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Comment On: FTC-2023-0064-0001
Trade Regulation Rule on Unfair or Deceptive Fees

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Comment from The National Football League

Submitter Information

Email: jonathan.nabavi@nfl.com
Organization: The National Football League

General Comment

Please see attached file(s)

Attachments

NFL FTC Junk Fees NPRM Comment (1.04.24) vF



January 4, 2024

Ms. April Tabor
Secretary
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Suite CC-5610 (Annex B)
Washington, D.C. 20580

**The National Football League's comments in response to the Federal Trade Commission's
Notice of Proposed Rulemaking, Trade Regulation Rule on Unfair or Deceptive Fees, 16
CFR 464**

The National Football League ("NFL") is the most popular professional sports league in the United States. In recent years, attendance at NFL games has grown substantially, with millions of fans buying tickets and attending games every season.

There is no single source for NFL fans to purchase NFL game tickets. Fans can purchase tickets to NFL games directly from the NFL clubs, through the NFL's secondary ticket network including its official ticket marketplace – NFL Ticket Exchange, and through numerous unaffiliated third-party secondary ticketing platforms. The NFL takes numerous steps to protect fans purchasing tickets to its games, including by facilitating resale ticket authentication across all resale platforms participating in the NFL ticketing network. The vast majority of NFL tickets are initially sold to season ticketholders. It is common for season ticketholders to resell their tickets to one or more games per season.

The NFL understands that the objective of the Federal Trade Commission's ("FTC") proposed rule is to protect consumers from hidden or misleading fees across the economy. The NFL urges the FTC to fully consider the importance of the equal application of any promulgated rule across the live-event ticketing industry to prevent inconsistencies in its implementation and to protect fans. As stated in the Notice of Proposed Rulemaking ("NPRM"), most comments submitted to the FTC indicate that ticket sellers support all-in pricing if the conditions in the rule apply equally to all sellers. It is important that the FTC demonstrate how it can effectively enforce this rule across all online platforms before any rule is made final.

Without equal application of the rule, ticket sellers that display the total price will be at a competitive disadvantage to those ticket sellers not subject to the rule. Consumers will continue

to be misled—in fact they may be enticed into higher priced tickets by non-complying ticket sellers offering seemingly lower prices, ultimately frustrating the purpose of the FTC’s proposed rule. To this end, the definition of any “business” subject to any final rule must either exclude the live-events industry or include all sellers of live-event tickets to prevent inconsistencies in its application.

The FTC should allow for transparency in the presentation of ticket costs on any online ticketing platform. It is important that ticket sellers are able to communicate to buyers early in the purchase process the individual pricing components that make up the “total cost” so buyers know the price of the ticket versus any third-party fees associated with their purchase.

Additionally, the FTC should reexamine the compliance costs of its proposed rule on the live-events industry. The NPRM states that the transition to all-in pricing for live-event ticketing would be relatively low-cost for ticket sellers. We are concerned that the estimates underlying this conclusion do not accurately reflect actual implementation costs that would be associated with a final rule, including by not adequately taking into account the additional legal, developer, and data personnel time that would be required from live-event industry participants – and especially industry participants dealing in large volumes of live-event ticket sales-in complying with a final rule.

The compliance cost analysis should also consider how the FTC’s proposed rule interacts with state ticketing laws across the 50 states and District of Columbia. The patchwork of state ticketing laws is increasingly complex. Without preempting the state laws, an additional layer of federal regulation will only add to the existing complexity and costs associated with complying with ticketing legislation. The variation in application that will occur as a result of the proposed rule’s relation to state laws will frustrate the FTC’s goal of implementing a uniform price disclosure standard.

Finally, the FTC should consider that advances in technology will continue to bring better customer experiences to live event ticket purchasers and should be wary of imposing unintended limitations on positive technological advancements in any final rule.

The NFL appreciates the opportunity to provide feedback to the FTC on this important issue.