



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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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

Testimony of the Department of Commerce and Consumer Affairs

Office of Consumer Protection

Before the
Senate Committee on Judiciary
Wednesday, February 28, 2024
10:00 AM
Via Videoconference
Conference Room 016

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

Chair Rhoads 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 strongly supports this bill, which require businesses to disclose all mandatory fees, excluding government fees, in advertisements. This truth-in-advertising bill addresses a problem confronting many consumers across numerous sectors of the economy, including online shopping, fitness centers, financial services, rental housing, payday lending, motor vehicle rentals, restaurants, and event ticketing: hidden fees.

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 26, 2024

The Honorable Karl Rhoads
Chair
Senate Committee on Judiciary
State Capitol
Honolulu, HI 96813

Dear Chair Rhoads:

On behalf of CTIA[®], the trade association for the wireless communications industry, I write in opposition to Senate Bill 2020, relating to deceptive trade practices. We appreciate the goal of protecting consumers from practices that may undermine a consumer's ability to make informed commercial decisions, and our industry is committed to ensuring consumers have accurate and transparent information. However, robust federal regulations of wireless carriers and public industry commitments already exist, thereby making any new state-specific law imposed on our industry potentially duplicative and not in the consumer's interest.

Robust Federal Regulation of the Wireless Industry Already Exists

The wireless industry is regulated by the FCC to ensure that consumers are protected from surprise, unfair, or deceptive fees and billing practices, including through broadband labeling and Truth-in-Billing regulation. These rules and policies effectively prevent and hold wireless providers responsible for any unfair or deceptive fees.

FCC Broadband Labeling: Implementing a recent Congressional directive, the FCC adopted requirements for broadband labeling in 2023 that include disclosure of information such as [give a couple of examples from the nutrition label].¹ Importantly, in adopting its directive, Congress clearly intended that the FCC should regulate the advertising of broadband on a *national* level.² Hawaii should not enact laws where Congress has expressly directed a federal agency to regulate for the country, as is the case here.

FCC's Truth-in-Billing: For nearly two decades, wireless voice providers have abided by the FCC's Truth-in-Billing requirements, which are broad, binding principles that ensure voice providers offer information on customers' bills that is clear and not misleading.³ The Truth-in-Billing rules have also served to help protect consumers from fraud and unauthorized third-party charges. Importantly, the

¹ See *Empowering Broadband Consumers Through Transparency*, Order, CG Docket No. 22-2, DA 23-617 (CGB rel. July 18, 2023).

² Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60504(a), 135 Stat. 429, 1244 (2021).

³ *Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492 (1999) ("FCC Truth-in-Billing R&O"); *Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing*, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, 20 FCC Rcd 6448 (2005).

FCC created a comprehensive framework that affords providers flexibility in their billing procedures without discouraging the introduction of new pricing plans or impairing the ability of providers to adopt improvements to their billing systems or bill structures.⁴

FTC Regulations: The Federal Trade Commission (“FTC”) has a pending proceeding regarding unfair and deceptive consumer fees, whereby it may ultimately adopt provisions applicable to the wireless industry that are preemptive at best, and duplicative or inconsistent at worse, with this legislation.⁵

Title 47 U.S.C.: 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 . . .* except that this paragraph shall not prohibit a State from regulating the *other* terms and conditions of commercial mobile services.”⁶ It is also not clear if the proposed exceptions in the legislation related to “tax or fees imposed by a government on the transaction” would include the wide range of monies wireless providers collect at the behest and blessing of government regulators.

The wireless industry is Committed to Keeping Consumers Informed

CTIA and its members also have established the *Consumer Code for Wireless Service*⁷ —an evolving set of principles designed to help consumers make informed decisions when selecting wireless services. This code has been regularly updated since it was first created nearly 20 years ago. Importantly, more than half of the principles contained in the *Consumer Code for Wireless Service* speak to this important issue, with disclosure of rates and terms of service being the first commitment. Further, Principle 5 establishes a commitment to “clearly and conspicuously” disclosing material charges.

