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Trade Regulation Rule on Unfair or Deceptive Fees

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

Document: FTC-2023-0064-3217
Comment from Bowling Proprietors' Association of America

Submitter Information

Email: brandon.palumbo@michaelbest.com
Organization: Bowling Proprietors' Association of America

General Comment

The attached comments are submitted on behalf of the Bowling Proprietors' Association of America (BPAA).

Attachments

BPAA Comment re FTC Unfair or Deceptive Fees NPRM_Feb 2024



February 7, 2024

Federal Trade Commission
Office of the Secretary
400 7th Street NW 5th Floor
Washington, DC 20024

Re: Unfair or Deceptive Fees NPRM, R207011

Dear Secretary Tabor,

I am writing on behalf of the Bowling Proprietors' Association of America (BPAA), representing the interests of over 3,500 bowling centers across the United States. Since 1932, the BPAA has been instrumental in promoting the growth and sustainability of the bowling industry, a sector that not only provides entertainment and recreation to millions of Americans but also contributes significantly to the U.S. economy and the fabric of local communities.

Our industry, with an estimated annual economic impact of \$10 billion, plays a crucial role beyond just recreation. Bowling centers are community hubs, offering a range of activities and services including league play, family outings, corporate events, and charity fundraisers. They are places where people of all ages and backgrounds come together, fostering social connections and community spirit.

The proposed "Trade Regulation Rule on Unfair or Deceptive Fees", while laudably aimed at protecting consumers, raises several concerns that could significantly impact the operational practices and financial health of bowling centers, especially those that are smaller in scale. We appreciate the FTC's commitment to fairness and transparency and wish to offer our insights and suggestions on how the rule might be adapted to better suit the unique nature of our industry.

Concerns with the Proposed Rule.

1. **Challenges in Price Display and Transparency:** Our proprietors report a clear divide in customer preferences, with traditional bowlers preferring per-game pricing and casual patrons favoring hourly rates. The requirement to consolidate these diverse pricing models into a single displayed price could lead to significant consumer confusion and dissatisfaction. This concern is heightened by the fact that our proprietors already face challenges in explaining the time-cost efficiency of these models to casual customers.
2. **Payment-Specific Discounts and Business Adaptability:** As our proprietors have highlighted, bowling centers frequently utilize payment-specific discounts, with a notable example being the addition of service fees to online and credit card transactions to offset processing costs. The proposed rule will limit these crucial practices, reducing consumer options and compromising our proprietors' ability to effectively manage costs. Additionally, there is frustration among our proprietors over absorbing credit card fees for gratuities, further complicating our financial operations.



3. **Potential Conflicts with Local Regulations:** The proposed rule's approach to pricing may conflict with local mandates, particularly in regions with specific laws concerning payment methods. Our proprietors have expressed concerns about the challenge this poses, creating a complex compliance environment for many bowling centers.

In addition to our primary bowling services, many of our centers operate ancillary services akin to restaurants and vending machines, integral to the overall customer experience and our revenue streams. These additional services place us in a unique position, like that of restaurant and vending machine operators, under the FTC's proposed rule.

Our in-center dining facilities are facing significant changes under the proposed rule. The requirement to eliminate separate fees or surcharges, including service fees and large group surcharges, is particularly concerning. This would necessitate an overhaul of menu pricing, incorporating all costs into a single displayed price. Such a shift not only increases operational complexity but also risks customer confusion, especially when pricing for larger groups differs from standard offerings. Additionally, the elimination of surcharges for dynamic costs like credit card processing directly impacts our ability to manage fluctuating operational expenses effectively.

Similarly, our centers often feature vending machines, which, as highlighted by the vending industry, operate on narrow profit margins and face unique challenges under the rule. The proposed restrictions on advertising and offering cash discounts pose a significant issue, given our need to display prices that may vary based on the payment method. The rule could prohibit our practice of offering discounts for cash payments in vending machines, a concern particularly relevant in jurisdictions with cashless retail bans. This leads to a paradoxical situation where we must either advertise the higher card price, disadvantaging cash-paying customers, or face compliance issues.

These aspects of our operations – dining services and vending machines – are not just complementary to our main bowling services but are critical components of our business model. The challenges posed by the proposed rule to these services have direct and substantial implications for our industry, mirroring the concerns expressed by restaurant and vending machine operators. The potential for increased operational complexity, reduced pricing transparency, and financial strain cannot be overstated. We urge the FTC to consider these multifaceted impacts as they evaluate the applicability of the rule to bowling centers, ensuring that any new regulations accommodate the diverse and unique aspects of our industry.

Recommendations for the FTC:

1. **Clarification on Ancillary Goods or Services:** In line with our proprietors' experiences, we recommend establishing clear guidelines on what constitutes a "mandatory" ancillary service. Services like shoe rentals or event hosting, crucial to our operations, are not universally required by all customers. We urge for flexibility in how these services are



priced and advertised, reflecting the increasing importance of these ancillary services, which, as our proprietors point out, are becoming a primary revenue source.

2. **Guidance on Transparent Pricing:** We advocate for support in implementing pricing structures that are transparent yet adaptable to the complexity of our services. This includes addressing the concerns of traditional bowlers who perceive less value in bundled packages, thereby necessitating a more nuanced approach to pricing displays.
3. **Differentiation Between Business and Government Charges:** Our proprietors have effectively managed the distinction between business-imposed charges and government fees, with taxes on taxable products and service fees for online transactions clearly labeled. We recommend maintaining this distinction under the new rule to ensure continued transparency and consumer understanding of their total costs.
4. **Flexible Definition of Total Price:** Acknowledging the diversity in operational models of bowling centers, we propose a more flexible definition of "Total Price". A rigid model would oversimplify pricing and lead to customer dissatisfaction, especially among traditional bowlers. Therefore, services fundamental to our operations, such as lane and shoe rentals, should allow for tiered or optional pricing models.

The BPAA is committed to a constructive partnership with the FTC to refine the proposed rule. These recommendations are proposed with the aim of aligning the rule more closely with the practical realities of operating a bowling center. Our goal is to balance consumer protection with the operational viability of bowling centers, ensuring our industry continues to serve as a vibrant part of American culture and community life. We are committed to working collaboratively with the FTC to develop regulations that protect consumers while also respecting the unique challenges faced by our industry. We appreciate the opportunity to share our perspectives and look forward to contributing further to this dialogue.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank DeSocio".

Frank DeSocio
Executive Director
Bowling Proprietors' Association of America