

Joel Christie
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Mail Stop H-144 (Annex F)
Washington, DC 20580

**Re: Food Delivery Fees ANPRM (Project No. P267101)
Docket (FTC-2026-0463)**

Dear Secretary Christie,

The American Consumer Institute respectfully submits comments for the Advance Notice of Proposed Rulemaking (ANPRM), Project No. P267101, regarding Unfair or Deceptive Fees in Online Food Delivery Services from the Federal Trade Commission (FTC).

The American Consumer Institute Center for Citizen Research (ACI) is a nonprofit 501(c)(3) educational and research institute with the mission to identify, analyze, and protect the interests of consumers in legislative and rulemaking proceedings.

Properly designed transparency rules help consumers make informed decisions and mitigate truly deceptive pricing strategies like drip pricing or false advertising.¹ When done well, clear disclosure informs consumer decision-making and reduces information asymmetries. However, the Commission should draw careful distinctions between good-faith transparency rules of disclosure and top-down mandates that undermine transparency by either forcing or encouraging bundled, “all-in” pricing.

In 2023, the Biden Federal Trade Commission (FTC) considered rulemakings to end what it perceived to be deceptive practices, often called “junk fees,” and even proposed an explicit rule to ban these fees across different online platforms.² While such a rule was designed to increase consumer transparency, the effect of that decision would have made prices less, not more, transparent, and would have done significant market damage to consumers in the process.

¹ Federal Trade Commission. “Rule on Unfair or Deceptive Fees in Online Food Delivery Services.” Federal Register, April 16, 2026. <https://www.federalregister.gov/documents/2026/04/16/2026-07473/rule-on-unfair-or-deceptive-fees-in-online-food-delivery-services#citation-5-p20382-~:text=1.%20PAST%20COMMISSION,hotels%20or%20bars>.

² Federal Trade Commission, “FTC Proposes Rule to Ban Junk Fees,” Federal Trade Commission, October 10, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-proposes-rule-ban-junk-fees>.

The Commission's 2025 rule targeting bait-and-switch pricing, where platforms advertise a lower price and only reveal mandatory fees at the final stage of checkout, illustrates this risk. While the rule aims to make prices more transparent, any extension that mandates a single upfront all-in price could have the opposite effect: platforms may respond by bundling fees into a higher base price, leaving itemized prices out entirely. Such a scenario leaves consumers with less information about what they are actually paying for, not more.

When companies bundle or “bake in” all of their costs together into one upfront price, consumers lose much of the ability to screen itemized costs, instead seeing only one overall price reflective of all the same existing costs and fees. This is how all-inclusive price structures obscure how consumers perceive what they are paying for and why.

Behavioral marketing research on “partitioned pricing” finds that consumers respond more favorably to disaggregated pricing because it provides visibility into each charge, allowing for more informed comparison and decision-making.³ Importantly, the same research has found that because consumers do not always process surcharge information completely or accurately, presenting prices in the aggregate tends to reduce consumers' ability to accurately assess total costs. This suggests that bundled pricing, not itemized pricing, is more likely to lead to consumer confusion, even though regulators often presume the opposite.

Many fees also further many important, pro-consumer market purposes that are reflective of genuine cost differentials between in-app and in-store purchases. Unlike traditional brick-and-mortar restaurants or grocery stores, digital delivery platforms must coordinate real-time logistics across a network of independent couriers, fund platform R&D, absorb payment processing costs, and provide around-the-clock customer support for consumers, merchants, and drivers.⁴

Delivery fees, specifically, vary by distance, merchant availability, and consumer demand. Other types of fees, such as small-order fees, make unprofitable orders profitable, expanding consumer access in ways that would be impractical without these much-maligned fee structures. Meanwhile, service fees support platform operations such as software maintenance and customer support.

With such varied operating cost structures,⁵ fees often make flexible business models work. To regulators monitoring these practices, fees have often been interpreted as a convenient excuse to raise prices, without consideration of the natural supply-and-demand responses these fees address and the business models they make possible.⁶

³ Vicky G. Morwitz, Eric A. Greenleaf, and Eric J. Johnson. “Divide and Prosper: Consumers’ Reactions to Partitioned Prices,” *Journal of Marketing Research* 35, no. 4 (1998): 453–63. <https://doi-org.mutex.gmu.edu/10.2307/3152164>.

⁴ Doordash Merchant Learning, “Commission and Fees on DoorDash, Explained,” Doordash.com (DoorDash, May 24, 2024), <https://merchants.doordash.com/en-us/learning-center/delivery-commission>.

⁵ DoorDash, “What Fees Do I Pay?,” DoorDash Help (DoorDash, 2026), <https://help.doordash.com/en-us/consumers/article/what-fees-do-i-pay>; Uber, “What Fees May Apply to my Order?,” Uber help, (2026), <https://help.uber.com/en/ubereats/restaurants/article/what-fees-may-apply-to-my-order?nodeId=65d229e2-a2b4-4fa0-b10f-b36c9546cf55>.

⁶ The White House, “Guide for States: Cracking down on Junk Fees to Lower Costs for Consumers What Are ‘Junk Fees’ and How Are States Taking Them On?,” 2023, <https://bidenwhitehouse.archives.gov/wp-content/uploads/2023/03/WH-Junk-Fees-Guide-for-States.pdf>.

For all of these reasons, it is essential for the FTC not to assume that online delivery services and physical stores operate the same, thus avoiding the flawed thinking that the fees and higher prices in online delivery services are deceptive, not efficiency-enhancing, pro-consumer behavior. Any new rule should therefore require clear, itemized disclosures of each fee component rather than mandating a single all-in price.

The Commission has an opportunity to set a meaningful precedent. Any final rule should guard against truly deceptive practices and require platforms to present all mandatory fees as clearly labeled. Importantly, it should avoid overly broad rules that demonize fees generally and itemized fee structures specifically. This targeted, evidence-based remedy addresses the FTC's documented concerns about late-disclosed fees while preserving the market access fee-based systems these market systems have supported.

Respectfully,

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