



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
KA 'OIHANA PILI KĀLEPA  
335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: (808) 586-2850  
Fax Number: (808) 586-2856  
cca.hawaii.gov

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO  
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA  
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

## Testimony of the Department of Commerce and Consumer Affairs

### Office of Consumer Protection

Before the  
House Committee on Consumer Protection and Commerce  
Wednesday, March 13, 2024  
2:20 P.M.  
Via Videoconference  
Conference Room 329

On the following measure:  
**S.B. 2020, S.D. 1, RELATING TO DECEPTIVE TRADE PRACTICES**

Chair Nakashima and Members of the Committee:

My name is Mana Moriarty, and I am the Executive Director of the Department of Commerce and Consumer Affairs (Department) Office of Consumer Protection (OCP). The Department supports this bill, which is intended to promote truth-in-advertising by prohibiting drip pricing. Drip pricing involves advertising a price that is less than the actual price that a consumer will have to pay for a good or service.

Requiring mandatory disclosure of fees across all industries protects consumers from deceptive hidden fees and bait and switch pricing. This bill makes it a deceptive trade practice for anyone to advertise, display, or offer a price for goods or services that does not include all mandatory non-government fees or charges. Passing this bill will arm consumers with tools to make better decisions in the marketplace while being protected from bait-and-switch pricing.

The OCP supports this bill and recently supported similar efforts at the federal level to combat hidden fees and bait-and-switch pricing. Together with Attorney General Anne E. Lopez and a coalition 19 state attorneys general, OCP expressed strong support for a proposed Trade Regulation Rule on Unfair or Deceptive Fees by the Federal Trade Commission (FTC). The comment letter, filed on February 7, 2024, addressed the provisions of a proposed FTC Rule:

- Prohibiting 'bait and switch' advertising by requiring businesses, from the outset, to clearly and conspicuously disclose the total price, inclusive of any mandatory fees;
- Requiring businesses to more prominently display the total price when pricing information is advertised;
- Prohibiting businesses from misrepresenting the nature and purpose of any fee, and;
- Requiring businesses to clearly and conspicuously disclose the nature and purpose of certain fees (such as shipping charges and optional fees) before the consumer consents to pay.

Thank you for the opportunity to testify on this bill.



February 7, 2024

Honorable April Tabor, Secretary  
Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue, NW  
Suite CC-5610 (Annex B)  
Washington, D.C. 20580

***Re: Unfair or Deceptive Fees NPRM, R207011***

Dear Secretary Tabor:

The Attorneys General of the States of North Carolina and Pennsylvania, along with the Attorneys General of the States or Territories of Arizona, Colorado, Connecticut, Delaware, District of Columbia, Hawaii,<sup>1</sup> Illinois, Maine, Michigan, Minnesota, New Jersey, New York, Oklahoma, Oregon, Vermont, Washington, and Wisconsin (“State Attorneys General”) respectfully submit this comment in response to the Notice of Proposed Rulemaking (“Notice”) concerning the Federal Trade Commission’s (“FTC”) proposed Trade Regulation Rule on Unfair or Deceptive Fees (“Rule”). The State Attorneys General, as the chief law enforcement officers in their respective jurisdictions, commend the FTC for its comprehensive review of the use of unfair or deceptive fees in the consumer marketplace and support the FTC’s stated objective “to deter deceptive and unfair acts or practices involving fees, to promote a level playing field that enables comparison shopping and allows honest businesses to compete, and to expand the available remedies where such practices are uncovered.”<sup>2</sup>

Hidden fees are a prevalent problem in many different types of industries, including, but not limited to, residential leasing, payday lending, internet applications, online shopping, automobile rentals, event ticket sellers, carpet cleaners, dietary supplement sellers, moving companies, gyms, hotels and other short-term lodging providers, travel companies, outlet stores, and online auctions.<sup>3</sup> The State Attorneys General support the FTC in promulgating the proposed

---

<sup>1</sup>In addition to the Hawaii Attorney General, the Hawaii Office of Consumer Protection joins in this comment.

<sup>2</sup> Notice at 50.

<sup>3</sup> Notice at 10.

Rule and agree it is a “straightforward”<sup>4</sup> approach to combat prevalent unfair and/or deceptive fee practices in the marketplace, specifically, misrepresenting the total cost by omitting mandatory fees from advertised prices (bait and switch pricing) and misrepresenting the nature and purpose of fees.<sup>5</sup>

## I. Public State Enforcement Efforts

The State Attorneys General agree with the FTC’s finding that the above-mentioned unfair or deceptive fee practices are widespread and are a chronic, prolific problem confronting many consumers across numerous sectors of the economy.<sup>6</sup> In addition to supporting the FTC’s proposed Rule, the State Attorneys General will continue to combat the unfair and deceptive fee practices this proposed Rule addresses, as well as combat the imposition of any other type of junk fee that businesses concoct to harm consumers and stifle honest competition. Listed below are some of the efforts undertaken by the states joining in this comment.

### A. Financial Services Fees

- **Mariner Finance, LLC**<sup>7</sup>: In August 2022, the Pennsylvania Office of Attorney General, along with the Attorneys General from the District of Columbia, New Jersey, Oregon, and Washington State filed a lawsuit in the U.S. District Court for the Eastern District of Pennsylvania against Mariner Finance, LLC (“Mariner”), a Wall Street private equity-owned installment lender. According to the lawsuit, Mariner is alleged to have charged consumers junk fees in the form of hidden add-on products, including costly insurance policies, without the consumer’s knowledge, and in some cases, despite the consumer’s explicit rejection of the add-ons. The lawsuit alleges that, in 2019 alone, Mariner charged consumers \$121.7 million nationwide in premiums and fees for add-on products.

### B. Hotel Fees

- **Marriott International, Inc.**<sup>8</sup>: In July of 2019, the Attorney General’s Office for the District of Columbia filed a lawsuit against Marriott International, Inc. (“Marriott”) for its deceptive advertising of room prices that did not include mandatory resort or destination fees, thus allegedly misleading consumers. The litigation is still ongoing.
- **Marriott International, Inc.**<sup>9</sup>: In November 2021, the Pennsylvania Office of Attorney General filed an Assurance of Voluntary Compliance (“AVC”) against Marriott. According to the AVC, Marriott is alleged to have advertised room prices

---

<sup>4</sup> Notice at 52.

<sup>5</sup> Notice at 31-32.

<sup>6</sup> Notice at 32.

