



“Junk Fees”: Some of These Fees Are Not Like the Others

Center Forward Basics
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Overview

Fees are a common tool used by various sectors in the American economy to cover the costs of providing a good or service or to incentivize consumers to pay on time or comply with contracts or agreements. Recently, the term “junk fees” has been used to describe fees that consumers and legislators feel are unfair to those purchasing certain goods and services. Often cited examples of junk fees include hotel resort fees, airline seating fees, overdraft and late fees, and ticketing fees. While some of these fees are hidden from consumers, many are clearly disclosed and some are even regulated by the federal government to ensure they are reasonable and proportional. The Biden Administration has proposed additional legislation to give federal agencies more oversight regarding these fees.

This Basic will define “junk fees” and discuss what types of fees do and do not fall into that category in addition to outlining current federal oversight and proposed legislation.

What Are Junk Fees?

During his State of the Union address in February 2023, President Biden spoke about “junk fees” and the burden they place on consumers. In the words of the White House, these are “unfair, hidden fees” that are harmful and deceptive, examples of which include ticket service, airline family seating, and resort fees. But what types of fees *actually* fall under the definition of “junk” fees?

The Consumer Financial Protection Bureau (CFPB) and its Director have characterized junk fees as unnecessary charges that inflate costs while adding little to no value to the consumer. The CFPB also has stated that junk fees are unavoidable or a surprise and are sometimes completely hidden or undisclosed, or only disclosed at a later stage in the consumer’s purchasing process. Charges for worthless and fake products and services are also considered junk fees.

What Are Not Junk Fees?

Various types of financial fees, including financial institution and credit card fees, get associated with hidden and undisclosed fees. However, these fees are almost always disclosed when consumers open accounts. Financial institutions and credit card companies are legally obligated to disclose these costs and fees for the vast majority of financial products and services. These fees are disclosed upfront, so if a consumer decides that the fee is too high, they likely will not enter into a contract with that financial institution or credit card company. Because of the amount of competition in the financial services industry, companies that charge fees consumers consider to be exorbitant will not remain competitive.

The Credit Card Accountability Responsibility and Disclosure (CARD) Act, signed in 2009, also provides for a “safe harbor” for fees such as late fees. Fees that fall within the limits of this safe harbor are permissible, and the safe harbor is adjusted regularly for inflation. Since these fees are regulated by the CFPB and are disclosed to consumers upfront, they do not fall within the definition of a “junk” fee.

Early termination fees, or ETFs, are usually associated with term contracts whereby a consumer gets a better price or

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discount in exchange for agreeing to stay with the company for a certain amount of time. Some examples of these contracts include an agreement to purchase electricity or natural gas from a retailer, a vehicle lease, or a term-contract with a broadband provider. ETFs allow service providers to offer a lower rate to customers who sign longer-term contracts because it gives the providers more revenue predictability in business planning and cost savings. In addition, ETFs provide some insurance that the customer will fulfill their contract or that the providers will recoup the discount they offered in reliance on consumers' commitment. A longer contract means a provider will often offer a bigger discount, but this comes with a larger ETF. Most ETFs, like other terms of an agreement, are required to be disclosed during the purchase process. President Biden cited exorbitant ETFs as a target for his proposed junk fees legislation. While these could be a concern for consumers, most ETFs are proportional to the discount being offered, decline over the course of the contract, and are disclosed when a contract is presented.

While the Administration raises concerns about exorbitant charges, the label of "junk fees" often gets applied to fees that are regulated by the federal government and disclosed to consumers. These fees help maintain competition within markets, as customers can choose between providers with different price tags.

Current Oversight

The current oversight on many fees associated with financial institutions, credit cards, and other services allows for fees that are deemed reasonable by the bodies of jurisdiction. As mentioned previously, President Barack Obama signed the CARD Act during his first term to protect consumers from unreasonable fees and penalties for late payments. This Act also created new standards for the contracts of credit cards and other related practices. The CFPB has jurisdiction over financial institutions and credit card fees under this legislation. Additionally, the CARD Act introduced the concept of a safe harbor, establishing a limit for the amount financial institutions and credit card companies can charge for late fees. Currently, the regulation allows for a safe harbor of \$30 generally for the first instance of a late payment and \$41 for each subsequent late payment within the next six billing cycles. The safe harbor dollar amounts are subject to an annual inflation adjustment. Within this safe harbor, the late fees financial institutions and credit card companies charge have already been determined to be reasonable and proportional by the CFPB.

In November of 2022, the FCC adopted a new measure for broadband service providers to disclose their fees: Broadband Consumer Labels. These labels look like nutrition labels found on food and supplements but detail prices, including introductory rates, speeds, data allowances, and other broadband service information. When applicable, ETFs are listed on these labels. The purpose of Broadband Consumer Labels is to allow consumers to compare while shopping for broadband services in addition to disclosing fees upfront. This disclosure and oversight means they are more prominently displayed in a consistent format for consumers to compare.

Proposed Federal Legislation

The Biden Administration called for Congress to pass a Junk Fees Prevention Act shortly after the President's 2023 State of the Union address. Four types of fees were specifically mentioned for inclusion in a potential bill: excessive online concert, sporting event, and other entertainment ticket fees; airline fees for families to sit together; exorbitant ETFs for TV, phone, and internet service; and surprise resort and destination fees. Departments and agencies of jurisdiction, such as the Department of Transportation and the FCC, have previously introduced rules to limit fees of this nature, however, the proposed legislation would further tighten the guidelines and attempt to eventually eliminate unreasonable fees.

Congress now has the chance to look at the Administration's proposal and determine how to protect consumers while keeping a competitive economy. Senators Richard Blumenthal (D-CT) and Sheldon Whitehouse (D-RI) have introduced a bill in the Senate targeting the fees highlighted by President Biden, and Representative Ruben Gallego (D-AZ) introduced a corresponding bill in the House.

Transportation Secretary Pete Buttigieg made several commitments related to airline fees. The Department of Transportation is specifically focusing on controllable flight delays and cancellations as well as fee-free family seating. Secretary Buttigieg has also released a legislative proposal that would prohibit domestic and foreign air carriers from

charging fees or imposing additional costs for seating children next to their accompanying adult in the same class of service. For airlines that do not assign seats or that use an open seating method, DOT's legislative proposal would require boarding methods that assure children can sit with their accompanying adult at no additional cost. These proposals were taken up by Rep. Steve Cohen (D-TN) in the House and Senator Ed Markey (D-MA) in the Senate. Both bills are titled the FAIR Fees Act of 2023.

Links to Other Resources

- Bank Policy Institute – [Rhetoric vs. Reality: The CFPB's Irresponsible Commentary on Credit Card Late Fees](#)
- Biden Administration – [The President's Initiative on Junk Fees and Related Pricing Practices](#)
- Biden Administration – [Readout of White House State Legislative Convening on Combatting Junk Fees](#)
- Congressman Jesús "Chuy" García – [Congressmen García, Cohen, and Khanna and Senators Markey and Blumenthal Reintroduce FAIR Fees Act](#)
- Department of Transportation – [Family Seating Legislative Proposal](#)
- Federal Communications Commission – [Broadband Consumer Labels](#)
- Federal Register – [Credit Card Late Fees and Late Payments](#)
- Senator Edward Markey – [FAIR Fees Act of 2023](#)