echo smart speaker or the Prime streaming service," the more you use them, "the more their algorithms can infer what kind of person you are and what you are most likely to buy next."[7]

[1] David Chang, *The average Amazon Prime member spends this much per year,* MOTLEY FOOL (July 22, 2022), https://www.fool.com/the-ascent/personal-finance/articles/the-average-amazon-prime-member-spends-this-much-per-year/.

[2] Brian Dean, *Amazon Prime User and Revenue Statistics (2022)*, BACKLINKO (Jan. 5, 2022), https://backlinko.com/amazon-prime-users.

[3] Chang, *supra* note 1.

[4] Patrick Munden, *The Amazon Prime Effect - setting a new standard for customer loyalty*, WUNDERMAN THOMPSON, https://www.wundermanthompson.com/insight/the-amazon-prime-effect (last accessed Nov. 8, 2022).

[5] *Id.*

[6] Kate O'Flaherty, *The data game: what Amazon knows about you and how to stop it*, THE GUARDIAN (Feb. 27, 2022), https://www.theguardian.com/technology/2022/feb/27/the-data-game-what-amazon-knows-about-you-and-how-to-stop-it.

[7] *Id.*

4.   Because Prime members are so valuable to Amazon, it is loath to let them go. And it shows. Cancelling Prime "requires multiple steps of confirmation offers before one can ultimately pull the plug on the ongoing fee."[8] In effect, the process tests the Prime member's will to quit Amazon.

5.   The hurdles to cancellation are intentional. In March 2022, Business Insider reviewed internal Amazon documents admitting that for several years and continuing today, Amazon has engaged in willfully deceptive practices to keep its Prime members locked into their memberships.[9] The documents refer to a secret project known as "Project Iliad," which Amazon implemented to thwart Prime membership cancellations by adding multiple layers of questions and new offers before a Prime member could cancel their subscription.[10] The project was a success. After launching Project Iliad, Amazon managed to reduce the number of Prime cancellations by 14% at one point in 2017 as fewer members managed to reach the final cancellation page.[11]

6.   This layered and confusing cancellation process relies on "dark patterns," *i.e.*, methods of deception derived from behavioral psychology that exploit cognitive biases to influence and manipulate consumer choices. "Dark patterns are design features used to deceive, steer, or manipulate users into behavior that is profitable for an online service, but often harmful to users or contrary to their intent . . . . This could include using buttons with the same style but different language, a checkbox with double negative language, disguised ads, or time pressure designed to dupe users into clicking, subscribing, consenting, or buying."[12]

7.   As explained in a January 2021 report by the Norwegian Consumer Council, Amazon employs dark patterns in the wording, graphic design, and redundancies which Amazon

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[8] Gerald Lynch, *Amazon Prime memberships are now harder to cancel – and it's no accident*, TECH RADAR (Mar. 17, 2022), https://www.techradar.com/news/amazon-prime-memberships-are-now-harder-to-cancel-and-its-no-accident.

[9] Hannah Towey & Eugene Kim, *Amazon used a sneaky tactic to make it harder to quit Prime and cancellations dropped 14%, according to leaked data*, BUSINESS INSIDER (Mar. 16, 2022), https://www.businessinsider.com/amazon-project-iliad-made-cancel-prime-membership-harer-leaked-data-2022-3.

[10] *Id.*

[11] *Id.*

[12] Rohit Chopra, *Statement of Commissioner Rohit Chopra Regarding Dark Patterns in the Matter of Age of Learning, Inc.*, FTC File No. 1723186 (Sept. 2, 2020), https://www.ftc.gov/system/files/documents/public_statements/1579927/172_3086_abcmouse_-_rchopra_statement.pdf.

1   employs to make its cancellation process needlessly difficult, time-consuming, and frustrating to

2   users.[13] To begin with, whereas signing up with Amazon is simple and intuitive, cancellation

3   involves navigating through three pages or "clicks," just to start the process. Users who want to

4   unsubscribe first need to log in to their Amazon account, navigate to the Amazon account menu,

5   and find the "Prime membership" option:[14]

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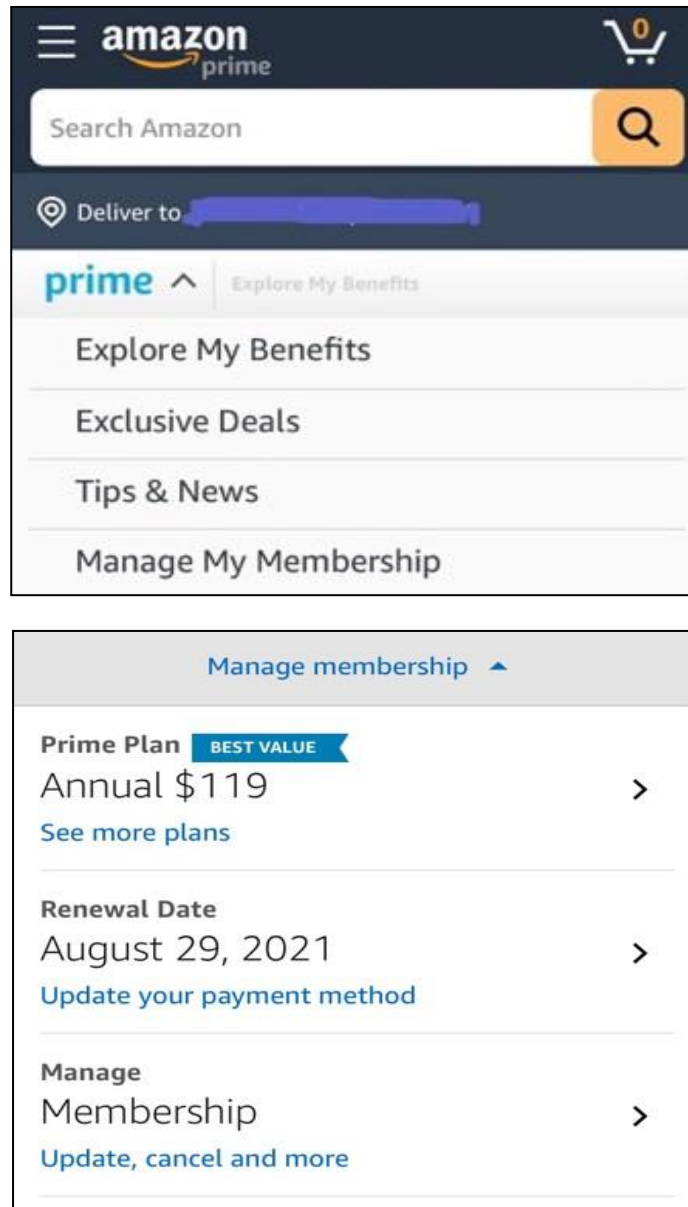
[13] Forbrukerrådet, *You Can Log Out, But You Can Never Leave. How Amazon manipulates consumers to keep them subscribed to Amazon Prime* (Jan. 14, 2021), https://storage.forbrukerradet.no/media/wp-content/uploads/2021/01/2021-01-14-you-can-log-out-but-you-can-never-leave-final.pdf.

[14] Complaint filed against Amazon by the Electronic Privacy Information Center (EPIC) with the D.C. Attorney General, at Figures E-G (Feb. 23, 2021), available at https://epic.org/privacy/dccppa/amazon/EPIC-Complaint-In-Re-Amazon.pdf (hereafter "EPIC Complaint").

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