



Office of the Director
Bureau of Consumer Protection

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580

January 15, 2025

Governor Jared Polis
State Capitol Building
200 E. Colfax Ave., Room 136
Denver, CO 80203-1716

Dear Governor Polis:

As the Director of the Bureau of Consumer Protection of the Federal Trade Commission (“FTC”), I write to provide information about the FTC’s efforts to address junk fees that cheat consumers and undermine competition.¹ I hope you find this useful as Colorado legislators consider introducing a comprehensive bill this term.

American consumers, workers, and small businesses today are swamped with junk fees that frustrate consumers, erode trust, impair comparison shopping, and facilitate inflation. Junk fees refer to unfair or deceptive fees that are charged for goods or services that have little or no added value to the consumer, including goods or services that consumers would reasonably assume to be included within the overall advertised price. Some junk fees are also “hidden,” meaning they are disclosed only at a later stage in the consumer’s purchasing process or not at all. Junk fees manifest in a wide range of markets and are growing. Such fees impose substantial economic harms on consumers, impede the dissemination of important market information, and put businesses that do not hide these fees at a competitive disadvantage.

FTC’s Rulemaking Efforts

In October 2022, the FTC issued an [advance notice of proposed rulemaking](#) (“ANPR”) seeking public comment on a potential rule to address junk fees proliferating throughout the economy. The ANPR sought public comment on the prevalence of junk fees, the unfair or deceptive tactics companies use to impose them, the harms caused by junk fees, and whether a new rule would better protect consumers. Consumers and industry members demonstrated strong interest in the questions posed by the ANPR: the FTC received 12,046 comments in response, which overwhelmingly expressed frustration with unexplained mandatory fees.

A year later, in October 2023, the FTC announced a [notice of proposed rulemaking](#) (“NPRM”) and sought public comment on a proposed rule. The proposed rule sought to ban hidden fees by prohibiting businesses from advertising prices that hide or leave out mandatory fees. The

¹ The views in this letter are my own and do not necessarily reflect the views of the FTC or any individual Commissioner.

proposed rule would have prohibited sellers from misrepresenting fees and required certain disclosures about the nature and purpose of fees. The FTC received more than 60,000 [comments on the NPRM](#).

This December, the FTC announced a bipartisan final [Junk Fees Rule](#) that will prohibit bait-and-switch pricing and other tactics used to hide total prices and bury junk fees in the live-event ticketing and short-term lodging industries. Although the rule is limited to two industries, the FTC's Statement of Basis and Purpose concludes that the administrative record supports a finding that hiding fees is an unfair or deceptive act or practice, and that the practice is prevalent throughout the economy. And, of course, industries beyond live-event ticketing and short-term lodging are prohibited from deceiving consumers about fees and pricing per longstanding FTC and state UDAP law. The FTC will use its law enforcement authority to continue to vigorously pursue bait-and-switch pricing across industries..

Recent Enforcement Efforts

Although the FTC's rule is limited to two industries, consumers have long expressed concern to the agency around junk fees across a wide range of industries, and the FTC has employed a variety of tools to understand and address them. The FTC has engaged in a number of enforcement actions against companies that the FTC alleged charged unfair or deceptive junk fees in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a),¹ and other statutes that the FTC has the authority to enforce.² The NPRM and SBP include additional examples of efforts across government to halt junk fees, but here are two recent examples of the Commission's work in this area.

In December, [Grubhub](#) agreed to pay \$25 million to settle charges from the FTC and the Illinois Attorney General that the food delivery firm engaged in an array of unlawful practices, including hiding the true cost of its delivery services—a tactic that a former executive called a “pricing shell game.” Grubhub advertised that diners will pay a single, low-cost amount for Grubhub's services in connection with a delivery order. In reality, Grubhub tacked on junk fees, resulting in a final price that was often more than double what it originally advertised. These surprise fees were often labeled as “service fees” or “small order fees,” but were simply delivery fees in disguise. As part of the settlement, Grubhub is required to disclose the true cost of delivery and to stop adding junk fees to orders.

A few months earlier, in September 2024, the Commission took action against [Invitation Homes](#), the country's largest landlord of single-family homes, for an array of alleged unlawful actions against consumers, including advertising monthly rental rates that failed to include mandatory junk fees that could total more than \$1,700 yearly. Consumers looking for rental houses paid nonrefundable fees—including application fees up to \$55 and reservation fees up to \$500—based on the deceptively advertised rates. Consumers learned that the price would be higher than advertised only when they received a copy of their lease, and sometimes not even until after they signed the lease. These undisclosed fees ranged from “services” such as “smart home” technology and “utility management,” to air filter delivery and internet packages. The FTC's \$48 million settlement prohibits the company from deceiving consumers about the true rental price of a house, including a requirement to include all mandatory monthly fees in a house's advertised rental price, and to disclose whether listed fees are mandatory or not.

Colorado Legislation

As Colorado considers legislation to combat junk fees, I hope the FTC's recent rulemaking and enforcement experience provides useful insight. Although the FTC's final rule is limited to two industries, the Commission found that unfair and deceptive fee practices are prevalent throughout the economy. These practices can be especially harmful to low-income consumers looking for rental housing or other essentials,² and a comprehensive law would address these fees market-wide.

Thank you for the opportunity to provide information about the FTC's efforts to address junk fees at the federal level. We hope our work proves helpful as Colorado considers additional steps to strengthen competition and save its citizens money and time.

Very truly yours,

Samuel Levine

Samuel Levine
Director, Bureau of Consumer Protection
Federal Trade Commission

Copies to:

Colorado Attorney General Phil Weiser
Colorado Department of Law
Ralph L. Carr Judicial Building
1300 Broadway, 10th Floor
Denver, CO 80203

Colorado House Speaker Julie McCluskie
State Capitol Building
200 E. Colfax Ave., Room 307
Denver, CO 80203

Colorado Senate President James Coleman
State Capitol Building
200 E. Colfax Ave., Room 346
Denver, CO 80203

Colorado Representative Javier Mabrey
Chair, Colorado House Judiciary Committee
State Capitol Building
200 E. Colfax Ave., Room 307
Denver, CO 80203

² In addition to finalizing the Junk Fee Rule, the FTC recently finalized the CARS Rule, which cracks down on hidden add-ons in the auto industry and requires upfront pricing. *See* <https://www.ftc.gov/news-events/news/press-releases/2023/12/ftc-announces-cars-rule-fight-scams-vehicle-shopping>.

Colorado Senator Julie Gonzales
Chair, Colorado Senate Judiciary Committee
State Capitol Building
200 E. Colfax Ave., Room 346
Denver, CO 80203