Office of the New York Attorney General

Letitia James
Attorney General

August 3, 2026

BY ELECTRONIC SUBMISSION

Samuel A.A. Levine
Commissioner
New York City Department of Consumer and Worker Protection
42 Broadway
New York, New York 10004

Comment Letter on Proposed Rules Regarding Junk Fees, Reference No.: 2026 RG 027

Dear Commissioner Levine:

I submit the following comments in response to the New York City Department of Consumer and Worker Protection's Proposed Rules Regarding Junk Fees ("the Proposed Rule"). As the chief enforcer of consumer protection laws in New York State, I applaud your efforts to address deceptive and unconscionable pricing practices in New York City through the Proposed Rules. The rules are well-calibrated to protect New York City consumers from unscrupulous "drip pricing" and other practices that waste consumers time and drain their wallets. I encourage you to adopt the Proposed Rules with the minor enhancements described below.

As the Federal Trade Commission observed in its own Rule on Unfair and Deceptive Fees, drip pricing is a "quintessential example of bait-and-switch pricing."[1] By luring in consumers with a low price, only to surprise them with a higher price once they've invested time and effort into the transaction, businesses squeeze money from consumers that is unrelated to the quality of the product or service they offer. And by impairing the ability to comparison-shop, these practices harm not only consumers, but also honest businesses who do present up-front pricing. Without intervention, junk fees will continue to proliferate as more businesses find it in their interest to use them.

My office has and will continue to take action to crack down on these junk fees, aided by the new FAIR Business Practices Act. For instance, we recently announced a settlement

[1] Trade Regulation Rule on Unfair or Deceptive Fees, 16 C.F.R. Part 464.

with several Nissan dealerships that tricked consumers seeking to exercise their end-of-lease buyout rights into paying for "dealership fees" or "administrative fees" that were not clearly disclosed to the consumers upfront.[2] We've also led multi-state coalition letters urging the FTC to strengthen its Rule on Unfair and Deceptive Fees by expanding its application to more industries.[3]

The Proposed Rule would provide an additional tool to fight these unscrupulous business practices alongside the consumer protection laws that our respective offices already enforce. Critically, the Proposed Rule avoids creating industry-specific carve-outs that have plagued other attempts to regulate drip pricing. Such carve-outs, as the Proposed Rule's Statement of Basis and Purpose note, would undermine consistency and fair competition across industries and risk allowing exceptions to swallow the rule.

Moreover, by defining "Total price" and requiring businesses to prominently display that price whenever they show any price of a good or service, the Proposed Rule offers clear, plain-language guidance for businesses to follow. And by requiring businesses to keep records regarding fees they charge, the Proposed Rule ensures that any necessary enforcement is efficient and not unduly burdensome.

In addition, to further strengthen the Proposed Rule, I would encourage DCWP to include a definition for "clear and conspicuous," such as that incorporated into the agency's recently-adopted Rules Relating to Debt Collectors.[4] The Proposed Rule could also clarify that charging fees in amounts that are not reasonably related to the disclosed purpose for collecting the fee – including by generating profit unless so stated – constitutes a deceptive and unconscionable practice in violation of § 5-16(e). Similarly, § 5-16(e) would benefit from including a clause providing that for any non-mandatory fee or charge, the fact that the fee or charge is optional must be clearly and conspicuously disclosed, along with instructions regarding how to avoid the fee or charge.[5]

---

[2] Press Release, N.Y. State Off. of the Att'y Gen., *Attorney General James Secures Refunds for All New Yorkers Cheated by Nissan Dealerships' Lease Overcharge Schemes* (June 3, 2026), https://ag.ny.gov/press-release/2026/attorney-general-james-secures-refunds-all-new-yorkers-cheated-nissan.

[3] Press Release, N.Y. State Off. of the Att'y Gen., Attorney General James and Bipartisan Coalition Urge FTC to Address Deceptive Rental Fees (Apr. 13, 2026), https://ag.ny.gov/press-release/2026/attorney-general-james-and-bipartisan-coalition-urge-ftc-address-deceptive; Christopher H. Casey & Daniel R. Walworth, *State Attorneys General Urge FTC to Regulate Pricing Practices by Online Food Delivery Services*, Duane Morris (June 1, 2026), https://www.duanemorris.com/alerts/state_attorneys_general_urge_ftc_regulate_pricing_practices_online_food_delivery_services_0626.html.

[4] N.Y.C. Rules tit. 6, §§ 2-193, 5-76, 5-77 (2026) (N.Y.C. Dep't of Consumer & Worker Prot., Notice of Adoption to Amend Rules Relating to Debt Collectors, effective Sept. 1, 2026). That definition reads as follows:

> "The term 'clear and conspicuous' means readily understandable. In the case of written and electronic record disclosures, a clear and conspicuous statement, representation, or element being disclosed is of such location, size, color, and contrast to be readily noticeable and legible to consumers. In the case of oral disclosures, a clear and conspicuous disclosure is given at a volume and speed sufficient for a consumer to hear and comprehend it. In any clear and conspicuous disclosure, any required modifications, explanations, or clarifications to other information are presented close to the information being modified, so as to be readily noticed and understood."

[5] Rules recently promulgated by the Massachusetts Attorney General, cited in the Proposed Rule's Statement of Basis and Purpose, are instructive here. *See* 940 CMR 38.04(2)(b).

By eliminating the incentive for businesses to exploit consumers with junk fees, adoption of the Proposed Rule would be a meaningful step in restoring fairness and transparency for New York City consumers. I strongly support DCWP's efforts to reign in these kinds of deceptive and unconscionable business practices and encourage you to adopt the rule with the additional safeguards described above. I look forward to our offices continuing to collaborate on this and other issues to make New York City more affordable for everyone.

Respectfully submitted,

Letitia James

LETITIA JAMES
ATTORNEY GENERAL
STATE OF NEW YORK