

The COMPUTER & INTERNET *Lawyer*

Volume 42 ▲ Number 4 ▲ April 2025

Ronald L. Johnston, Arnold & Porter, Editor-in-Chief

Federal Trade Commission Final Rule Targets Hidden Fees in Live-Event Ticketing and Short-Term Lodging

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The Federal Trade Commission (FTC) has finalized its long-anticipated Rule on Unfair or Deceptive Fees (Final Rule), targeting hidden mandatory fees and ensuring transparent pricing disclosures to consumers. Unlike the Notice of Proposed Rulemaking (NPRM) published in October 2023,¹ which broadly applied to all industries, the Final Rule focuses exclusively on the live-event ticketing and short-term lodging industries. The FTC approved the Final Rule through a 4-1 bipartisan vote. The Final Rule will take effect May 12, 2025.

Commissioner Andrew N. Ferguson, the new FTC chair, cast the only dissenting vote. Commissioner Ferguson clarified that his dissent was not about the merits of the Final Rule, which he acknowledged as a “significant improvement” over the NPRM, or its

enforcement under President Donald Trump; rather, he criticized its timing and procedural approach during a transition period and noted that the revisions in the Final Rule bring it closer to compliance with Section 18 of the FTC Act.

DEVELOPMENT OF THE RULE

The Final Rule marks the conclusion of the FTC’s multi-year effort to tackle concerns about hidden and misleading fees, often referred to as “junk fees.” The FTC initiated this rulemaking process in 2022, seeking public input on whether regulatory action could help mitigate unfair and deceptive pricing practices. After gathering more than 12,000 comments that highlighted the impact of hidden fees on personal spending and market competition, the FTC proposed its rule in October 2023 that addressed deceptive fee practices across all industries.

The NPRM generated robust public participation, and a year later, the Final Rule reflects feedback from more than 60,000 additional comments from consumers, industry stakeholders and government representatives.

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Hidden Fees

Addressing concerns that the proposed rule was overly broad, disruptive and challenging to apply to certain industries with specialized pricing structures, the FTC narrowed the Final Rule's focus to two sectors where it found, during a decade of evaluation, that hidden fees and bait-and-switch pricing are particularly widespread and "pervasive" – live-event ticketing and short-term lodging.

KEY PROVISIONS OF THE FINAL RULE

The Final Rule helps ensure that businesses are upfront about pricing for live-event tickets and short-term lodging by requiring all mandatory fees to be included in the "total price" shown to consumers. This total price must be the most prominent price displayed in any advertisement or listing.²

The Final Rule addresses fees and charges associated with live-event tickets, focusing on practices related to the sale and advertising of tickets for events such as concerts, sporting events and other live performances. The Final Rule applies regardless of whether tickets are sold directly, through venues or by third-party resellers.³ Additionally, the Final Rule extends to temporary accommodations, including hotels, motels, inns, short-term rentals, vacation rentals and other lodging options.⁴ However, it explicitly excludes long-term residential leases and corporate housing arrangements.⁵

The Final Rule permits certain fees to be excluded from the total price displayed to consumers, as long as these fees are disclosed clearly and prominently before the transaction is completed. The following fees may be excluded:

- (1) Government-imposed taxes such as sales and lodging taxes;
- (2) Optional amenities for short-term lodging such as parking or spa services;
- (3) Shipping charges; and
- (4) Fees for additional goods or services selected by the consumer during the transaction.

Although these fees do not have to be included in the advertised total price, the total price itself must always be the most prominently displayed amount.

CREDIT CARD SURCHARGES AND CONVENIENCE FEES

The Final Rule requires merchants to include credit card surcharges⁶ and processing fees in the total price displayed to consumers only if payment by credit card is

mandatory. If consumers have the option to use a payment method that would avoid the surcharge, the surcharge is not mandatory.

Payment network rules separately prohibit merchants from surcharging debit cards. As such, consumers should always have at least one payment option that avoids surcharging, meaning the surcharge is always "optional."

The Final Rule took a more restrictive approach to "convenience fees"⁷ charged by merchants. Unless convenience fees are avoidable in the specific channel, they are deemed mandatory and must be disclosed. This disconnect with payment network rules is likely to catch many parties charging convenience fees off guard and creates a significant compliance risk.

BROADER IMPLICATIONS

The Final Rule marks a significant step in the FTC's pursuit of deceptive pricing practices, with an initial focus on two industries often considered among the worst offenders: the live-event ticketing and short-term lodging industries. Although the Final Rule specifically addresses these sectors, its broader implications should not be overlooked. The FTC emphasized that its enforcement authority under Section 5 of the FTC Act extends to all industries.

Historically, the FTC has utilized Section 5 to address similar issues in various industries such as telecommunications, travel and subscription services. The FTC intends to continue actively targeting bait-and-switch tactics, including drip pricing and misleading fees, through case-by-case enforcement actions against businesses that fall outside the scope of the Final Rule.

Businesses engaged in activities covered by the Final Rule must ensure compliance with its requirements, and businesses in other sectors would be prudent to adopt similar practices to mitigate legal risks and prepare for increased regulatory scrutiny.

KEY TAKEAWAYS

Companies can take several steps to align their pricing practices with the transparency and disclosure requirements in the Final Rule. The first priority is conducting a thorough audit of all pricing practices to help ensure that the total price – the full amount consumers must pay at checkout – is prominently displayed across advertisements, listings and platforms and must be the most visible pricing information.

Equally important is revisiting how fees are disclosed. Businesses must avoid using vague or misleading terms like "service fees" or "processing charges." Instead, fees must be clearly identified and explained in a way that enables consumers to understand their purpose. Conducting a thorough review of all fee

categories is essential to prevent misclassification and help ensure compliance. For charges that are excluded, like government-imposed taxes or optional add-ons, businesses must guarantee that these fees are disclosed clearly and prominently before consumers finalize their payments.

Internal processes also require careful attention. Marketing, sales and customer service teams should be trained to communicate pricing in full compliance across all advertising channels. Companies should establish clear policies for their personnel regarding pricing disclosures, procedures for updating materials and methods for verifying compliance when introducing new fees or promotions.

Finally, companies should implement proactive monitoring procedures to help ensure compliance. Regular spot checks of advertisements, listings and pricing systems can help identify and correct inconsistencies, mitigating the risk of any potential enforcement actions.

Notes

1. https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-proposes-rule-ban-junk-fees?utm_source=govdelivery.
2. Trade Regulation Rule on Unfair or Deceptive Fees, 89 Fed. Reg. 12345, 83 (Dec. 12, 2024).
3. Id. at 204.
4. Id. at 203.
5. Id.
6. In this context, a surcharge is an additional fee charged to a merchant's customer for the use of a credit card (and not charged to customers paying with cash, ACH or another payment method).
7. In this context, convenience fees are additional fees charged to consumers for the "convenience" of using a particular payment channel (e.g., online). Payment network rules require that convenience fees be:
 - (1) A flat amount (not a percentage of the sale);
 - (2) Avoidable if the consumer pays in person; and
 - (3) Charged for all payment methods (credit cards, debit cards, ACH, cryptocurrency, etc.) in that channel.

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