TRAVEL TECH ASSOCIATION

August 7, 2026

Submitted via email to Rulecomments@dcwp.nyc.gov and via http://rules.cityofnewyork.us

New York City Department of Consumer and Worker Protection
42 Broadway New York, NY 10004

Re: Comments on Proposed Rule, "Rules Regarding Junk Fees," 6 RCNY § 5-16 (Reference Nos. 2026 RG 027 / DCWP-75)

Dear Commissioner:

Travel Tech Association (Travel Tech) submits these comments on the Department's proposed rule adding Section 5-16 to Title 6 of the Rules of the City of New York.

Travel Tech Association is a nonprofit membership organization and the unified voice for the travel technology ecosystem. Travel Tech represents the leading innovators in travel technology, including online travel agencies (OTAs), metasearch engines, short-term rental platforms, Global Distribution Systems, Travel Management Companies, and early-stage travel tech startups. Our members connect millions of consumers to travel options around the world and play a critical role in fostering competition, transparency, and consumer choice in the travel marketplace.

Travel Tech shares the Department's goal of protecting consumers from hidden fees, and our members support clear, all-in pricing. Companies already display total prices in compliance with the Federal Trade Commission's Rule on Unfair or Deceptive Fees (16 C.F.R. Part 464), which took effect on May 12, 2025, and covers short-term lodging and live-event tickets. Adopted in a bipartisan vote, that rule defines the "total price" a business must disclose as "the maximum total of all fees or charges a consumer must pay for any good[s] or service[s] and any mandatory ancillary good or service, except that government charges, shipping charges, and fees or charges for any optional ancillary good or service may be excluded." The Department's proposed Section 5-16 defines "total price" in nearly identical terms.

Because the proposed rule so closely tracks the federal standard our members already meet, we first recommend a straightforward way to align the two and avoid a conflicting local requirement, as set out in Section I below. We do not write to defend hidden fees. We write in support of consistency and to highlight two provisions of the proposed rule that, as drafted, would reach far beyond New York City, shift the burden of proof onto businesses in a manner that raises serious fairness concerns, and fall especially hard on the intermediary platforms that display prices set by third parties. We respectfully urge the Department to revise the rule as described below.

I. The Department Should Provide a Safe Harbor for Pricing That Complies with the Federal Standard

Because the Federal Trade Commission's rule already governs all-in price display for short-term lodging and live-event tickets, and our members already comply with it, the most direct way for the Department to achieve consistent, transparent pricing without creating a conflicting local standard is to deem federally compliant pricing compliant with Section 5-16. A safe harbor of this kind would give New York City consumers the same protection they already receive under the federal rule, while sparing businesses the burden and confusion of maintaining a separate, City-specific display standard for the same transactions. We respectfully recommend that the Department add the following provision to Section 5-16:

"An offer, display, or advertisement for short-term lodging, including temporary sleeping accommodations at a hotel, motel, inn, short-term rental, or vacation rental, or for live-event tickets, that complies with Part 464 of Chapter I of Title 16 of the Code of Federal Regulations shall be deemed in compliance with this section."

II. The Geographic Scope in Section 5-16(b) Reaches Far Beyond New York City and Should Be Narrowed to Transactions with a Genuine City Nexus

Section 5-16(b) applies the rule to "any person who offers, displays or advertises goods or services in New York City, or to a New York City consumer." The phrase "or to a New York City consumer" extends the rule to any business, anywhere in the country or the world, that advertises to a resident of New York City, regardless of whether that business has any physical presence, transactional nexus, or other connection to the City.

For the travel industry, this scope is unworkable. Travel is inherently interstate and international. A national or global travel platform serves users everywhere, and a resident of New York City may search for a hotel in Miami, a rental car in Denver, or a flight to London. Under the proposed language, every one of those advertisements would be subject to a New York City rule, even though the transaction, the supplier, and the good or service have no connection to the City. Businesses cannot reliably identify which of their users are "New York City consumers" when a price is displayed, and they cannot practically maintain a separate New York City price-display standard for those users alone. The realistic effect is that a single City agency's rule would govern pricing displays worldwide. This is precisely with we advocated for a federal rule on this matter.

