

TRANSCRIPT

On Your Terms



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Episode #:156

Pricing FAQs: How much can you charge? Can you say no refunds? + More

Sam Vander Wielen:

Hey there, and welcome back to On Your Terms. I'm so excited to be recording today and talking with you all about the legal side of pricing your offers online in your business, because this is a topic that I don't really see anybody talking about, but it's really important and I know you have questions about it.

Before we hop into today's episode, my little life update, I guess, well, this is literally a little life update, but that I got my ears pierced. Very exciting. I know. I know. If we're friends on Instagram, you saw that. I shared my little certificate of bravery that they gave me, which was absolutely hysterical. It was basically me in line with a bunch of six year olds getting their ears pierced and I was way more nervous than they were. Some of them were getting their second hole pierced.

So, I had my ears pierced before. My dad, Norm - this probably won't surprise you if you've heard things about Norm in the past - since I was a baby was like, "You are not getting your ears pierced. You are not getting a tattoo. And don't even think about wearing makeup." It was so funny because he was not a strict parent and he wasn't tough on me at all, but he just had very old school ideas. And we're Jewish, like, he had a lot of ideas about you don't know tattoos, tattoos aren't okay. And he would always tell me I couldn't be buried in a Jewish cemetery and all of this stuff, so it was really funny. I was never even asking to get one, but he was just letting me know this was not an option.

So, when I was, like, 16 and I was going to prom, my mom snuck me to the mall and got my ears pierced at, I think, it was Claire's or something, you know, kiosk in the middle of the mall and I remember it hurt really bad when I was 16.

And then, during COVID – okay, this actually ended up being my dad’s fault in the long run. He got over it, by the way. He didn’t care – when my dad got sick, he had cancer and I was taking him to the hospital all the time, I was having to wear basically just short of like a beekeeper’s outfit to go into the hospital sometimes and you would have to put the mask on, and the shield, and the gloves, and the blah, blah, blah. So, I just didn’t wear any jewelry. And it was COVID so we were home, we weren’t going anywhere. I wasn’t trying to impress anyone. And so, I stopped wearing my earrings.

And then, it was only maybe when my dad passed away last year, I went to go put my earrings in and basically re-pierced my ear myself. It was not pleasant and so I just gave up. And then, it’s been on my list and I was in the mall last week and there was this really cool place called Rowan where you can go get your ears pierced. I don’t know if you’ve seen it. It’s probably from New York City, I’m assuming, but they had one out here. And the woman did great. They only used nurses to do the piercings and she did great. And I’m here. I survived to tell you the tale.

So, good news, guys. I’m still here. No. It was not very bad. But I’m just so excited to have my ears pierced again. This is, like, such a little thing, but I’ve just been really happy. I have to have these little studs in for a couple of weeks until I can wear anything else. But I’m excited to be able to wear my earrings.

The reason we were at the mall that day, actually, was because I haven’t been to a mall in eight million years. So, (A) I don’t shop that much. Ryan would definitely disagree with this. But I also primarily only shop online because I’ve gotten really into shopping just in eco-conscious stores, labor-conscious stores, so I buy things from companies that don’t tend to have stores in malls. Or I’m trying to buy more from small businesses, so I’m not doing any big store shopping anymore or I’m trying not to. So, that puts a serious crimp in your mall style, if you like going to the mall.

But I actually was just craving a trip to the mall because my mom, every single year, used to take us back to school shopping and it was always what she called an alone date. So, she would take you out for the day. We would

go shopping. We would get lunch. We would usually end up also get dinner and get coffee. We'd go to Starbucks. And it was just such a treat, such an indulgent day. I was obviously very fortunate to be able to do that with her.

When I was little, she went to med school and then became a doctor. So, as I got older, these days got more indulgent, which was really sweet of her. My mom was a very generous person and it really wasn't about the stuff for me so much. My sister will disagree with this because she used to go to Louis Vuitton and stuff, but I would want all the sporty things and I would want to get tech stuff, and go to Best Buy, and Apple, but I loved all of this. My mom didn't do a lot of one-on-one time, so it was just a really nice treat day with her.