<sup>7</sup> <https://www.attorneygeneral.gov/taking-action/ag-shapiro-takes-action-to-defend-pennsylvanians-from-predatory-personal-lending-company/>

<sup>8</sup> <https://oag.dc.gov/release/ag-racine-sues-marriott-charging-deceptive-resort>

<sup>9</sup> <https://www.attorneygeneral.gov/taking-action/ag-shapiros-action-requires-marriott-to-disclose-resort-fees/>

that did not include mandatory fees, thus misleading consumers. In addition to other injunctive relief, Marriott agreed to clearly and conspicuously disclose all mandatory fees and display the total price most prominently in advertising.

- **Choice Hotels International, Inc.**<sup>10</sup>: In September 2023, the Pennsylvania Office of Attorney General, along with the Attorneys General of Oregon and Colorado, filed AVCs<sup>11</sup> against Choice Hotels International, Inc. (“Choice”). According to the filings, Choice is alleged to have advertised room prices that did not include mandatory fees, such as “resort fees,” which would only be disclosed later (a practice known as “drip pricing”), thus misleading consumers. In addition to other injunctive relief, Choice agreed to clearly and conspicuously disclose all mandatory fees and display the total price most prominently in advertising.
- **Omni Hotels Management Corp.**<sup>12</sup>: In November 2023, the Pennsylvania Office of Attorney General filed an AVC and the Colorado Office of Attorney General filed an AOD against Omni Hotels Management Corporation (“Omni”). According to the filings, Omni is alleged to have advertised room prices that did not include mandatory fees, thus misleading consumers. In addition to other injunctive relief, Omni agreed to clearly and conspicuously disclose all mandatory fees and display the total price most prominently in advertising.

### C. **Live-Event Ticket Fees**

- **Event Ticket Sales, LLC**<sup>13</sup>: In November 2020, the Pennsylvania Office of Attorney General filed an AVC against Event Ticket Sales, LLC (“Event Ticket Sales”), a Nebraska business selling live-event tickets online. According to the AVC, Event Ticket Sales is alleged to have advertised ticket prices that did not include service fees and is further alleged to have failed to clearly disclose an itemization of the total cost of tickets even after the consumer submitted a payment method. In addition to agreeing to clearly and conspicuously disclose the final price of tickets, including an itemization of all charges, prior to the consumer entering payment information, Event Ticket Sales paid \$1,420.50 in restitution to affected consumers.

---

<sup>10</sup> <https://www.attorneygeneral.gov/taking-action/settlement-with-choice-hotels-is-ag-henrys-latest-action-to-quash-hidden-resort-fees-and-drip-pricing-for-travelers/>; <https://www.doj.state.or.us/media-home/news-media-releases/ag-rosenblum-announces-multi-state-settlement-with-choice-hotels-over-hidden-fees/>; <https://coag.gov/press-releases/9-21-23/>

<sup>11</sup> Colorado filed an Assurance of Discontinuance (“AOD”).

<sup>12</sup> <https://www.attorneygeneral.gov/taking-action/settlement-with-omni-hotels-management-corporation-is-ag-henrys-latest-action-to-quash-hidden-resort-fees-and-drip-pricing-for-travelers/>; <https://coag.gov/press-releases/omni-hotels-hidden-agreement-colorado-attorney-general-11-9-2023/>

<sup>13</sup> <https://www.attorneygeneral.gov/taking-action/ag-shapiro-settles-with-online-ticket-platform-over-hidden-fees-canceled-events-refund-policy/>

- **RYADD, Inc.**<sup>14</sup>: In September 2022, the Pennsylvania Office of Attorney General filed an AVC against RYADD, Inc. (“RYADD”), a Florida business selling live-event tickets online. According to the AVC, RYADD is alleged to have advertised ticket prices that did not include service fees and is further alleged to have failed to clearly disclose an itemization of the total cost of tickets until after the consumer submitted a payment method. In addition to agreeing to clearly and conspicuously disclose the final price of tickets, including an itemization of all charges, prior to the consumer entering payment information, RYADD paid \$1,300 in restitution to affected consumers.

#### **D. Rental Housing Fees**

- **Continental Real Estate Management, Inc.**<sup>15</sup>: In April 2019, the Pennsylvania Office of Attorney General filed an AVC against Continental Real Estate Management, Inc. (“Continental”), a Pennsylvania business leasing and managing residential real estate. According to the AVC, Continental is alleged to have imposed a 15% administrative fee on all of the charges (e.g., damages, cleaning) already assessed against departing tenants’ security deposits. Continental agreed to stop this practice and paid \$30,000 in restitution to affected consumers.
- **Legacy Realty & Property Management, LLC**<sup>16</sup>: In July 2019, the Pennsylvania Office of Attorney General filed a lawsuit against Legacy Realty & Property Management, LLC (“Legacy”), a Pennsylvania business, alleging it imposed a 10 to 30% administrative fee on all of the charges already assessed against departing tenants’ security deposits. In a Consent Petition filed in September 2023, Legacy agreed to close its business and pay \$17,500 in restitution to affected consumers.
- **Solomon Management, LLC**<sup>17</sup>: In July 2020, the Pennsylvania Office of Attorney General filed an AVC against Solomon Management, LLC (“Solomon”), a New Jersey business leasing residential real estate in Pennsylvania. According to the AVC, Solomon is alleged to have deducted “inspection” fees from tenants’ security deposits without clearly and conspicuously disclosing such fees in its leases. Among other injunctive relief terms, Solomon agreed to clearly and conspicuously disclose all charges and fees in its leases, as well as pay \$70,000 in restitution to affected consumers.

---

<sup>14</sup> <https://www.attorneygeneral.gov/taking-action/ag-shapiro-secures-settlement-with-online-ticket-resellers-full-refunds-for-eligible-pennsylvanians/>

<sup>15</sup> <https://www.attorneygeneral.gov/taking-action/ag-josh-shapiro-announces-settlement-with-state-college-property-manager-over-security-deposit-practices/>

<sup>16</sup> <https://www.attorneygeneral.gov/taking-action/settlement-reached-with-state-college-landlord-relating-to-security-deposit-issues/>

<sup>17</sup> *Commonwealth of Pennsylvania v. Solomon Management, LLC*, Lancaster County Docket No. CI-20-04774, July 16, 2020.

- **McKinney Properties, Inc.**<sup>18</sup>: In February 2022, the Pennsylvania Office of Attorney General filed an AVC against McKinney Properties, Inc. (“McKinney”) a Florida business leasing residential real estate in Pennsylvania. According to the AVC, McKinney is alleged to have imposed a 15% administrative fee on all of the charges already assessed against departing tenants’ security deposits. McKinney agreed to stop this practice and paid \$25,000 in restitution to affected consumers.

