



January 26, 2022

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

**RE: National Consumers League Support for Petition for Rulemaking
Concerning Drip Pricing by Institute for Policy Integrity (Docket ID No. FTC-
2021-0074)**

Dear Chair Khan,

The National Consumers League (NCL) strongly supports the petition from the Institute for Policy Integrity at New York University School of Law requesting that the Federal Trade Commission (“FTC” or “Commission”) promulgate rules governing drip pricing. By obscuring the true price of a good or service, drip pricing often lead consumers to make purchases they would have otherwise rejected. Additionally, hidden fees make it difficult for consumers to compare prices among multiple vendors.

NCL has long advocated against hidden fees in a number of areas, including live event ticketing, hotel accommodations, and airline tickets. In 2018, NCL joined with the Sports Fans Coalition to ask the FTC to prohibit drip pricing for live event ticketing.¹

¹ National Consumers League. *Groups urge federal agency to protect consumers from deception in the live event ticketing industry*. (December 2018). Online: <https://nclnet.org/ftc-ticketing-comments/>

Following the Live Nation-Ticketmaster merger in 2010, the industry's unfair and deceptive practices have gone largely unchecked.² Commission regulations addressing drip pricing would give fans greater confidence that they will not face surprise charges at almost every step of the ticket-buying process.

In 2019, NCL was proud to support the District of Columbia Attorney General's action against hotel resort fees, another form of drip pricing.³ Specifically, Attorney General Karl Racine claimed that Marriott was charging hidden resort fees in order to increase their profits, a practice which is deceptive and misleading.⁴ As recently as 2017, the Commission appeared that it might be in alignment with these sentiments by stating that hidden resort fees are "likely to harm consumers."⁵ This followed the Commission's 2012 warning against 22 hotels for engaging in this same practice.⁶ We urge the FTC to follow up on these previous actions with a strong Rule regulating drip pricing.

Lastly, NCL has joined many legislative efforts to address drip pricing in air travel. In December 2021, we supported the reintroduction of the FAIR Fees Act, a bill to regulate the charging of excessive ancillary fees by airlines.⁷ Surprise charges for baggage, seat choice, changing the reservation date, and other basic services distort the price of a ticket from the originally advertised fare. While the FTC may be preempted by the Airline Deregulation Act of 1978 from addressing drip pricing on airline tickets, we believe that air passengers

² United States Government Accountability Office. *Event Ticket Sales: Market Characteristics and Consumer Protection Issues*. (April 2018). Pg. 4. Online: <https://www.gao.gov/assets/gao-18-347.pdf>

³ National Consumers League. *DC takes lead in fight against deceptive hotel resort fees*. (July 2019). Online: https://nclnet.org/racine_resortfees/

⁴ Office of the Attorney General for the District of Columbia. *AG Racine Sues Marriott for Charging Deceptive Resort Fees and Misleading Tens of Thousands of District Consumers*. (July 2019). Online: <https://oag.dc.gov/release/ag-racine-sues-marriott-charging-deceptive-resort>

⁵ Federal Trade Commission. *Economic Analysis of Hotel Resort Fees*. (January 2017). Pg. v. Online: https://www.ftc.gov/system/files/documents/reports/economic-analysis-hotel-resort-fees/p115503_hotel_resort_fees_economic_issues_paper.pdf

⁶ Federal Trade Commission. *FTC Warns Hotel Operators that Price Quotes that Exclude 'Resort Fees' and Other Mandatory Surcharges May Be Deceptive*. (November 2012). Online: <https://www.ftc.gov/news-events/press-releases/2012/11/ftc-warns-hotel-operators-price-quotes-exclude-resort-fees-other>

⁷ National Consumers League. *Groups offer support for Forbidding Airlines from Imposing Ridiculous (FAIR) Fees Act of 2021*. (December 2021). Online: https://nclnet.org/fair2021_intro/

experiences with this deceptive pricing practice should inform the Commission's rulemaking.

The FTC is in a unique position to better protect consumers from unfair and deceptive drip pricing. Although surprise charges are exceptionally prevalent among the live event, hotel, and airline industries, they are certainly not the only areas where consumers would benefit from Commission action on the matter. The National Consumers League thanks the FTC for its attention to our concerns.

Sincerely,

/s/

John Breyault

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