Existing Wireless Service Regulations Already Protect Consumers

CTIA urges Hawaii to recognize the dynamics within the competitive wireless marketplace and refrain from imposing a new state law on the industry that would be unnecessary, duplicative, and not in the consumer interest given existing regulation. If Hawaii ultimately enacts a law regarding unfair and deceptive fees, any new law should look to Pennsylvania [H.B. 636](#) (2023) and Connecticut [SB 15](#) (2024). These bills provide the certainty needed to avoid duplicative state laws by focusing on particular sectors of the economy that don’t face the same robust regulation by the federal government.

Sincerely,



Mike Blank
Director of State Legislative Affairs

⁴ See FCC Truth-in-Billing R&O, 14 FCC Rcd at 7499, ¶ 10

⁵ The FCC is also considering rules related to cable and DBS pricing. *All-In Pricing for Cable and Satellite Television Service*, Notice of Proposed Rulemaking, MB Docket No. 23-203, FCC 23-52 (rel. June 20, 2023).

⁶ 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).

⁷ CTIA, *Consumer Code for Wireless Service* (2020), <https://api.ctia.org/wp-content/uploads/2020/03/CTIA-Consumer-Code-2020.pdf> (“*Consumer Code for Wireless Service*”).



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Date: February 20, 2024

To: Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice Chair
Committee on Judiciary

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.





National Association
of Theatre Owners

Advancing the Moviegoing Experience

February 26, 2024

Chair Rhoads
Senate Committee on Judiciary
Hawai'i State Capitol
415 South Beretania St.
Honolulu, HI 96813

SUBJECT: SB 2020 RELATING TO DECEPTIVE TRADE PRACTICES

Chair Rhoads,

On behalf of the National Association of Theatre Owners (NATO) and the hundreds of movie theater owners and operators we represent, we appreciate the opportunity to submit testimony on the proposed legislation concerning unfair or deceptive fees.

We acknowledge the importance of regulations aimed at protecting consumers from deceptive practices. The characteristics and application of convenience fees within the movie theatre industry, however, fundamentally differ from the attributes of the "junk fees" targeted by this regulatory effort. For this reason, we urge the committee to recognize the distinct nature of convenience fees in the movie theatre industry, characterized by transparency, optionality, and consumer choice. These fees do not constitute unfair or deceptive practices as they are clearly disclosed, provide significant additional value, and are entirely avoidable, thus not fitting the criteria of problematic fee practices addressed by the proposed legislation. Therefore, NATO respectfully requests that the committee consider the implications of these regulations on the state's movie theatres and moviegoers and exempt our industry from the purview of the proposed regulation.

CONVENIENCE FEES ARE EASILY AVOIDABLE

Movie theatres employ a dual pricing strategy that distinguishes between online and box office ticket sales. When customers purchase tickets online, they typically incur a convenience fee, generally ranging between \$1 and \$2. Importantly, moviegoers have the option to avoid these nominal fees by purchasing tickets directly at the movie theatre's box office, where no convenience fees are charged. This optionality demonstrates the "reasonably avoidable" nature of the fee,¹—underscoring the movie theatre industry's commitment to transparent, consumer-friendly pricing.

VALUE OF ONLINE TICKETING FEES

The online convenience fees charged in the movie theatre industry are not arbitrary add-ons but are charged for distinct, additional services that enhance the moviegoing experience, including advanced seat reservation and remote ticket purchasing. These reasonably avoidable, well-

¹Under Section 5 of the FTC Act, 15 U.S.C. 45, a practice is considered unfair under Section 5 if: (1) it causes, or is likely to cause, substantial injury; (2) the injury is not reasonably avoidable by consumers; and, (3) the injury is not outweighed by benefits to consumers or competition. [\[Link\]](#)



National Association
of Theatre Owners

Advancing the Moviegoing Experience

established fees align with consumer preferences for flexibility and convenience, distinguishing them from unavoidable fees that are deceptive or do not provide additional value. Online transactions inherently incur higher costs than box office transactions due to fees associated with POS services, increased credit card processing charges,² and the costs required to maintain and secure online booking platforms. Convenience fees help theatres offset the additional expenses associated with these services that are in addition and separate from the movie ticket, ensuring that they can continue to provide enhanced online services without increasing the base ticket prices both online and at the box office.

IMPACT ON CONSUMERS

Moviegoing holds a unique place in American culture as an accessible form of entertainment that spans across economic classes—from the financially vulnerable to the wealthy. But the cinema experience is more than just entertainment; it fosters community and connection among people from various backgrounds, which is increasingly valuable in today's world.