And my mom continued this tradition well after we were in school. So, even while I was in law school, she did this. But once I graduated from law school, we still did this every year. And so, this year she obviously just passed away. And this year was the first year that she has not been here to do that, so that was really hard, but I wanted to take myself to go do it and just kind of make a nice day. So, it was such a nice day and I thought it was funny that I got my ears pierced since she was the one who took me to go do it.

So, thanks for letting me share that. I just wanted to share a little bit about what's going on behind the scenes before we talk about the legal side of pricing your offers.

So, why are we talking about pricing today? Pricing, in general, is a problem. It's why I did an entire episode on it, Episode number 39. If you haven't listened to it already, is all about how to price your offers. Not really so much from a legal perspective, but more from how you actually go about pricing, how do you come up with a cost for something, how much should you charge people for things. I would say more from the marketing perspective. So, I did episode 39 all about that. If you haven't listened to it yet, I would definitely recommend listening to it. You don't have to listen to it first, but listen to it in conjunction with this one.

And I just think in general, as I say in that episode, there's like a lot of bad information, bad advice in this industry around pricing, because a lot of people who don't really know how to actually price things or just look at what everybody else is doing and price it the same or price it similar or price it right above, even using other people's pricing as the rubric is kind of a problem. So, I know that generally there are a lot of issues around pricing.

But then, you know being a lawyer and everything, people ask me like, What about some legal issues related to pricing? Am I allowed to just price things whatever I want? Am I allowed to charge whatever I want? Am I allowed to keep charging people's cards? Am I allowed to say no refunds? I get a lot of questions about that stuff, so that's what we're going to talk about today.

So, I'll tell you, generally speaking - I know people ask me about this a lot - you can price your stuff how you want. Because the point is if I wanted to make my legal templates \$50,000, as long as they said that they were \$50,000 and you knew that they were \$50,000, it's your choice from there. As long as I'm not making any sort of deceptive promises - that's a big but. I mean, I'm giving an extreme example - this is serious in business coaching maybe or courses, online courses that teach you how to do something, you want to be careful not to price it in a way that you're pricing it and then offering some sort of promise.

Like, yes, my thing is \$10,000, but my clients have been shown to make it back 3X within 90 days or something like this. That could be a bit of an issue. It's not that pricing your program at \$10,000 would be an issue. It's sort of tying it to some sort of promise. And that could also be found to be a deceptive marketing practice, which is against the law. For example, that's not true, like maybe two or three of your clients did, but what about the average of your clients? Is it the most of your clients or was it just that one or two of them only got that? That kind of stuff.

Sometimes what I see, I'm like, that could be a little tricky dicky. I think that might be a little deceptive not giving people the full picture of information. So, generally speaking, you can price it how you want.

However, don't tie it to some sort of promise or warranty guarantee or any outcome.

I have language in all of my legal templates for you, which are available on my website. I'll link down below. But all of my legal templates I have no warranties, guarantees, all that kind of language that you need. But as I always say about legal stuff, what's most important is that you don't actually do it. So, you can't say I'm not making any warranties about your investment with me or your purchase of my product. But then, make statements on your website like, "Most people who buy this make their money back within 90 days," unless that's true or you have to be super honest like, "73 percent of my customers have made their money back." You know what I mean? Instead of saying most, I would be careful with that kind of stuff.

Now, talking more generally also about pricing, generally speaking, it's, again, okay to price out how you want, but it has to be advertised, of course. So, the price should be there. Personally, that's why I'm a fan - I mean, it's not a requirement to put the price on your website. I just think that it's helpful. It's upfront pricing. They see what they can get. So, it has to be advertised. It has to be true, obviously. So, you can't be like "It's \$2,000" and then charge their credit card \$5,000. It has to be true.

And then, generally speaking, too, you want your pricing to be available with whatever the terms are. We're going to talk about that when it comes to the refund policies, I'll tell you my little example about final sale jeans. But generally speaking, you want to remember that your policies or your contracts, or whatever the terms are that someone's agreeing to, like what your refund policy is, how you're going to charge their card, what's included, what's not, that all has to be made available to someone when they purchase from you so that they're considering that price at the same time that they're considering like, "In exchange for this price, I'm paying \$2,000 and I get that there is no refund. I get that this is what's included. I get that I only have a year's worth of access to a community or something like that." They have to know what they're paying for in exchange. It makes sense.