**E. Auto Rental Fees**

- **Dennis N. Saban**<sup>19</sup>: In 2014, the Arizona Attorney General’s Office filed a lawsuit against Dennis N. Saban, and his Arizona car rental companies, Phoenix Car Rental and Saban’s Rent-A-Car (“Saban’s”), alleging the companies charged undisclosed fees to consumers during car rental transactions from 2009 through 2016. After an 8-week bench trial in 2017, the Court enjoined Saban’s from omitting mandatory charges from rental car advertising and further ordered Saban’s to pay \$1.8 million in civil penalties and restitution.

**F. Television/Cable/Telecommunication Fees**

- **CenturyLink**<sup>20</sup>: In July 2017, the Minnesota Attorney General filed suit against CenturyLink for violations of the consumer protection statutes based upon findings that CenturyLink misrepresented the price of its internet and television services it sold to Minnesota consumers by offering one price but charging a higher price instead. The suit further alleged that CenturyLink used a series of complex pricing rules to deceive consumers, and that the company routinely refused to honor the actual offers it made to consumers. As part of a settlement of the litigation, 12,000 Minnesota consumers received \$844,655 in refunds and 8,000 additional consumers are completing a process to receive up to \$8 million in refunds.
- **Comcast Corporation**<sup>21</sup>: In December 2018, the Minnesota Attorney General filed suit against Comcast for violation of the consumer protection statutes, alleging that the company (1) misrepresented the prices consumers would pay for its services, (2) added services or equipment that consumers did not request to their account, and (3) promised Visa gift cards that it did not deliver. As part of a settlement of the litigation, 15,600 Minnesotans received \$1.14 million in refunds and an additional 16,000 Minnesotans received debt relief worth millions of dollars.

---

<sup>18</sup> <https://www.attorneygeneral.gov/taking-action/attorney-general-shapiro-announces-settlement-with-state-college-landlord/>

<sup>19</sup> <https://www.azag.gov/press-release/185-million-verdict-against-car-rental-company-defrauding-az-consumers>

<sup>20</sup> [https://www.ag.state.mn.us/Office/Communications/2020/01/08\\_CenturyLinkSettlement.asp](https://www.ag.state.mn.us/Office/Communications/2020/01/08_CenturyLinkSettlement.asp)

<sup>21</sup> [https://www.ag.state.mn.us/Office/Communications/2020/01/15\\_ComcastXfinity.asp](https://www.ag.state.mn.us/Office/Communications/2020/01/15_ComcastXfinity.asp)

- **CenturyLink, Inc.**<sup>22</sup>: In December, 2019, the Attorney General of the State of Oregon filed an AVC against CenturyLink, Inc. (CenturyLink). According to the AVC, CenturyLink charged customers undisclosed fees like an “Internet Cost Recovery Fee” some consumers only learned about upon receiving their first bill. In addition to other injunctive relief, CenturyLink agreed to clearly disclose all mandatory fees and charges in future advertisements, to conspicuously disclose any and all material terms or conditions of its offers at the time of the sale, and to stop charging certain fees if they are not disclosed at the time of the sale.
- **Cox Communications, Inc.**<sup>23</sup>: In January 2024, the Arizona Attorney General’s Office obtained a consent judgment against Cox Communications, Inc. (“Cox”), a national telecommunications company, for failing to adequately disclose additional fees to customers who purchased television services through long-term contracts based on promises of “price lock guarantee” and other fixed-pricing offers between January 2017 and March 2021. As part of the consent judgment, Cox must accurately and clearly disclose any and all material terms to consumers at the time of sale, and refrain from imposing any unilateral pricing increases on its residential customers in Term Agreements if Cox advertised that those customers would have “locked,” “set,” “guaranteed,” or other fixed monthly pricing. Cox also agreed to pay \$13 million in restitution and civil penalties.

## II. FTC’s Proposed Rule and State Attorneys General Comments

### A. § 464.2 Hidden Fees Prohibited

According to the Notice,<sup>24</sup> Section 464.2 of the proposed Rule is set forth as follows,

(a) It is an unfair and deceptive practice and a violation of this part for any Business to offer, display, or advertise an amount a consumer may pay without Clearly and Conspicuously disclosing the Total Price.

(b) In any offer, display, or advertisement that contains an amount a consumer may pay, a Business must display the Total Price more prominently than any other Pricing Information.

If a business wants a consumer to part with their hard-earned money and purchase a good or service, that business should be forthright about how much the good or service costs, in total, from the very beginning, and in clear terms. Consumers should not be baited with an attractive, artificially low price, only to find out later in the transaction that fees and charges have substantially increased the total price. The State Attorneys General concur with the FTC’s position that “[w]hen sellers advertise prices that are artificially low because they do not include mandatory

<sup>22</sup> <https://www.doj.state.or.us/media-home/news-media-releases/ag-rosenblum-announces-4-million-settlement-with-centurylink/>

<sup>23</sup> <https://www.azag.gov/press-release/attorney-general-mayes-announces-13-million-settlement-cox-communications-disguising>

<sup>24</sup> Notice at 157.



fees that are disclosed only later in the purchasing transaction, consumers end up transacting with those sellers under false pretenses.”<sup>25</sup>

Such deceptive conduct, apparently driven by profit motives,<sup>26</sup> hurts consumers, who are often hamstrung<sup>27</sup> into paying higher prices for goods or services that they might not have purchased had they been clearly told the truth up front. Such deceptive conduct also frustrates consumers’ efforts in comparison shopping, especially online, where, presumably, many consumers do most of their research. Hard-working consumers should not have to waste their valuable, leisure time researching prices by being forced to navigate through multiple webpages of multiple websites, including hyperlinks to exhausting terms and conditions containing verbose legalese in miniscule and sometimes obscured fonts, then entering all of their payment and other personal information to reach the check-out page, so that they can hopefully, finally learn the true and final cost of the good or service.

The State Attorneys General support the FTC in promulgating this provision to combat deceptive bait and switch pricing schemes. It is a straightforward regulation that is grounded in common sense, and should not result in a significant burden to businesses, who will merely be required to be honest and upfront about how much money the consumer is required to pay to purchase the good or service. Furthermore, the adoption of this provision, as well as the adoption of the Rule in general, will help provide a level playing field for all businesses competing in their respective marketplaces. Businesses that have been truthful and straightforward about the total cost of their goods or services will not be put at a competitive disadvantage next to businesses who deceptively market their goods or services as being cheaper than they actually are.