This scope is broader than the very laws the Department cites as models. California's SB 478, the Massachusetts junk-fee regulations, and Minnesota's price-transparency law apply to businesses doing business within those states. The Department's own longstanding practice, and the statutes it cites as authority, likewise govern sales and advertising within the City. Extending this rule to any advertisement seen by a City resident anywhere is a departure from that practice that also raises constitutional concerns under the dormant Commerce Clause regarding a municipality's regulation of wholly out-of-jurisdiction commerce.

Recommendation: The Department should strike "or to a New York City consumer" or revise Section 5-16(b) to apply only to offers, displays, and advertisements with a genuine New York City nexus, such as transactions for goods or services to be provided or delivered in the City, or advertisements directed at consumers physically located in the City. This would achieve the Department's consumer protection purpose within the City while remaining consistent with the state models the rule cites and with the Department's existing authority.

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III. The Recordkeeping Requirement and Adverse Presumption in Section 5-16(f) Shift the Burden of Proof and Fall Unfairly on Platforms Displaying Third-Party Prices

Section 5-16(f)(1) requires any covered person to maintain records "sufficient to establish the basis, including the nature, purpose, amount or refundability" of any fee or charge in a covered advertisement or fee breakdown. Section 5-16(f)(2) then provides that a failure to maintain, retain, or produce such a record relevant to a material fact alleged by the Department "creates a presumption that such fact is true."

This burden-shifting presumption raises two serious concerns:

First, it reverses the ordinary burden of proof. Under Section 5-16(f)(2), the Department may allege a violation, and if a business cannot produce records the Department deems sufficient, the Department's allegation is presumed true. Combined with the absence of any cure period, which the accompanying certification expressly declines to provide, and escalating per-violation penalties, this structure exposes businesses to liability based not on a demonstrated deceptive practice but on a documentation gap. This raises due process concerns. A business acting in good faith should not be presumed to have violated the law because it did not retain a particular record in the form the Department later requests. The recordkeeping obligation itself is also open-ended: "records sufficient to establish the basis" of every fee gives businesses no clear standard for what must be kept or for how long. There is also no provision for a situation where records are destroyed through no fault of the business, such as by a cyberattack.

Second, and of particular concern for our members, the provision falls hardest on intermediary platforms that display prices and fees set by third-party suppliers. When an online travel platform displays a hotel's rate, including a mandatory fee the hotel has set, the platform is passing through pricing established by the supplier. The platform does not set that fee and often has no visibility into its "nature, purpose, amount or refundability," which is information within the hotel's control, not the platform's. Under Section 5-16(f), if the Department alleges that a supplier-set fee was improperly excluded or characterized, and the platform cannot produce records establishing the basis of a fee it did not create, the Department's allegation would be presumed true against the platform. That holds intermediaries responsible for information they cannot access and for pricing decisions they did not make.

Recommendation: The Department should remove the adverse presumption in Section 5-16(f)(2). If the Department retains a recordkeeping requirement, it should (1) define with specificity what records are required and for how long, (2) provide a reasonable cure period before penalties attach, and (3) expressly account for intermediaries by limiting a platform's recordkeeping obligation to the pricing information the platform itself sets or controls, rather than fees established by third-party suppliers.

IV. Conclusion

Travel Tech supports transparent, all-in pricing, and our members already provide it under the federal lodging rule. We urge the Department to narrow the geographic scope of Section 5-16(b) to transactions with a genuine New York City connection, to remove the adverse presumption in Section 5-16(f)(2) and clarify the associated recordkeeping obligation, and to provide a safe harbor deeming federally compliant pricing compliant with the rule. These changes would allow the Department to achieve its consumer-protection goals without imposing an unworkable global standard or an unfair burden of proof on businesses acting in good faith.

We appreciate the opportunity to comment and welcome the chance to serve as a resource to the Department as it finalizes this rule.

Thank you for your consideration.

Sincerely,

Laura Chadwick

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Travel Tech Association
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