

RECENT CRACKDOWN ON JUNK FEES: FEDERAL, STATE, AND PRIVATE ACTIONS

What Are Junk Fees?

"Junk fees" refer to the broad swath of fees and charges, often mandatory, that are not included in the initial offered price of a good or service. Common examples include mandatory fees charged by hotels, restaurants, concert venues, and financial institutions.

What Industries Are Impacted?

Any industry that markets goods or services to U.S. consumers, including from overseas, is impacted by junk fees and thus potentially liable. Impacted sectors include travel, hospitality, entertainment, and financial institutions.

Recent Federal Actions

The Biden administration has made curbing junk fees central to its substantive agenda and policy messaging. Recently, the White House announced a series of new agency actions designed to target junk fees.

- The Federal Trade Commission (FTC) recently proposed a rule that would impose significant per-violation penalties for improper disclosure of junk fees, i.e., for misrepresenting total amount of fees, including by acts of omission or misrepresenting the nature and purpose of such fees. The proposed rule would also give the Consumer Financial Protection Bureau (CFPB) enforcement power against financial institutions and other businesses under its jurisdiction. State attorneys general could also enforce under their traditional unfair or deceptive acts or practices (UDAP) authority.
- The CFPB recently issued new guidance purporting to codify its position that conduct violating state consumer protection laws may constitute an independent UDAP violation under Dodd-Frank.

Recent State Actions

- California recently enacted legislation banning junk fees, imposing significant monetary penalties, and creating a private right of action.
- Numerous state attorneys general, including in Arizona, Colorado, and Texas, have brought actions to curb the use of junk fees.

Private Suits

- Travelers United, a Washington, DC-based nonprofit that advocates for travelers, has brought actions against a restaurant group for unfair and deceptive practices related to a 3.75% "2023 Surcharge" charged to diners, and against large hotel chains related to "resort fees" charged to hotel customers.

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- A private action has been filed against a company managing the federal government website Recreation.gov. The plaintiffs allege the company charged junk fees in the form of nonrefundable application fees, change fees, cancellation fees, and administrative fees for access to federal parks.

How We Can Help

We can keep you apprised of relevant regulatory developments, including through our regular LawFlashes or CLE trainings. Our consumer protection defense team has defended against many investigations and enforcement actions by federal regulators, including the FTC, CFPB, and state attorneys general, as well as handled related class action litigation.

Related Resources

- [California Governor Signs Bill Targeting 'Junk Fees'](#)
- [Federal, State Agencies Want to Dump Junk Fees: How to Manage Business Risk](#)
- [CFPB Proposal Targets Limiting Credit Card Late Fees](#)
- [US State Attorneys General Seek Use of Federal Cudgel Against Banks](#)
- [Latest Developments in Automotive Finance and Consumer Protection](#)
- [FTC's Final 'CARS Rule' On Dealer Sales Practices: Implications for Banks, Auto Finance, and 'Captives'](#)

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