## **B. § 464.3 Misleading Fees Prohibited**

According to the Notice,<sup>28</sup> Section 464.3 of the proposed Rule is set forth as follows,

(a) It is an unfair and deceptive practice and a violation of this part for any Business to misrepresent the nature and purpose of any amount a consumer may pay, including the refundability of such fees and the identity of any good or service for which fees are charged.

(b) A Business must disclose Clearly and Conspicuously before the consumer consents to pay the nature and purpose of any amount a consumer may pay that is

---

<sup>25</sup> Notice at 35.

<sup>26</sup> Notice at 36-37 (recognizing a study done by StubHub that found that consumers purchased more tickets and upgraded to more expensive seats when the total price was not displayed at the beginning of the transaction; also recognizing that resort and service fees generated billions for the hotel and live ticket industries, respectively).

<sup>27</sup> See Notice at 12, FN 38 (“They wait until a buyer has waited in queues for long, stressful delays and spring substantial...fees on them last minute knowing they are more likely to pay them than if they had been upfront with the cost of the purchase to begin with.”)

<sup>28</sup> Notice at 157-158.

excluded from the Total Price, including the refundability of such fees and the identity of any good or service for which fees are charged.

During the comment period for the previous Advanced Notice of Proposed Rulemaking, the FTC reported that it received numerous comments from consumers who reported that sellers misrepresent or do not adequately disclose the nature or purpose of fees being charged, with consumers left wondering what they are paying for, or believing that fees are arbitrary.<sup>29</sup> Consumers explained that sellers used vague names like “convenience fees, economic impact fees, or improvement fees that do not adequately disclose to consumers what they are paying for.”<sup>30</sup> Some consumers complained that businesses led them to believe a charge was a mandatory tax on consumers imposed by the government, when the fee was actually a charge the business chose to impose.<sup>31</sup> Furthermore, consumers shared that the stated reason for fees provided little or no value, had no relationship to the goods or services they received, or appeared to be merely revenue sources for sellers.<sup>32</sup>

The State Attorneys General support the FTC in promulgating this provision, as we agree with the FTC that charges that misrepresent their nature and purpose are unfair and deceptive because they mislead consumers and make it more difficult for truthful businesses to compete on price.<sup>33</sup> We further agree that in order to prevent these misrepresentations, “it is necessary for businesses to clearly and conspicuously disclose the nature and purpose of any amount a consumer may pay that is excluded from the total price.”<sup>34</sup> Furthermore, we agree that “[w]here charges are excluded from the total price, disclosures of the nature and purpose of such charges are necessary to determine whether such fees are truly optional and properly excluded from the total price, and for the consumer to decide whether to accept the optional charge.”<sup>35</sup> Like proposed Section 464.2, this provision is another straightforward, commonsense approach that should not significantly burden businesses.

### C. § 464.4 Relation to State Laws

According to the Notice,<sup>36</sup> Section 464.4 of the proposed Rule is set forth as follows,

(a) *In General.* This part will not be construed as superseding, altering, or affecting any State statute, regulation, order, or interpretation relating to unfair or deceptive fees or charges, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

---

<sup>29</sup> Notice at 4, 6-7, 40.

<sup>30</sup> Notice at 7, 40.

<sup>31</sup> Notice at 40.

<sup>32</sup> Notice at 7.

<sup>33</sup> Notice at 41-42.

<sup>34</sup> Notice at 42.

<sup>35</sup> Notice at 42.

<sup>36</sup> Notice at 158.

(b) *Greater protection under State law.* For purposes of this Section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided under this part.

The State Attorneys General support the FTC in promulgating this provision. This section properly recognizes and preserves the interest that individual states have in combatting unfair or deceptive acts or practices committed in our respective jurisdictions. It also expressly preserves the states' ability to enact greater protections than those afforded by the proposed Rule. As technology and consumer-facing business practices continue to evolve, it is essential that the states retain the ability and flexibility to address unfair or deceptive fee practices. As noted by the FTC, some states have also taken legislative or regulatory action concerning such practices.<sup>37</sup>

### III. Conclusion

The undersigned State Attorneys General thank the FTC for the opportunity to be heard in this important matter. We support the promulgation of the proposed rule, as set forth in the Notice, and look forward to continuing our work combatting unfair or deceptive fee practices, in whatever form they may take, and wherever they may arise.

BY THE UNDERSIGNED STATE ATTORNEYS GENERAL:



JOSHUA H. STEIN  
Attorney General  
State of North Carolina



MICHELLE A. HENRY  
Attorney General  
Commonwealth of Pennsylvania



KRIS MAYES  
Attorney General  
State of Arizona



PHILIP J. WEISER  
Attorney General  
State of Colorado

---

<sup>37</sup> Notice at 48; *see, e.g.*, H.B. 636 (2023-2024)(Pa. 2023) (proposed amendments to the definition section of the Pennsylvania *Unfair Trade Practices and Consumer Protection Law* defining certain enumerated fee practices as unfair methods of competition and unfair or deceptive acts or practices).



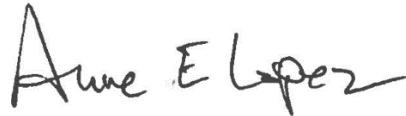
WILLIAM TONG  
Attorney General  
State of Connecticut



KATHLEEN JENNINGS  
Attorney General  
State of Delaware



BRIAN L. SCHWALB  
Attorney General  
District of Columbia



ANNE E. LOPEZ  
Attorney General  
State of Hawaii



MANA MORIARTY  
Executive Director  
Hawaii Office of Consumer Protection



KWAME RAOUL  
Attorney General  
State of Illinois



AARON M. FREY  
Attorney General  
State of Maine



DANA NESSEL  
Attorney General  
State of Michigan



KEITH ELLISON  
Attorney General  
State of Minnesota



MATTHEW J. PLATKIN  
Attorney General  
State of New Jersey



LETITIA JAMES  
Attorney General  
State of New York



GENTNER DRUMMOND  
Attorney General  
State of Oklahoma



ELLEN F. ROSENBLUM  
Attorney General  
State of Oregon



CHARITY R. CLARK  
Attorney General  
State of Vermont



BOB FERGUSON  
Attorney General  
State of Washington



JOSHUA L. KAUL  
Attorney General  
State of Wisconsin



**Ave Kwok, Chairman** - Jade Dynasty

**Andy Huang, Incoming Chair** - L&L Hawaiian Barbeque **Tambara Garrick, Secretary** –Hawaii Farm Project

**Kahili Soon, Treasurer** – Hukilau Marketplace **Ryan Tanaka, Past Chairman** –Giovanni Pastrami

---

**Sheryl Matsuoka**, Executive Director **Ginny Wright**, Operations Associate **Holly Kessler**, Director of Membership Relations

