

# FTC Issues FAQs on Fees Rule, Affirms Rule to Become Effective Next Week

Beth Bolen Chun, Gonzalo E. Mon, Donnelly L. McDowell

May 6, 2025

Yesterday, the FTC issued [FAQs](#) to answer common questions about its Rule on Unfair or Deceptive Fees and to provide a small entity compliance guide in connection with the Rule. The issuance of the FAQs affirms that the current FTC, led by Chair Ferguson, does not plan to revoke or modify the Rule, which will now become effective next week, on May 12, 2025.

As we previously [covered](#), the Rule only applies to businesses selling live-event tickets and short-term lodging – a significant departure from the initially-proposed rule which would have covered all industries. The FAQs represent FTC “staff’s view” of the Rule and its requirements and are “not binding on the Commission.” Nonetheless, the FAQs provide helpful insight into how the FTC plans to enforce the Rule, and are worth considering even for businesses not covered by the Rule when evaluating risk under general UDAP principles.

## Scope and Applicability

The FAQs explain that the Rule covers any business that offers, displays, or advertises live-event tickets or short-term lodging, “including third-party platforms, resellers, and travel agents,” regardless of where the ads appear. The Rule also applies to B2B transactions. Online marketers or other intermediaries, including those in the secondary ticket market, must give sellers the information necessary to calculate and disclose the total price upfront, such as any fees the intermediary charges.

The FAQs also provide examples of what is covered and excluded from the Rule. For example, live-event tickets include “concerts, sporting events, music, theater, and other live performances that audiences watch as they occur,” but do not include “pre-recorded audio and visual performances and film screenings.” Short-term lodging includes hotels, home shares, vacation rentals, and “discounted extended stays at a hotel,” but excludes “long-term or other rental housing that involves an ongoing landlord-tenant relationship” and short-term lease extensions, and temporary corporate housing offered on the same terms as long-term leases.

## Avoiding Misrepresentations

FTC staff explains that a business must tell the truth about:

- how much it is charging and why; and
- any other fee-related information it chooses to convey, like whether a fee is refundable.

In addition, businesses must describe what fees are for and “avoid vague phrases like ‘convenience

fees,' 'service fees,' or 'processing fees.'" FTC staff also provides examples of various misrepresentations that may violate the Rule. For example, it would be a misrepresentation to:

- charge an "environmental fee" when the fee is not used to promote sustainability or conservation;
- claim that a fee is required for the government, when it is not;
- advertise tickets as being available, when they are not; or
- inflate the actual government taxes and fees to reduce the "total price" display.

### **Mandatory Fees**

FTC staff lists these examples of mandatory fees:

- Fees that consumers can't reasonably avoid (such as credit card processing charges, if consumers don't have other payment options).
- "Ancillary goods or services people must buy to make the underlying good or service fit for its intended purpose, which reasonable consumers would expect to be part of the purchase." For example, if towels are not included in a hotel stay, then a hotel would need to list a towel fee.
- Fees from "default billing, pre-checked boxes, or opt-out provisions" – such as automatic fees that a business only removes if the consumer asks. Staff gives an example of resort fees automatically added for use of facilities because "a reasonable consumer would expect use of the hotel facilities to be included" and "automatically including the fee makes [it] mandatory by effectively limiting people's ability to consent."

### **Itemizing and Excluded Fees**

Businesses can itemize mandatory fees but they "must not overshadow the total price," which must be the most prominent. Businesses may exclude government, shipping, and optional charges from the total cost, but such charges must be disclosed before asking for payment.

Staff also provides some guidance on shipping charges. For example:

- Shipping charges must reasonably reflect a business's costs to ship physical goods. However, staff notes that shipping charges "don't have to reflect a business's exact cost to ship goods." Instead, businesses may use flat-rate shipping or shipping costs based on national averages.
- Cost of shipping can be incorporated into the total price when offering "free shipping."
- Businesses may not include handling charges in shipping charges. Any handling charges must be incorporated in the total price.

The FAQs provide examples of optional ancillary goods or services, which do not have to be included in the total price. For example:

- A credit card surcharge not imposed when people pay with other payment methods (if otherwise permitted by law).
- A trip protection plan that requires a consumer to affirmatively check a box to add the plan.
- Fees that can't be calculated in advance because they depend on choices that consumers make

during the transaction, such as upgraded balcony seats or optional features for hotel rooms. A business may advertise the lowest available price, as long as people can actually buy at that price and the pricing information is not otherwise misleading. However, staff clarifies that once a consumer makes the selection that raises the rate, a business must update the total price.

- Fees incurred after purchase if they couldn't be known at the time of the purchase or not part of the same transaction (such as late payment or charges for damage to a hotel room).

### **Final Payment**

A business must display the final payment amount (including all of the previously excluded fees) before asking people to pay and that amount must be displayed as prominently as, or more, than the total price (*i.e.*, the previously provided price with mandatory fees).

### **Dynamic Pricing and Promotional or Loyalty-Based Discounts**

Businesses are permitted to use non-misleading dynamic pricing and pricing promotions. Businesses may also offer different pricing for different locations, but they should advertise the maximum total price applicable to the area they are targeting.

However, if a discounted price is only available to certain people, then that discounted price is not the total price that must be disclosed most prominently, although it is permissible to disclose both. The total price should only be updated to include the discount once someone qualifies for the requirements, such as a rewards program or BOGO offer. Offering a “50% off” discount alone without a price would not require a total price disclosure.

### **Relation to Other Laws**

Businesses must comply with the Rule and all applicable state or local laws or regulations – except to the extent there is a conflict, in which case the Rule will supersede, but only to the extent of the conflict. If a state or local law gives greater protections, businesses must comply with the Rule and the greater protections. (See our past [legislative roundups](#) for other recent state fee laws.)

\*\*\*

The FAQs provide insight into how FTC staff interprets the Rule, as well as how staff may view general UDAP violations under the FTC Act in sectors not covered by the rule. The FAQs may also offer a view into how states may choose to interpret their own similar statutes with overarching and more broadly applicable requirements for upfront disclosure of total price. We expect both the FTC and states to proactively investigate and bring enforcement under these new specific statutes and regulations.