Now, what's really common in our industry as well is continuously charging somebody's credit card, like in the case of a payment plan, for example, or a subscription. So, like you sell a product that you allow somebody to chop up the payments, like "Six easy payments of 199." You're going to use software that's going to just auto-charge their card. We're not old school. We're not sitting there and typing in - I hope you're not - their credit card information every single month and charging people's cards.

There actually are a lot of laws around that, around that process of automatic recharging of people's credit cards. There is language and notice that's required to do that. It's perfectly easy, perfectly legal. It's just, again, something that has to be built into your policies so that someone understands like, "Hey. By signing up for this, you're agreeing to a 12 payment plan. Those payments will be 199 spaced 30 days apart. And they will automatically be charged on your credit card."

And what's most important about the languages in your policies is that you remind and notify people that they will not be notified or asked for permission to charge their card. It's just something that's going to happen automatically. It is required because they're signing up for a 12 payment plan, for example, and that's what's going to happen.

Again, all of that language is built into my legal templates, especially the terms of use for any kind of course that you're building out or a membership. That's the legal document that I sell on my website that you would use if you were offering an online course or if you were creating a subscription, membership thing, anything like that, you would use terms of use template. That language is all built-in for you.

It's also built into anything else you need from me. It's in the Ultimate Bundle. I talk about it. So, I have everything for you that you need. This is not something you should try to write yourself. It's very technical. I also keep all of my legal templates updated, so if something changes in this arena, I'm going to update it for you and you get that for free. So, it just makes sense, in my mind, for you to have one of my legal templates. So, all the links are down below.

The other main reason that you want this language, in case you continuously charge somebody's credit card repeatedly for a subscription plan or payment plan, is that if that person, if your customer ever complains to their credit card, it's what's called a chargeback threat. So, it's where they go to their credit card and they say, "I don't want to pay for this" or they'll say, "I never got this." That's my favorite one when it's a digital product and they can show that they've accessed it. So, people will go to their credit card and say, "I didn't like it. They didn't deliver as promised," whatever, and they're asking their credit card company to give them the money back. And then, basically, the credit card company will then take the money away from you. So, if you don't want that to happen, it's super easy to prevent if you have the right legal language in your contracts.

So, the language that I've built in, for example, into my legal templates, I have chargeback threat language in there, but also this language I'm talking about with continuously charging someone's card is really important, because if that person complains their credit card, their credit card company is going to come to you and ask for any proof or documentation you have.

I mean, I can tell you that we do this in my own business, let alone for my customers, that they've told me that they've done this. The language that's in my templates is then what saves you, because that's what's going to show the credit card company that you provided this information to the customer upfront and they knew about it.

So, for example, if you have a six payment plan and it automatically charges that person's card every 30 days, and then that person goes to their credit card company and they're like, "I never authorized this payment or whatever and they won't stop charging my card." You're going to send over this policy, the document, whatever you have, and that's what's going to get you - well, keep you your money. You're not going to have to give the money back. So, that's really important.

So, obviously, you want to notify people about subscription payments, recharges. There's not a legal requirement that I'm aware of. There may be state specific laws, so it's possible. I am admittedly not familiar with all 50 states laws. As much as that would be nice, that would also be exhausting and impossible and, just frankly, doesn't sound like something I want to do. So, it's possible that there's a state law about notifying people right before.

What I do, though, is that I have the language in my policy that says I'm not required to notify you in the sense that I'm not asking for your permission, you've agreed to pay these payments. But what I do is we send out a little trigger email that comes out, I think, it's three days, if not two days before their card is going to get charged just to give people a courtesy heads up. Because maybe they've given us a debit card and they need to transfer some money over or a lot of times people's credit card has gotten stolen or something like that. So, it's nice to give people a heads up. I think it's a really nice courtesy.

What you just want to make sure is really airtight is that that's not people thinking that you're asking for their permission. Because there's a difference between a subscription that you sign up for that's cancelable versus something where you're just making payment plan payments.