---

**2023-24  
Board of Directors**

Jesse Aguinaldo  
Keoni Ahlo  
Lee Anderson  
Noa Aoki  
Javier Barberi  
Tim Januszewski  
Tom Jones  
Felix Koeppenkastrop  
Victor Lim  
Keith Mallini  
Don Murphy  
Conan Paik-Rosa  
Mike Palmer  
Tyler Roukema  
Michael Skededeski  
Alison "Bo" Tanaka  
Katy Tanaka  
Tina Wang  
Nicolas Ware  
Anthony Wong  
Nicholas Wong  
Paul Yokota

**Allied Members**

Louis Chun  
Robert Gutierrez  
James Idemoto  
Christopher Lee  
Raymond Orozco  
Bryan Pearl  
Randy Sagon  
David Yoshioka

**Advisory Board**

Jerry Agrusa  
Jamie Brown  
Richard Rand  
John Richards  
Richard Turbin

Date: March 11, 2024

To: Rep. Mark M. Nakashima, Chair  
Rep. Jackson D. Sayama, Vice Chair  
Committee on Consumer Protection & Commerce

From: Victor Lim, Legislative Lead

Subj: SB 2020, SD1 Relating to Deceptive Trade Practices

The Hawaii Restaurant Association representing 4,000 Eating and Drinking Place locations in Hawaii, stand opposed to SB2020, SD1 as it is currently written. This bill seeks to eliminate all fees or surcharges, forcing restaurant operators to change menus to reflect a single Total Price other than taxes and fees charges by the state or county on the transactions.

While we appreciate the bill's intent to provide increased transparency for consumers, this proposed rule fails to achieve this for the restaurant industry. Restaurant operators make significant efforts to ensure that fees and surcharges are evident and identifiable before consumers receive their check, they also typically provide customers with the option to remove a surcharge from their final bill. These practices differentiate the restaurant industry from the others.

By forcing restaurant operators to include service fees, credit card surcharges, or even delivery fees in menu pricing, this bill in fact forces operators to hide from consumers the costs of the services they value in the restaurant experience. Restaurant customers understand that they will pay extra if they are having their food delivered or are dining with a large party. The consumer understands that these are higher costs a restaurant is taking on to make the customer experience even more convenient.

RESTAURANT FEES THAT ARE VALUE ADDING INCLUDING SERVICE FEES AND TIPS THAT GO DIRECTLY TO TIPPED WORKERS, CREDIT CARD SURCHARGES, AND DELIVERY FEES SHOULD BE PRESERVED.

Thank you very much for allowing us to share our industry's view on this.





TESTIMONY OF TINA YAMAKI, PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
MARCH 13, 2023

Re: SB 2020 SD1 RELATING TO DECEPTIVE TRADE PRACTICES.

Good afternoon, Chair Nakashima and members of the House Committee on Consumer Protection & Commerce. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

While we understand the intent, we OPPOSE SB 2020 SD1. This measure makes it a deceptive practice to advertise, display, or offer a price for goods or services that does not include all mandatory fees or charges, with certain exceptions; and takes effect 7/1/2040.

This measure could be **interpreted to assume that there is a breakdown instead of a total in the shipping costs**. We continue to see an increase in online shopping. These customers want free and fast shipping. Before it was 2-days, now they want it sooner. With social media and online postings, consumers have been able to expose those businesses who are deceptive.

Customers have changed just within the past few years. Since the pandemic we have seen a spike in online shopping. Customers are very price conscious and base their purchasing decision not only on the price of the product but also the shipping cost and how fast the delivery will be. Consumers will compare prices on not only the items but also the shipping and handling fees. **Because of the high competition many sites offer FREE shipping as that is what attracts the customer.**

Other sites have a shipping and handling fee – that could include the cost of the packing materials and 3rd party delivery to the mailing service as small businesses must pass the expense along as they are not able to absorb the cost. **When checking out, the price of the total shipping, taxes, and handling fee (if any) are shown to the customer who will either accept (buy purchasing the items) or declining and finding another site that offers the same product. The consumer has the right to not purchase items if they feel the price is too high.**

We need to remain cognizant that in many cases shipping to Hawaii is more expensive. Since the pandemic, we have seen an exponential rise in cost in not only coastal shipping but also by air. Hawaii does NOT have the options that the mainland has for shipping. For example, a seller on the mainland can offer Ground shipping because it is one of the cheapest forms of shipment where shipments typically travel by truck or railway. Hawaii is not able to take advantage of this option for shipping since we are an island state. The seller would have to send it via air. Again, the consumer has the right not to purchase items if they feel the total price is too high.

In addition, **many online sellers have contracts with 3rd party shippers that are proprietary. It would give some companies the unfair advantage of knowing what deal their competitor received.** Online sellers know that they must remain competitive in their pricing of not only the item but shipping as well or people will go to another site to purchase. **We don't want to see where online sites no longer ship to Hawaii.**

We humbly ask that you hold this measure. Mahalo again for this opportunity to testify.



# MOTION PICTURE ASSOCIATION

Hawaii Senate Bill 2020  
Oppose Unless Amended

On behalf of the Motion Picture Association (MPA), and our member companies<sup>1</sup>, we appreciate the opportunity to offer our comments on the proposed legislation dealing with deceptive trade practices and fee disclosures for your consideration.

The MPA understands the objective of the legislation is to ensure transparency in prices for consumers. However, compliance with this legislation will be difficult where streaming services are purchased and paid for through a third-party biller. For example, there might be a bundling deal that bundles Service A with Streaming Service B. A customer has a financial obligation to Service A, but they receive streaming service as part of their overall bundled package. In this instance, there is no direct billing between the streaming service and the customer. Service A (not streaming service B) should be responsible for describing the terms of this contract to customers -- and customers would reasonably anticipate such since that's who they pay for their streaming service B membership.

A provision should be added to S.B. 2020 to ensure the responsibility for fee disclosures lies with the entity that bills, and which possesses the relevant subscription and billing dates and the necessary contact information to reach the consumer. We believe this amendment, which limits the scope to entities that have a billing relationship with the consumer, is consistent with the objectives of the proposed legislation.

The following should be added in Section 2 of SB 2020, following new (c): New subsection should be amended as follows:

**(d) Section 418A-3(a)(12) shall only apply when an entity directly bills the consumer and possesses the relevant subscription and billing dates and the necessary contact information to reach the consumer.**

We appreciate your consideration of our requested amendment.

