

**Federal Update on Junk Fees
from Chuck Bell, Consumer Reports
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Junk fees are hidden or unexpected fees that cost consumers hundreds of dollars a year, that drive up costs and are hard to avoid.

They may include include 1) hidden fees that consumer can't see at the time of purchase, often added at the tail end of the buying process ("drip pricing"); 2) penalty fees that unfairly drive up costs, such as overdraft and credit card late fees; and 3) inflated fees that are excessive in relation to the value of the stated service or product feature.

In January 2023, President Biden had proposed addressing 4 types of junk fees in his State of the Union speech in January 2023. The four areas were:

- 1) Banning additional fees for a family to sit together during air travel
- 2) Requiring upfront, "all-in" pricing disclosure of the full cost for hotel stays, including any resort fees
- 3) Requiring upfront, "all-in" pricing disclosure for tickets for live entertainment (e.g. concerts, plays, sporting events, etc.), so that all mandatory fees are reflected in the price you see when you first pick out your tickets.
- 4) Banning early termination fees for mobile phones, internet, and cable TV providers

Biden had also highlighted junk fees in a February 2023 [meeting](#) of the [White House Competition Council](#), as part of an "all of government" approach to promoting greater competition and price transparency..

The President's four proposals were incorporated in the [Junk Fee Prevention Act](#) introduced this summer by Sen Richard Blumenthal ([S.916](#)) and Rep Ruben Gallego ([H.R.2463](#)). This bill is a good message bill but has not moved very far, and may struggle to get much bipartisan support

However there are 2 other bipartisan bills that are moving forward to address components of the Act:

- 1) The [TICKET Act](#), which would require all-in upfront pricing for tickets (bipartisan bill sponsored by Senators Cantwell and Cruz in the Senate ([S.1303](#)), and Representatives Bilirakis and Schakowsky ([H.R.3950](#)) in the House)
- 2) The [Hotel Fee Transparency Act](#) ([S.2498](#)) – which would require all-in, upfront pricing for hotels, including resort fees (bipartisan in Senate – introduced by Senators Klobuchar and Moran, with similar bill getting underway in House)

So this is a hopeful sign, that some of these bills can get both industry and bipartisan support. State laws requiring upfront, all-in ticket pricing have also been passed in New York, Connecticut, Tennessee and California, helping to build and sustain momentum on the issue.

2) The Federal Trade Commission is moving forward with a broad rulemaking to require upfront disclosure of any mandatory or unavoidable fees in the product or service price, to eliminate "drip pricing" where hidden fees show up in the tail end of the transaction, for example as you approach the online shopping cart. The rule would also require companies to disclose whether fees are refundable. Their rule would apply to a broad range of industries, including hotels,

apartment rentals, car rentals, and broadband internet providers. The rule is described in the attached Biden administration [press release](#). There is a formal Federal Register notice for the rule published on November 9, available [here](#). Comments are due by January 8, 2024. CFA is coordinating the development of a joint consumer organization comment letter.

3) The FTC is also considering an important rule to eliminate certain junk fees in auto sales and increase price transparency for vehicle and add-on costs. The rule potentially targets a long list of very troubling practices:

- Misleading advertising that conceals the vehicle price and the limited applicability of offers or rebates.
- The deceptive inclusion of Add-on products or services at inflated prices, many of which have little to no benefit for consumers.
- Discrimination against people of color in the pricing of Add-ons and finance interest rates.
- Selling unsafe and damaged vehicles.
- Engaging in yo-yo sales transactions in which dealers trick consumers into financing agreements with more expensive terms than previously.
- Verbally negotiating terms of the sale in a language other than English but presenting the consumer with contracts in English that contradict the negotiated terms.
- Installing devices to abusively facilitate electronic repossessions and harass consumers.
- Using electronic signatures and electronic records to facilitate fraud.

Consumer groups submitted a [national coalition letter](#) signed by 110 national, state and local groups, and [detailed comments](#) from national organizations coordinated by the National Consumer Law Center. In June, 17 members of Congress sent a [letter](#) to the FTC in support of the proposed rule. The auto dealers are lobbying very hard to stop the rule and it faces a challenging path to adoption.

3) The administration's efforts on financial junk fees are taking a regulatory path, with a [pending CFPB rulemaking related to credit card late fees](#) that is expected to save consumers \$9 billion. Late fees for most credit cards would [decrease](#) from an average of \$30 for the first late payment and \$41 for each additional late payment, to an average of \$8 for each late payment.

Consumer Reports recently published an article citing stories from consumers about how they have been harmed by excessive and punitive credit card late fees. The rule has drawn strong opposition from credit card issuers, including the American Bankers Association, the Consumer Bankers Association, and the National Association of Federally-Insured Credit Unions.

To show consumer and community support for the proposed CFPB rule, Consumer Reports has created a [online petition](#) to the Biden administration and the CFPB, which so far has been signed by 29,000 people.

