

From GrubHub to StubHub: DC Sues StubHub for Deceptive Pricing and Junk Fees

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In June, we [summarized](#) a number of new and pending laws specifically designed to regulate how companies display prices and fees. Although it's important for companies to focus on those, we also noted that even in states without specific laws on point, enforcers could still rely on laws that more generally outlaw deceptive and unfair acts and practices to challenge how companies display their prices. A [new lawsuit](#) filed this week by the DC Attorney General against StubHub provides [yet another](#) perfect example.

The complaint alleges that StubHub uses “dark patterns” and a “bait-and-switch scheme” known as “drip pricing,” in which it leads by advertising only part of the price and “then revealing other charges later as the consumer goes through the buying process.” When consumers see the initial price, they are confronted with a countdown clock which creates “a false sense of urgency,” and then have to click through over a dozen pages before they see the full price. Added fees can total “upwards of 40% of the advertised ticket price” and are not clearly explained. The complaint also alleges the overall amount is hidden until after a consumer provides personally identifying information, obstructing users from comparing prices.

Although StubHub purports to provide users with an option to “Include Estimated Fees” in the displayed prices, the AG alleges that this option “is hidden under multiple drop-down menus such that a reasonable user of the service is unlikely to find and use the filter.” And even when the filter is selected, the complaint alleges that the displayed prices still did not include all mandatory fees until at least March 2024, which was after the AG contacted StubHub about this issue.

StubHub didn't always display prices this way. The complaint reveals from 2014-2015, StubHub utilized an “all-in pricing” approach, in which it included mandatory fees in its price. Around that time, StubHub conducted a test to determine whether consumers were more likely to purchase tickets if fees were presented up-front or later in the process. The test showed that consumers were less likely to purchase if the fees were displayed up-front. The complaint alleges that after these tests, StubHub abandoned the “all-in pricing” approach, “knowing that it could extract more and higher fees from its consumers through [the] unfair and deceptive practice” of hiding fees until the end.

With this lawsuit, the AG asks the court to (a) issue injunctive relief to stop StubHub's deceptive and unfair practices, (b) disgorge the money that StubHub has gained from these practices and require the company to pay damages and restitution, (c) pay civil penalties for every violation of the law, and (d) pay reasonable attorneys fees. Like the fees in StubHub's purchase flow, all of *those* fees will be determined later in the legal process. We expect that the AG will be looking for big numbers,

though. For example, in the DC Attorney General's December 2022 [settlement](#) with GrubHub addressing its alleged "hidden fees," the company paid \$2.7 million in restitution and \$800,000 in civil penalties.

This is just the latest in a series of cases challenging how companies display prices and fees. It won't be the last. If you haven't reviewed your purchase flows recently to see how they stack up against the new laws and enforcement actions in this area, this may be a good time to do that.