---

<sup>1</sup> MPA member companies include: The Walt Disney Studios Motion Pictures; Netflix Studios, LLC; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Universal City Studios LLC; and Warner Bros. Entertainment Inc.



# STARN • O'TOOLE • MARCUS & FISHER

A LAW CORPORATION

March 12, 2024

The Honorable Mark M. Nakashima, Chair  
The Honorable Jackson D. Sayama, Vice Chair  
Members of the House Committee on Consumer Protection & Commerce  
Hawai'i State Capitol, Room 432  
415 South Beretania Street  
Honolulu, Hawaii 96813

Hearing: House Committee on Consumer Protection & Commerce  
Hearing Date: Wednesday, March 13, 2024  
Time: 2:20 p.m.  
Place: Via Videoconference  
Conference Room 329  
State Capitol  
415 South Beretania Street

Testimony in Support of Senate Bill 2020 SD1  
Relating to Deceptive Trade Practices

Aloha Chair Nakashima, Vice Chair Sayama and Members of the  
House Committee on Consumer Protection & Commerce:

I represent a number of hotel operators and owners. A number of my clients support “transparent pricing practices by displaying resort and other mandatory fees up front, rather than only before a booking’s finalization.” They believe “consumers should have access to the same pricing transparency, regardless of the type of transient accommodations type or the channel of distribution” and that establishing a “single standard for mandatory display of fees across the tourism ecosystem’s entirety--from hotels, motels, and short-term rental accommodations to online travel agencies, metasearch sites, and short-term rental platforms--will not only prevent consumers from being misled but also ensure a level playing field across the tourism industry.”

California was the first state to enact legislation requiring mandatory fees (AB 537) be included in the initial advertised price to consumers. Several other states including Pennsylvania, New York, Massachusetts, and Colorado have introduced or are planning to introduce legislation to require upfront disclosure of mandatory fees in the initial price. Some other states may also have legislation in this space, but it is currently unknown at this time. We support the California model to create a single disclosure and display standard, avoid a patch work of different standards, and avoid large costs to businesses to update their booking systems several times to account for differences amongst states.

Pacific Guardian Center, Makai Tower • 733 Bishop Street, Suite 1900 • Honolulu, Hawaii 96813  
Telephone: (808) 537-6100 • Fax: (808) 537-5434 • Web: [www.starnlaw.com](http://www.starnlaw.com)

The Honorable Mark M. Nakashima, Chair  
The Honorable Jackson D. Sayama, Vice Chair  
Members of the House Committee on Consumer Protection & Commerce  
March 12, 2024  
Page 2

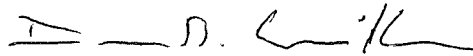
I respectfully request for clarification that the definition of “Person” be added after paragraph number (13) in Section 1 of Senate Bill 2020 SD 1 as follows:

“Person” means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

The above definition of “Person” was taken from HRS §481B-21 Definitions, [Part II.] Cybersquatting.

Thank you for considering my testimony.

Mahalo nui,

A handwritten signature in black ink, appearing to read 'Ivan M. Lui-Kwan', with a stylized flourish at the end.

Ivan M. Lui-Kwan

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF UBER TECHNOLOGIES IN  
OPPOSITION TO S.B. NO. 2020 SD 1 RELATING TO DECEPTIVE TRADE  
PRACTICES**

March 13, 2024

To: Chairman Mark Nakashima and Members of the House Committee on Consumer Protection and Commerce:

My name is Bob Toyofuku and I am presenting this testimony on behalf of Uber Technologies (hereinafter “Uber”) in opposition to S.B. No. 2020 SD 1 Relating to Deceptive Trade Practices.

Uber’s delivery business “Uber Eats” facilitates the sale and delivery of food orders between customers and local restaurants and other merchants. Uber is opposed to SB 2020 SD 1 as it is currently written. Oftentimes the fees that are calculated on the Uber Eats platform are based on several factors such as delivery distance, size of basket, and what Uber Eats has negotiated individually with restaurants. This bill as currently written will result in less transparency when it is applied to Uber Eats. It would require Uber Eats and other delivery food platforms to bundle or bake our fees into the individual menu prices we display to consumers. This would be confusing and likely would deter customers from completing purchases altogether. The unbundled approach to fees utilized by Uber Eats provides greater transparency because a consumer can clearly identify and understand what the consumer is paying for; the goods (food) versus other additional service-related fees. Every Uber Eats order clearly displays the total paid to the restaurant for menu items and separately any applicable fees, along with explanations for what those fees constitute.

We urge this committee to take the time to fully understand the unintended consequences of this language as currently written before advancing it any further. If Hawaii is committed to

furthering this legislation, we encourage Hawaii to consider amendments that would allow for food delivery network companies to keep an unbundled approach to displaying menu items and service fees.

Thank you for the opportunity to testify and I will be happy to answer any questions.



March 12, 2024

The Honorable Mark M. Nakashima  
Chair  
House Committee on Consumer Protection & Commerce  
State Capitol  
Honolulu, HI 96813

Dear Chair Nakashima:

On behalf of CTIA<sup>®</sup>, the trade association for the wireless communications industry, I write to seek changes to SB 2020, related to deceptive trade practices. We appreciate the goal of protecting consumers from practices that may undermine a consumer's ability to make informed decisions, and our industry is committed to ensuring consumers have accurate and transparent information. However, this legislation will undermine proven efforts taken by the wireless industry and the Federal Communications Commission (FCC) to ensure consumers remain accurately informed.

The FCC already has an established and comprehensive regulatory regime around price transparency, including its Broadband Labeling and Truth-in-Billing regulations, as well as broad general authority over the industry that allows it to act, if it deems necessary. These rules and existing authority effectively protect consumers from surprise or unfair fees or billing practices.

Hawaii should not enact laws where Congress has expressly directed a federal agency to regulate for the country, as is the case here. In adopting its directive to the FCC on broadband labeling, Congress clearly intended that the FCC should regulate the advertising of broadband on a *national* level.<sup>1</sup> Further, it is not clear if the requirements in the bill are consistent with federal law, which plainly states that "no State or local government shall have any authority to regulate the entry of or *the rates charged by any commercial mobile service . . .*"<sup>2</sup>

While we recognize there is language in the bill that seeks to address our industry's concerns, we believe it does not go far enough. CTIA specifically seeks the following changes:

(c) Sections 481A-3(a)(12) does not apply to **any company or its affiliate that is regulated by a state or federal agency that has regulatory authority over broadband internet service.** ~~persons providing broadband internet access service on its own or as part of a bundle, as defined in Section 8.1(b) of Title 47 of the Code of Federal Regulations, in compliance with the broadband consumer label requirements adopted by the Federal Communications Commission in FCC 22-86 on November 14, 2022, codified in Section 8.1(a) of Title 47 of the 94 Ch. 400—12—Code of Federal Regulations.~~

---

<sup>1</sup> Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60504(a), 135 Stat. 429, 1244 (2021).