CFPB has also ramped up pressure on the industry to reduce bounced check and overdraft fees through its supervision, [regulatory guidance](#) and oversight activities, saving consumers roughly \$3 billion so far. As a result of this pressure, many banks have changed or altered their

overdraft and NSF fee policies to reduce costs for consumers and improve the transparency of the overdraft protection programs. CFPB recently published a [data spotlight](#) which found that two-thirds of banks with assets over \$10 billion have eliminated NSF fees. Director Rohit Chopra said that fee revenue for NSF and denied transaction charges has declined 86% since 2021.

CFPB has a proposed rulemaking on overdraft fees on its November 2023 regulatory calendar that will likely start next year, which would further reduce fees among other institutions who have not yet reduced them. We expect an announcement about this rulemaking by the end of the year, where there will be an opportunity for organizations to submit comments and sign on to joint coalition letters.

The CFPB is also taking action to [halt junk fees for basic customer service transactions](#). The agency said it will require large banks and credit unions to provide basic information to consumers without charging fees—meaning no more fees for basic services like checking bank account balances, obtaining a payoff amount for a loan, or getting account information needed for applications.

4) For cable fees, the FCC has initiated a proceeding to require [upfront transparent pricing for all mandatory and unavoidable fees](#). Hidden cable fees are [some of the most expensive](#), making up 24% of the average bill and costing consumers \$28 billion per year and an average of \$450 per household. The FCC has also finalized a rule that will soon require broadband providers to display “[Broadband Nutrition Labels](#)” for consumers—clear labels that provide basic information about the costs and fees of internet service offerings, so people can compare options more easily.

5) For family seating fees, the Dept of Transportation has established a “[dashboard](#)” which shows the current policies of different airlines. 5 airlines do not charge an extra fee for families to sit together, but 6 still do. If legislation does not pass to clarify this issue, we expect that the DOT may address it through issuing regulations to ban or restrict these fees.

These are the major highlights of what has been going on with junk fees. State and local groups can help on these issues by raising their voices, sharing stories about consumers who have received unfair junk fees, signing on to any national coalition letters, and speaking out in social media.

6) At the state level, California has passed [SB 478](#), a strong bill banning drip pricing in a wide range of industries including hotels and concert tickets, [signed by Gov. Newsom](#) in October. The law does not ban companies from setting a price, but it does regulate how companies can advertise or display the cost, requiring them to display the full cost of products or services, including any mandatory, unavoidable fees. See also Attorney General Bonta [press release](#).

More info on Junk Fees:

[Protect Yourself From Hidden Fees](#) (Consumer Reports 2019)

[Updated Survey \(April 2023\)](#)

In April 2023, Consumer Reports conducted a nationally representative survey of 2,121 U.S. adults to learn more about their experiences with hidden fees across a range of products and services in the last two years. CR found that 49 percent had encountered hidden fees for

telecommunications services; 45 percent for live entertainment or sporting events; 37 percent for gas and electric utilities; 37 percent for hotel stays; 35 percent for air travel; 27 percent for credit cards; 26 percent for auto loans and purchases; and 23 percent for personal banking services. Fifty-one percent of respondents said that hidden fees caused them to exceed their budget for their cable, internet, or phone service, and two out of three Americans (68 percent) say they are paying more in hidden fees now than they did five years ago.

Other helpful links:

What are Junk Fees?

- CFPB Launches Initiative to Save Americans Billions in Junk Fees >> <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-launches-initiative-to-save-americans-billions-in-junk-fees/>
- The Hidden Cost of Junk Fees (CFPB) blog >> <https://www.consumerfinance.gov/about-us/blog/hidden-cost-junk-fees/>
- Prepared Remarks of Rohit Chopra re: CFPB Junk Fees RFI >> <https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-cfpb-director-rohit-chopra-on-the-junk-fees-rfi-press-call/>
- The Hidden Cost of Junk Fees (featuring short video!) >> <https://www.consumerfinance.gov/about-us/blog/hidden-cost-junk-fees/>
- CFPB Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services >> https://files.consumerfinance.gov/f/documents/cfpb_fees-imposed-by-providers-of-consumer-financial-products-services_rfi_2022-01.pdf
- CFPB's Research Shows Deep Dependence on Overdraft Fees >> <https://www.consumerfinance.gov/about-us/newsroom/cfpb-research-shows-banks-deep-dependence-on-overdraft-fees/>
- Overdraft Fees Can Price People Out of Banking (CFPB Blog) >> <https://www.consumerfinance.gov/about-us/blog/overdraft-fees-can-price-people-out-of-banking/>
- Consumer Coalition Committee on Credit Card Penalty Rule ANPR >> https://www.nclc.org/wp-content/uploads/2022/08/CFPB_2022_0039_group_comment-1.pdf
- Draft Credit Card Rule – Credit Card Penalty Fees (Regulation Z) >> <https://www.federalregister.gov/documents/2023/03/29/2023-02393/credit-card-penalty-fees-regulation-z>
- Consumer Coalition Comment on Credit Card Penalty Rule (May 2023) >> <https://www.nclc.org/wp-content/uploads/2023/05/Consumer-Groups-Comments-to-Credit-Card-Late-Fee-NPRM.pdf>
- Consumer Reports Comment Letter to FTC on Junk Fee ANPR >> <https://advocacy.consumerreports.org/wp-content/uploads/2023/02/CR-Comment-for-FTC-re-Junk-Fees-02-23.pdf>