So, when I get my notification every month that probably some face cream or something I've ordered on a subscription is about to renew and I don't need it anymore or I don't need it yet, I go on and I cancel it or I delay it. I skip to the next one or whatever. I haven't agreed to make payments every single 30 days. It'll say you can do it whenever. So, that's a courtesy that's nice to give people if you want to allow them to cancel, or whatever, when your thing is cancelable.

But when it's the kind of thing where they're just making a payment plan payment, you want to differentiate and make sure that your language is airtight just to say like, "Hey. We're just giving you a heads up that your card is going to be charged again in three days in the amount of \$199 as part of your payment plan." It's not asking permission if you've already

done all the language right and set it up correctly using the legal documents that I've been talking about here.

The other thing you want to make sure is really clear is cancellation info. So, if you are selling something that is month-to-month, it's a subscription or something like that, your policies need to be really clear about how that person can cancel and you have to make it relatively easy for the people. So, I don't know if you've heard but, recently, actually Amazon came under fire because their subscriptions, you can buy some products on Amazon under subscription and you save five or ten percent or something, it's nearly impossible to cancel them.

I joke with Ryan, you have to have a PhD to learn how to cancel anything on Amazon. You have to go through, like, ten steps. And when you go through all these steps, they make it really hard. It's at the bottom of the screen. It's tiny font. Sometimes I swear they're messing with you with the code. You can't even scroll to that part of the page. It's not clicking. And even once you click on it multiple times, it keeps asking you, Are you sure? Do you want to just delay it 30 days? It's making it very onerous. The government has now come down on Amazon about this and said that they have, in fact, made this too difficult and that it's deceptive. It's a deceptive practice.

So, you want to make sure that you're not making it too hard. You don't have to have a giant cancel button on your website. It just have to be so easy, but don't make it Amazon hard either. I think that somebody should have to, like, click on a button, go to something. I think you can ask are you sure or whatever. I'm sure you're using software that would allow them to do this.

So, I would just check. Like as a business owner, you know it's your responsibility at the end of the day to make sure that this stuff is right. So, I would just check what is the cancellation process like if somebody has to cancel my subscription. And then, obviously, you want to make sure that it actually cancels them and doesn't keep charging them. It's very similar to when someone unsubscribes from your email list, you want to make sure they actually leave. So, you want to make sure about that. You want to

make sure whatever the amount of time is, like if you say it's seven days before or they can do it at any time or whatever, just honor it, follow it.

Now, last but definitely not least, let's talk refund policies. So, most of the time it's okay to have a no refund policy as long as it's clear and stated ahead of time, it's made available, it's in writing. If you are in-person, it would have to be printed online, it would have to be printed in front somewhere or in your policies. I do both. I have it on the checkouts area and then I also have it in the policies and everything so it's very upfront. I say it in my webinar. I try to make it pretty obvious. I'm not trying to bury it. It is what it is. It's no refunds because it's a digital product that you can download, so I can't get it back and you could take it right away. So, most of the time it's okay to have a no refunds policy.

There are some states that can get a little fuzzy with this when it comes to consumer rights. But I think when it comes to digital content, they would probably err on your side because the person has gotten access to the thing and you can't prove that they can't scrub it. I mean, how do you return a digital product? Whereas, if you bought a shirt at the store and you return it, they know they have the shirt back so they're not out of anything. But for us, as digital product people or services people, it's like how do you get that back?

Now, in New York, for example, where I live, you must have your return policy printed and available to people. Again, it has to be available to people when they're purchasing. So, you can't purchase something and then be like, "Here's my policy, by the way." In New York, for example, if you don't let people know what your return policy is, then it's automatically 30 days. But there is no requirement in New York for there to be a return policy. You don't have to allow - sorry. What I should say is, in New York, there's no requirement that you allow returns, but you have to let people know. That's really the issue.

I'll link down below to New York's policy in case any of you are here in New York. But I was just curious, I was like, "What is New York's rule on this?" And so, that's that one.