<sup>2</sup> 47 U.S.C. § 332(c)(3)(A) (emphasis added); see also, e.g., *MCI Telecommunications Corp. v. FCC*, 822 F.2d 80 (D.C. Cir. 1987).

The exemption language should be based on whether an industry is already subject to existing regulatory authority rather than referring to specific regulations. An exemption based on existing rulemakings does not capture when an expert regulator specifically avoids certain regulatory actions.

For example, in the Broadband Label rulemaking proceeding, after an extensive notice and comment rulemaking process that included a series of public hearing and input from the FCC's Consumer Advisory Committee, the FCC rejected proposals to require "all-in" pricing information as it would not only "be difficult for providers to implement," but "potentially misleading to consumers" given these fees "vary according to the consumer's geographic location. The agency further justified excluding such fees from the monthly price based on consumers' typical experience and expectations. As the FCC has explained, "consumers are accustomed to seeing base monthly prices, without additional taxes and fees, when shopping for goods and services and thus, the presentation of the base price should enable easy comparison shopping."<sup>3</sup>

The decision by the FCC to specifically decline action on "all-in" pricing should not be viewed by states as an opportunity to insert itself into the regulatory framework on the wireless industry.

Indeed, any effort to layer additional transparency requirements on top of all the above-discussed advertising and billing requirements would be more likely to confuse consumers than to help them. Too, focusing the exemption language on industries that already have an appropriate regulator will prevent the state having to update its laws every time the FCC enacts a new rule that is either duplicative or contradictory to SB 2020, if enacted.

Wireless carriers provide services and contracts to customers on a nationwide basis; state-specific requirements such as this would create a patchwork of regulation across the country, the cost of which would be borne by all customers, including those in Hawaii. CTIA urges Hawaii to recognize the dynamics within the competitive wireless marketplace and refrain from imposing a new state law on the wireless industry that would be unnecessary, duplicative, and not in the consumer interest. If Hawaii ultimately enacts a law regarding unfair and deceptive fees, any new law should specifically exempt entities regulated by agencies with authority over broadband internet service.

Sincerely,



Mike Blank  
Director of State Legislative Affairs

---

<sup>3</sup> <https://docs.fcc.gov/public/attachments/FCC-22-86A1.pdf>

# ZIPPY'S

**LATE**

March 13, 2024  
2:20 p.m.  
Room 329

**COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

Rep. Mark M. Nakashima, Chair  
Rep. Jackson D. Sayama, Vice Chair

**RE: Testimony on SB 2020, SD1 Relating to Deceptive Trade Practices – In Opposition**

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee,

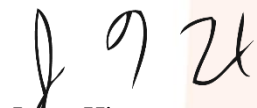
On behalf of FCH Enterprises, Inc. and our best-known brand name, Zippy's Restaurants, I oppose SB2020, SD1 relating to "deceptive trade practices."

At Zippy's, we already provide clear and transparent disclosure of service fees that may be applicable to a consumer's tab. By forcing restaurant operators to hide these costs inside a single Total Price, aside from state or county taxes and fees, SB2020 SD1 actually achieves the opposite effect of not showing how a Total Price is calculated, reducing the information made available to the consumer, and not affording the consumer an opportunity to ask the restaurant about what certain fees may cover.

By forcing restaurant operators to include service fees, credit card surcharges, or even delivery fees in menu pricing, this bill forces operators to hide the costs of the services they value in the restaurant experience. Restaurant customers understand that they will pay extra if they are having their food delivered or are dining as part of a large party. Taking away transparency into the fees will inflate the perceived cost to the consumer, likely reducing the number of times they will visit a restaurant. This bill will have the unintended consequences of reduced transparency and, likely, fewer restaurant visits.

Please vote against this bill on the grounds that the true "deceptive trade practice" is the one that doesn't allow for full pricing disclosure.

Mahalo for your consideration,



Jason Higa  
Chief Executive Officer  
FCH Enterprises, Inc.



**LATE**

March 13, 2024

The Honorable Mark Nakashima  
Chair  
House Committee on Commerce and Consumer Protection  
Hawai'i State Capitol, Room 432  
415 S Beretania St.,  
Honolulu, HI

RE: Oppose SB 2020: Relating To Deceptive Trade Practices.

Dear Representative Nakashima and members of the Committee:

On behalf of the Chamber of Progress, a tech industry coalition promoting technology's progressive future, I write to **oppose SB 2020 based on its current drafting**. While we support efforts to eliminate deceptive practices and manipulative pricing in certain industries, SB 2020 could unfortunately have the effect of eliminating many consumer-friendly pricing options in other industries.

We agree that deceptive practices in industries like hotels, ticketing, and airlines should be addressed. Inconsistent prices and a lack of transparency make it more difficult for consumers to do "apples to apples" comparisons between competing services and hinder fair competition.

Unfortunately, the bill as drafted doesn't reflect the complexity of some three-sided online marketplaces, like many app-based services, that have a fundamentally different structure.

**SB 2020 could limit consumers' ability to make price comparisons.** In three-sided online marketplaces - including many sharing, e-commerce, and delivery services - independent sellers offer and set the prices for their goods and services. The market operator connects the independent sellers with customers, and may offer additional services like delivery, product authentication, or order processing. In these marketplaces, the total cost a customer pays reflects separate inputs: the



prices set by the independent sellers and the prices set by the market operators for their services.

By requiring all sellers to display the total price for each item, inclusive of any “mandatory fees or charges other than taxes or fees imposed by a government,” this bill could require three-sided online marketplaces to combine pricing of separate services into a single price. As a result, consumers would have less pricing information.

Additionally, this bill could result in marketplace operators being held liable when the independent sellers exclude mandatory fees or other charges from their listed price. In the transient accommodation industry, many hotels and resorts advertise available rooms on online lodging rental or home sharing platforms. Hotels and resorts, like homeowners renting out their homes, are responsible for the list price and any applicable fees.

Under SB 2020, the platforms could be held liable if the hotel or resort failed to incorporate all resort fees into the price they post on the platform. This concern could be addressed by including a safe-harbor provision for three-sided marketplaces and platforms that do not independently set prices for listings.

