

Congress of the United States
Washington, DC 20510

January 4, 2023

The Honorable Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580

Re: R207011 Proposed Rule, *Trade Regulation Rule on Unfair or Deceptive Fees*, 88 FR 77420
(November 9, 2023)

Dear Chair Khan,

We commend the Federal Trade Commission (“Commission”) on its proposal to prohibit businesses from charging hidden or misleading fees, or junk fees, for goods and services. If enacted, this plan will help consumers save billions of dollars each year while promoting more competitive and honest marketplaces.

We encourage you not to narrow the scope of the proposed definitions, so it only includes certain businesses. Live-event ticketing and short-term lodging unfair and deceptive fees should be covered but any finalized rule should at a minimum also include rental housing fees. This proposal would empower renters, making the process for renting more transparent, affordable, and simple.

As the third of Americans who are renters struggle to afford rising rent prices, with over twenty million renters reporting that the increasing cost of rent threatens their financial security¹, added and dishonest fees make it even harder for them to secure affordable housing.² Such impacts also disproportionately impact renters of color and renters with disabilities, who often face additional barriers because of discrimination and the shortage of accessible housing in the private rental market. The Commission’s proposal would eliminate this barrier, helping renters save hundreds of dollars each year while driving down rental prices in the long term.

Renters often face ambiguous or misleading fees, such as an unexplained “administrative fees,” that chip away at their budgets, in some cases totaling more than ten percent of total monthly rent.³ The Commission’s proposal will end this unfair practice by requiring landlords to disclose the amount, purpose, and refundability of all rental fees up front, cutting down on bogus fees to save renters thousands of dollars each year.

The Commission’s plan would also bring much needed transparency to the rental housing market to benefit consumers in the long run. Applicants must often shell out hundreds of dollars in application fees for the mere chance to submit their application to multiple landlords. In a competitive rental market, landlords can pocket these fees without ever notifying the applicants of the status of their application. For those who make it through the application process, renters are too often advertised or shown an attractive

¹ “Tracking the COVID-19 Economy’s Effects on Food, Housing, and Employment Hardships.” *Center on Budget and Policy Priorities*, www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and. Accessed 29 Nov. 2023.

² Nelson, Ariel, et al. “Too Damn High: How Junk Fees Add to Skyrocketing Rents.” *National Consumer Law Center*, 11 Oct. 2023, www.nclc.org/resources/too-damn-high-how-junk-fees-add-to-skyrocketing-rents/.

³ *Ibid.*

price on a unit, only then to find that they have to pay hundreds each year in mandatory add-on charges like application, trash, pet, maintenance, mail, roommate, inspection, and notice fees, raising the total price of rent far beyond what is reasonably expected.⁴ This dishonest practice makes it hard for renters to accurately plan for their rent as well as comparison shop. The Commission's proposal would end this problem by requiring landlords to advertise the full price of rent, including additional mandatory fees, upfront. This would not only help renters more accurately budget for their rent, but it would also drive down rent prices in the long term by enhancing market competition since renters will be able to compare their options easily and quickly.⁵

As you finalize this rule which would prohibit unfair or deceptive practices related to fees for goods or services, specifically, misrepresenting the total costs of goods and services by omitting mandatory fees from advertised prices and misrepresenting the nature and purpose of fees, we encourage you to include in the scope of the rule, rental housing fees. Specifically, ensure the following practices that pose a challenge to renters are covered under the rule:

- Fees for services the landlord is legally obligated to provide as part of renting a habitable premises;
- Fees that are excessive in amount or greater than the cost to the landlord of a service;
- Fees not disclosed in rental advertisements;
- Fees common in apartments, house rentals, and manufactured housing communities; and
- Rental application fees, excessive late fees, utility-related fees such as internet and cable-related fees, processing or administrative fees, fees charged by new corporate landlords, high risk fees, check cashing fees, pet fees, maintenance fees, pest control fees, valet trash fees, insurance fees, cleaning fees, inspection fees, mail sorting fees, fees to rent month-to-month instead of on an annual basis, roommate and guest fees, and charges in lieu of a security deposit.

Upon publication of the junk fees rule, we encourage the Commission to take additional action specific to the rental housing industry. The balance of power weighs heavily in favor of landlords, particularly given the severe shortage of affordable housing and the combination of rising rents, inflation, and wage stagnation. The severe shortage of affordable housing deprives renters – especially low-income renters – of any meaningful way of walking away from landlords who tack on junk fees before, during, and after the lease term. To help empower renters, we encourage the Commission to issue industry-specific interpretative guidance and explore future trade regulation rules specific to rental housing junk fees.

On behalf of the thousands of our constituents who are renters, we cannot thank the Commission enough for offering a proposal to put millions of dollars back into the pockets of renters while working to drive down the skyrocketing price of rent by cracking down on junk fees. We strongly support the Commission finalizing its proposal with these expanded protections for renters included and look forward to working further with the body to empower renters.

Sincerely,



Maxwell Alejandro Frost
Member of Congress



Jimmy Gomez
Member of Congress

⁴ Ibid.

⁵ Ibid.

Barbara Lee
Member of Congress

Rashida Tlaib
Member of Congress

Kevin Mullin
Member of Congress

Dwight Evans
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Greg Casar
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Dan Goldman
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