This accessibility is partly due to the slow rise in ticket prices compared to other forms of entertainment. Historically, movie ticket prices have increased more slowly than the general rate of inflation³—an essential point in understanding the market dynamics of movie ticket sales. In 2023, this affordability was highlighted when the average movie ticket price decreased from \$10.80 in Q2 to \$10.32 in Q3. This reduction goes against the broader trend of rising costs across the economy due to inflation—reaffirming the role of moviegoing as an American pastime, accessible to a wide range of socioeconomic groups.

The affordability of moviegoing, however, faces challenges from regulatory changes like the proposed legislation. Movie theatres, which operate on thin margins, would have no choice but to pass the additional costs imposed by the regulation on to consumers, eroding the egalitarian nature of the moviegoing experience by making it less accessible to the most vulnerable Americans. This underscores the delicate balance between regulatory intentions and their practical implications on everyday affordable activities like going to the movies.

The fact that the majority of moviegoers opt for box office purchases vividly illustrates that the industry's convenience fees are easily avoidable. Mandating that movie theatres include additional fees in the total ticket price could lead to confusion for customers who compare prices online but buy tickets at the theatre. This shift could paint a misleading picture of the actual ticket costs, especially for those who rely on online information before making an in-person purchase at the box office.

As a result, the proposed legislation could inadvertently reduce this consumer autonomy by compelling movie theatres to implement uniform pricing strategies that align box office prices with online marketed prices that include convenience fees to ensure compliance with the legislation, reduce marketing complexities, and avoid consumer price confusion due to different prices online and at the box office. Such homogenization could lead to increased ticket costs across all channels—making movie tickets more expensive for millions of people who today benefit from lower prices by purchasing tickets directly at the cinema without online fees.

² USA Today, "What is a card-not-present (CNP) transaction?" (September 27, 2023) [[Link](#)]

³ The Cinema Foundation, "State of The Cinema Industry" (March 2023) [[Link](#)]



Advancing the Moviegoing Experience

Thank you for your consideration of our comments and proposed suggestions. NATO welcomes the opportunity to provide the committee and sponsors with additional information, feedback, and materials.

Sincerely,

Amanda Martin
Chief of Staff
National Association of Theatre Owners



February 27, 2024

The Honorable Karl Rhoads
Chair
Senate Committee on Judiciary
Hawai'i State Capitol, Room 228
415 S Beretania St.,
Honolulu, HI

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

Dear Senator Rhoads 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 "Robert Singleton". The signature is fluid and cursive, with a large initial "R" and a stylized "S".

Robert Singleton,
Director of State & Local Government Relations, Western US

SB-2020-SD-1

Submitted on: 2/20/2024 7:40:16 PM

Testimony for JDC on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Scott Kidd	Individual	Support	Written Testimony Only

Comments:

I support this measure

SB-2020-SD-1

Submitted on: 2/20/2024 8:46:06 PM

Testimony for JDC on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Erik Horn	Individual	Support	Written Testimony Only

Comments:

As a citizen and consumer, I support this bill. This legislation is especially valuable within the realm of food purchasing. Although perhaps not many are not testifying here today due to the burdens of tracking and submitting testimony, I am positive I speak for many people when I express these supportive sentiments.

Discovering additional fees added to a bill after the fact only serves to create bad experiences. The long term result of those bad experiences is less consumer engagement with eateries and other similar venues. Sometimes, collective action and leadership is needed to abandon bad practices in unison. This bill provides that leadership.

I would even encourage the chair and committee to go further with additional legislation to end the practice of tipping which can inflate the price of goods and services, sometimes upwards of 20% from the advertised price. Consumers are capable of making market decisions about which goods, products, and services to buy. But determining the cost of production and the cost of transaction of those goods and services is not the responsibility of the consumer. That is the responsibility of the business owner as part of running their business. Consumers should not be made to do that work to figure out the price they will pay for their sandwich.



