



December 18, 2023

The Honorable Secretary April Tabor  
Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Ave, NW  
Washington, D.C., 20580

Stacy Cammarano  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Ave, NW  
Washington, D.C., 20580

Janice Kopec  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Ave, NW  
Washington, D.C., 20580

*Re: Notice of Proposed Rulemaking, Federal Trade Commission, Unfair or Deceptive Fees, 88 FR 77420  
16 CFR 646 R-207011 (11/09/2023)*

Dear Secretary Tabor, Janice Kopec, and Stacy Cammarano:

As a leading representative and advocate on behalf of America's 33 million small businesses, Small Business Majority writes to provide feedback on the proposed rule to update the Federal Trade Commission's (FTC) regulations on unfair or deceptive practices relating to fees for goods and services.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our nine offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

Small Business Majority thanks the FTC for its work, in collaboration with the Biden-Harris Administration, to address deceptive fees that impact businesses and consumers alike. While we realize much of this proposal aims to address how unfair and deceptive pricing could impact large-scale businesses, we urge the FTC to consider the impact on small businesses in any final rule and propose solutions to support outreach and education on rule compliance. Articulating clear and concise disclosure guidelines will ensure that small businesses can remain in compliance as they navigate an increasingly complex economy and regulatory environment. These comments reflect special considerations that we urge FTC to take in the final rule. We look forward to working with you to ensure small businesses understand and benefit from clear disclosure requirements moving forward.

Understanding that the target population for this rule is consumers, on behalf of the 85,000 small businesses in our network, we urge the FTC to carefully consider the impact of pricing model changes on Main Street businesses, specifically, those in the restaurant and hospitality industries. The proposed rule outlines alternative considerations for how small businesses should be included in the rule's implementation processes, and states that a small business exemption from the rule could lead to confusion and uncertainty. The rule also states that each small business owner will use no more than one billable legal hour to understand the rule and to remain in compliance. However, many small businesses

do not have access to legal staff or consultants, and without clear and specific disclosure requirements provided by industry, small businesses run the risk of occupying a substantial amount of time to understand how exactly they need to adjust their pricing models to comply with the new rule. Therefore, we urge the FTC to work alongside other agencies and private sector partners, including the Small Business Administration, the Minority Business Development Agency, and national/local organizations like Small Business Majority to ensure that small business owners can access a plethora of information, guidance, and support to understand and comply with a final rule.

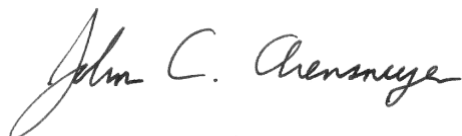
**The final rule must outline a consideration for elective and mandatory policies including service fees, and economic impact fees.**

We urge FTC to recognize that small businesses may charge certain fees for legitimate business reasons, and if properly disclosed, small businesses should be allowed to continue to do so. For example, to ensure that small business employees are paid livable wages and can access benefits, some businesses might implement (mandatory or elective) fees to offset harsh economic conditions or other benefit costs. For instance, some restaurants in the District of Columbia have implemented a service fee to help their businesses offset the costs of the recent enactment of Initiative 82 that raises wages for tipped employees. In other instances, small businesses may disclose a small fee to offset the cost of paid family leave or retirement costs for their employees. The rule notes that the implementation period may dissuade businesses from including these fees in their pricing model, which could lead to instability in the workforce whereby workers may not choose to seek employment at an establishment that reduces wages or employee benefits because it no longer feels comfortable charging fees to offset these costs. Therefore, we request that the FTC take into consideration, on an industry-by-industry basis, a standardized approach to help business owners disclose these fees to their consumers up front so that compliance is easily attainable in a way that also helps these business owners continue to satisfy the needs of their businesses and labor costs.

In closing, Small Business Majority thanks the FTC for its work to support America's small business ecosystem and entrepreneurs that bring quality jobs to their communities. To remain successful in these efforts, we again ask you to fully articulate the impact on small businesses across all industries in the final rule and to conduct proper education, outreach, and compliance guidance for adjusting pricing models by industry. We look forward to continuing to work with you on policies to benefit America's entrepreneurs and small business owners. We thank you for the opportunity to provide our feedback.

Should you have any questions or would like to discuss our feedback further, please contact our Government Affairs Director, Alexis D'Amato at [adamato@smallbusinessmajority.org](mailto:adamato@smallbusinessmajority.org) or (202) 967-0995.

Sincerely,



John Arensmeyer  
Founder & CEO  
Small Business Majority