**The bill could also end up inadvertently raising prices for consumers.** Some sellers offer discounts on bundles of goods, like “buy one get one free” offers or discounts on bulk orders. In these cases, the total price of each good could vary depending on the other items in a customer’s cart. In order to reduce confusion while complying with this rule, sellers may abandon these discounts - which would harm consumers.

Similarly, the bill risks eliminating dynamic pricing and forcing service providers to switch to flat fees.

Many online platforms use dynamic pricing for delivery services, in which prices fluctuate based on the type or amount of goods being delivered and the availability of delivery drivers. With dynamic pricing, the price of delivery services could change throughout the day, thereby changing the total price for each item.

For example, the price of a late-night delivery of heavy items might be higher than a delivery of a small order during peak hours. Online platforms would likely face difficulty in predicting and accurately incorporating these variable costs into the

total prices of individual items. Instead, they may abandon dynamic pricing and adopt a flat fee structure, which would increase the price of deliveries for smaller orders or orders during peak hours. In the above example, the customer placing a small order would likely pay more for their delivery under a flat fee structure than they would with dynamic pricing.

We support efforts to crack down on industries that deceive customers and use manipulative pricing tactics. However, applying a blanket rule on all industries, without accounting for differences in market structures, could end up harming consumers. Unless these differences can be addressed during the drafting stage, we urge you to **oppose SB 2020**.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth Whittaker'. The signature is stylized with a large initial 'R' and a series of loops and flourishes.

Ruth Whittaker,  
Director of Civic Innovation Policy



**MAUI**  
CHAMBER OF COMMERCE  
VOICE OF BUSINESS

**LATE**

HEARING BEFORE THE HOUSE COMMITTEE ON  
COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 329  
Wednesday, March 13, 2024 AT 2:20 P.M.

To The Honorable Mark M. Nakashima, Chair  
The Honorable Jackson D. Sayama, Vice Chair  
Members of the Committee on Consumer Protection & Commerce

**OPPOSE SB2020 SD1 RELATING TO DECEPTIVE TRADE PRACTICES**

The Maui Chamber of Commerce **OPPOSES SB2020 SD1**.

The Maui Chamber of Commerce fully supports the bill's intent to provide increased transparency for consumers, this proposed rule fails to achieve this for several industries including the restaurant industry.

According to the Hawaii Restaurant Association (HRA), restaurant operators make significant efforts to ensure that fees and surcharges are evident and identifiable before consumers receive their check, they also typically provide customers with the option to remove a surcharge from their final bill.

By forcing restaurant operators to include service fees, credit card surcharges, or even delivery fees in menu pricing, this bill in fact forces operators to hide from consumers the costs of the services they value in the restaurant experience. Restaurant customers understand that they will pay extra if they are having their food delivered or are dining with a large party. The consumer understands that these are higher costs a restaurant is taking on to make the customer experience even more convenient.

In the retail industry some sellers offer discounts on bundles of goods, like "buy one get one free" offers or discounts on bulk orders. In these cases, the total price of each good could vary depending on the other items in a customer's cart. In order to reduce confusion while complying with this rule, sellers may abandon these discounts - which would harm consumers.

There are, also, situations where businesses provide services and pass on other costs that are not necessarily known at the time that a price is provided – including copying charges, title reports, consulting reports, etc.

For these reasons, we **OPPOSE SB2020 SD1**.

Sincerely,

Pamela Tumpap  
President



# MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



**LATE**

March 13, 2024

Representative Mark Nakashima  
Chair of the House Committee on Consumer Protection & Commerce

Re: SB 2020 SD1, Relating to Deceptive Trade Practices

Dear Chair Nakashima and Members of the House Committee on Consumer Protection & Commerce:

Thank you for the opportunity to comment on SB 2020 SD1 and for your efforts to provide price transparency to Hawai'i consumers.

The Expedia Group ("Expedia") family of brands is proud to play a key role in Hawai'i's state and local economies by helping travelers to research, plan, and book a wide range of lodging, airline, car rental, and destination experiences across the state. As a leader in the online travel marketplace, we fully support efforts to protect consumers by giving consumers an up-front, complete understanding of the total cost of their bookings. Price transparency is especially important in the travel sector, which is why when consumers search for hotels on Expedia's platform, our sites show them results that include the total price they would pay for the stay, including taxes and fees that may apply, throughout the booking process.

While Expedia Group does not oppose SB 2020 SD1, we strongly encourage you to defer action on this bill or to exempt lodging and other travel services in light of active Federal rulemaking and legislation in this space. The travel marketplace is inherently interstate, and neither consumers nor travel businesses are served by a confusing patchwork of state rules that establish different requirements and outcomes depending on a traveler's state of origin or destination. As a result, Expedia supports efforts currently underway at the Federal Trade Commission ("FTC") and Congress to establish a consistent and comprehensive standard for advertised prices across the United States.

Should SB 2020 SD1 continue to advance in Hawai'i, we respectfully urge you to adopt the following policies to ensure state law is workable and maximally serves Hawai'i residents:

- As an intermediary, Expedia does not set prices for the lodging and travel services offered on our platform, nor do we control "resort fees" or other charges that are set by the hotel or other travel provider. We rely on our supply partners like hotels, airlines, and tour operators to provide us with complete and accurate fee information so we can, in turn, display a comprehensive total price to travelers on our platform. SB 2020 SD1 should not hold intermediaries liable for circumstances in which we were not provided full and accurate information from suppliers, a concept enshrined in many marketplace tax laws.



- Given the progress being made at the Federal level, we recommend amending SB 2020 SD1 to sunset its provisions in the event that either the FTC or Congress establishes a national standard for advertised prices. Hawai'i's travelers—and travelers considering Hawai'i as a destination—are best served by a single standard that allows for consistent, clear expectations for advertised prices.
- Finally, consumers search for travel services across a diverse travel ecosystem including direct booking channels (e.g., a hotel or airline's own website), Online Travel Agencies or "OTAs" like Expedia, and metasearch products like search engines and other aggregators. Thank you for ensuring standards for price inclusivity apply to anyone who advertises a price for lodging and other travel services to ensure the consumer protection applies regardless of the point of sale or search.

Again, we are grateful for your important work to establish transparent, consistent, and equitable marketplace pricing for Hawai'i travelers and Hawai'i travel businesses alike, and we welcome the opportunity to discuss these issues with you further.

Please do not hesitate to contact me if there is any additional information we can provide.

Mahalo,

Mackenzie Chase  
Regional Manager, Hawai'i  
Expedia Group