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

TechNet Southwest | Telephone 505.402.5738
915 L Street, Suite 1270, Sacramento, CA 95814
www.technet.org | @TechNetSW

February 26, 2024

Senator Karl Rhoads
Chair, Committee on Commerce and Consumer Protection
Hawai'i State Capitol, Room 228
Honolulu, HI

RE: SB 2020 (Chang) – Unfair and Deceptive Practices - Oppose

Dear Chair Rhoads and Members of the Committee,

TechNet submits this letter in respectful opposition to SB 2020, but we are also seeking amendments to clarify terms to best fit its intent. Technology-enabled platforms have transformed the way that goods and services can be accessed, offering consumers the ability to complete transactions online and on-demand. Without amendments that address the unique nature of these platforms and the services they provide, the bill would undermine Hawaii's commitment to the innovation economy.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

TechNet fully supports the spirit of the bill to encourage price transparency when shopping for goods and services. We are concerned about the scope of industries that would be affected by this proposed bill by its definitions of mandatory fees and charges as this would result in significant compliance costs for businesses of all sizes.

Additionally, the Federal Trade Commission is currently in the process of administrative rulemaking on this very issue; they are currently seeking public comment on their proposed rulemaking. We believe that it is prudent to allow this federal process to unfold before the state considers legislation that may prove duplicative or contradictory to forthcoming federal regulations.

There is an important distinction between fixed pricing models, where companies know all the applicable fees for their goods or services upfront, and dynamic pricing models, which consider a range of factors in their pricing process. Companies in the

sharing economy are an example of the latter, with many offering online marketplaces that serve as intermediaries between a consumer and a participating seller. In any such transaction, there are more than two parties involved. Unlike traditional business models that consumers may be more accustomed to, sharing economy platforms and online marketplaces provide prices for more than one "seller." For some platforms, the participating seller offers a good or service and, importantly, is responsible for setting the price of that good or service. The item's listing on the platform is then expected to reflect that price.

Separate from the purchase of goods or services from a "seller", the platform assesses its own fees. These fees represent a distinct service from a different party in the transaction – those of the platform itself. These may include what are often considered as "service fees," and they are what make it possible for a platform to operate. They cover a range of essential services that promote safety and reliability, including the cost of building and maintaining technology interfaces, insurance, payment facilitation fees, technical assistance, security, onboarding and background checks, and customer support, among other things. In addition, these platforms may include a delivery fee to cover some portion of the cost of delivering goods to a customer.

Many sharing economy platforms and online marketplaces commonly assess their fees as a percentage of the order subtotal rather than a flat fee. While it makes sense that the existence of known and calculable fees be disclosed upfront, the amount cannot be included in the price until it is ascertainable. Fees may vary between trips, markets, or different product or service offerings. Fees may also vary depending on factors such as a consumer's preferences, which are in many cases selected later in the purchasing process. There are also various common circumstances when a consumer purchases a service where additional unknown and unexpected costs may arise, such examples being more time being needed to complete the service due to unexpected factors, additional materials needed to complete the service which would require reimbursement, or even reimbursement of travel from having to cross bridge tolls during the service.

As a result, we request the language of the bill be amended to clarify that mandatory fees or charges are known and calculable and that the publisher of an advertisement is not liable for the content of the advertisement published on its platform.

Under Section 1(a)(12) it should be amended to read "Advertises, displays, or offers a price for goods or services that does not include **disclose** all **known and calculable** mandatory fees or charges other than either of the following:"

(a)(12)(C) The publisher of such an advertisement shall not be liable for the content of an advertisement published on its platform.

Thank you for your consideration. If you have any questions regarding our position please contact Dylan Hoffman, Executive Director, at dhoffman@technet.org or 505-402-5738.

Sincerely,

A handwritten signature in black ink, appearing to be 'DH', with a large, sweeping flourish extending to the right.

Dylan Hoffman
Executive Director for California and the Southwest
TechNet



February 27, 2024

Senator Karl Rhoads
Chair of the Senate Committee on Judiciary

Re: SB 2020, Relating to Deceptive Trade Practices

Dear Chair Rhoads and Members of the Senate Committee on Judiciary:

Thank you for the opportunity to comment on SB 2020 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, 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 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 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 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





MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE ON JUDICIARY
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 016
Wednesday, February 28, 2024 AT 10:00 A.M.**

To The Honorable Senator Karl Rhoads, Chair
The Honorable Senator Mike Gabbard, Vice Chair
Members of the committee on Judiciary

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

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.