

StubHub Sued by D.C. Attorney Over Alleged “Convolutated Junk Fee Scheme”

The Bottom Line

- Drip pricing is now a top priority for regulators, who have made clear that adding exorbitant fees on checkout is a deceptive ‘dark pattern.’
- This will not be the last time that a merchant is challenged over their use of drip pricing, and will almost certainly be followed not only by increased regulatory action but also by consumer class action lawsuits.

Washington, D.C. Attorney General Brian Schwab has brought a suit against ticket reselling platform StubHub over the platform’s ‘Fulfillment and Service’ fees. The complaint alleges that StubHub deceptively hides these exorbitant fees until the very last checkout page and mischaracterizes the nature of the fees, effectively duping consumers into paying higher prices than initially advertised.

StubHub is an online marketplace that enables users to buy and sell second-hand tickets to live events such as concerts and sports. Although users are selling tickets to other users, StubHub charges a ‘Fulfillment and Service Fee’ of up to 40% per transaction, dramatically increasing the price of tickets on the platform. This fee is not added to the price until the user checks out, and the prices StubHub advertises for tickets do not include these fees.

Dark Patterns in Pricing – The Complaint

The complaint alleges that StubHub’s pricing practices constitute deceptive ‘dark patterns’ for several reasons:

- **First**, by advertising low prices and revealing fees later in the process, StubHub engages in ‘drip pricing.’ The Attorney General characterizes drip pricing as a ‘classic bait-and-switch scheme,’ where customers are enticed by deceptively low prices, and only learn about fees after they have chosen tickets and invested substantial time

and effort. To make matters worse, consumers are confronted with a countdown clock to complete their purchase, which creates a false sense of urgency.

- **Second**, the title 'Fulfillment and Service Fees' is deceptive, because the prices are influenced by factors other than 'fulfillment' or 'service,' including ticket price and demand. The fees also vary widely, and StubHub never discloses to consumers how they are calculated.
- **Third**, although StubHub offers an 'Include Estimated Fees' option - which displays all ticket prices with estimated fees - the option is hidden under multiple drop-down menus, making it unlikely for a reasonable user to find them. Even with the 'Estimated Fees' option engaged, the ticket prices *still* do not include all fees.

According to the complaint, since StubHub adopted this pricing model, it has reaped approximately \$118 million in hidden fees from Washington, D.C. consumers alone.

Honing in on Hidden Fees

This is just the latest in a string of regulatory developments targeted at junk fees. As we wrote earlier this year, [California's Senate Bill 478](#), which took effect on July 1, prohibits advertising a price for a good or service that does not include all mandatory fees and charges (other than government taxes, fees, and reasonably and actually incurred postage or carrier charges). The California law closely tracks a similar rule that has been proposed by the Federal Trade Commission (FTC).

This is also not the first time that StubHub has faced scrutiny for its ticketing practices. In 2019, the National Advertising Division of the Council of Better Business Bureaus [similarly found](#) that StubHub's pricing practices were illegal. StubHub refused to comply, arguing that its fees were consistent with industry practice, and the case was referred to the FTC. A representative from StubHub joined other industry players in attending the FTC's Online Ticket Events Workshop, but the FTC did not take any subsequent action.

For More Information

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