Now, my favorite example that I love to give, piggybacking on our shopping conversation from earlier, if you've been to any of my legal trainings or anything, you know that I always use this example. So, when you go shopping, if you were to walk into a Nordstrom and you were going to go buy a pair of jeans, if the jeans were final sale, when you would go up to the rack, there would be a final sale sign, there would probably be a final sale sticker or a stamp on the actual tag. And then, when you go up to the checkout, the cashier would say to you, "Do you know that these are final sale?" And you would say yes, and then you hand over your credit card or your cash or your crypto or whatever, and then you would get your pants and go on your merry way and they're final sale.

That is like a beautiful dance of legal agreement because there's an offer, there's acceptance, and consideration. Those are the three requirements for what it takes to have an agreement of some sort of contract. So, that's what's just happened in that example, because you knew what the offer was, which was that for a discount, in exchange for a discount, you had to take the final sale. You weren't allowed to return them. And then, you purchase them by you handing over your credit card and saying, "I understand. I want them anyway," you've now accepted their offer. So, that's that.

The way that this could go down that wouldn't be okay would be, you go to that same store, there's no sign, there's no stamp, and the cashier never says anything to you about the fact that they're final sale and there's no sign anywhere, and then you purchase them. And then, right as you're walking away, the cashier says to you, "Oh. By the way, those were final sale." Well, if you were in New York, you would actually be able to say, "Actually, I have 30 days because you never notified me of any return policy. There's nothing in writing here. I don't see anything that's a requirement. It has to be in writing." So, that wouldn't fly.

That's why in general, it's not just refund policies. But in general, you have to let people know what they're signing up for, essentially, when they're paying you. That's why I always say to you, when you send and sign contracts, you have to send that and the payment at the same time. You can't withhold a contract until after someone pays you because somebody

needs to know what they're signing up for. So, that's really, really important.

Okay. So, what are my three takeaways for you from this episode? If I were to have you take anything away from this episode, here's what it would be. Number one, as a business owner, you have a lot of flexibility. You should use it, right? You get to decide. If you want to have a refund, have it. If you want to make it 5 days, 20 days, 30 days, you can do that. If you want to say no refunds, you can probably do that. You get to have a lot of flexibility, but the point is, it has to be in writing. It has to be clear and it has to be made available to people upfront when or before they purchase from you.

The second takeaway I would give you is that it all depends on your contract. So, your contracts and policies are so important. This is why I do what I do, because I don't think it's funny to mess around with this stuff. You can see how so many of the things we talked about today are like, "Yeah. You can totally do that" or "Oh, here's how you save yourself." You need this, like, one paragraph or this one line in your contract. So, your contracts and policies are super important. Get them from an attorney, have them professionally drafted, make them clear, and post them where they're supposed to be. If you need any legal templates, I have them down below.

The third thing I would take away is that these things, like your documents, your policies, your preferences, they are evolving and it's okay. You should be learning from your mistakes. And any issues that come up with clients, if somebody screws you over or gets one on you and you're like, "Man, I never thought about that," that's just something to update in your policies. It's just an opportunity to make them better. And you don't want to come into this with an attitude that everything's supposed to be perfect from the jump because stuff happens as you continue to build your business. I'm always updating my stuff, that's normal. So, that's also why it's important to have a legit legal document because then you're able to just update it instead of building like Frankenstein's monster of some sort of legal document as you go along. You'll have a very solid agreement to start and then you'll just make it better and better for your business.

So, I hope that this was helpful. I hope that these takeaways were helpful. If you liked today's episode, please do me a favor and, real quick, text a link to this episode to a friend of yours or post it or share it in an email of yours. Tag me on Instagram. I would love to hear if you're listening to On Your Terms and you like the episode.

I also just started a little listener survey because I have a couple ideas in mind for the podcast, but I really want your feedback on this. I know that you're a smart cookie. I know you are a driven person. I know you're here. You're not trying to mess around. You're strong as heck and you want to build an incredible business, so I just want to make sure that my episodes are always as helpful to you as possible. So, I'll include a link to that new listener survey down in the show notes along with Episode 39, which talks about how to price your offers, that New York return policy, anything else we talked about in today's episode I always link to in the show notes.

So, thank you so much for being here and I can't wait to chat with you in a few days.

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