

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

TRAVELERS UNITED, INC.  
2833 Alabama Ave SE #30736  
Washington, D.C. 20020, on behalf of itself  
and the putative classes,

Plaintiff,

v.

ACCOR S.A.  
82, rue Henri Farman - 92130 Issy-les-  
Moulineaux - France, and DOES 1-20

SERVE:  
Immeuble Odyssey  
110 Avenue de France  
75210 Paris Cedex 13, France

ACCOR BUSINESS AND LEISURE  
MANAGEMENT LLC  
20 E Chestnut St Rm Service Chicago, IL,  
60611, and DOES 1-20

SERVE:  
Corporation Trust Center  
1209 Orange Street  
Wilmington, DE 19801

ACCOR MANAGEMENT US INC.  
137 National Plaza, Suite 300 Unit 306,  
Oxon Hill, MD 20745, and DOES 1-20

SERVE:  
C T Corporation System  
1015 15th St NW  
Suite 1000  
Washington, DC 20005

Defendants.

Case No:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

## INTRODUCTION

1. For years, Accor<sup>1</sup> systemically cheated customers out of tens (if not hundreds) of millions of dollars by falsely advertising its hotel room rates.

2. Rather than disclosing the full cost of its hotel rooms upfront, until approximately September 2023, Accor instead added on last-minute “destination fees,” “resort fees,” and other similar charges that are really part of the nightly room rate.

3. In other words, Accor’s advertised hotel room rates were not actually available for purchase at the advertised prices.

4. The goal of Accor’s false advertising was to convince consumers shopping for a hotel room that an Accor hotel room is cheaper than it is.

5. These fees—commonly called “Junk Fees,” including by the Federal Trade Commission (“FTC”)<sup>2</sup>—have recently been the subject of national attention, including during President Biden’s 2023 State of the Union Address and in a pending FTC rule.

6. As President Biden explained in his 2023 State of the Union address, “too many companies” are charging “hidden surcharges . . . to make you pay more. . . [J]unk fees may not matter to the very wealthy, but they matter to most other folks in homes like the one I grew up in, like many of you did. They add up to hundreds of dollars a month. They make it harder for you to pay your bills[.]”<sup>3</sup>

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<sup>1</sup> Herein, the term “Accor” refers to the Defendants Accor S.A., Accor Business and Leisure Management LLC, and Accor Management US Inc. and the hotels that they own or franchise, inclusive of all brands, including Sofitel.

<sup>2</sup> As defined by the FTC, “Junk Fees” are “unfair or deceptive fees that are charged for goods or services that have little or no added value to the consumer” or fees that are “hidden,” such as those disclosed only at a later stage in the consumer’s purchasing process or not at all.” *Unfair or Deceptive Fees Trade Regulation Rule Commission Matter No. R207011*, 87 Fed. Reg. 67413 (proposed Nov. 8, 2022) (to be codified at 16 C.F.R. pt. 464), *available at* <https://www.federalregister.gov/documents/2022/11/08/2022-24326/unfair-or-deceptive-fees-trade-regulation-rule-commission-matter-no-r207011> (cleaned up).

<sup>3</sup> *President Biden’s State of the Union Address*, White House (Feb. 7, 2023), <https://www.whitehouse.gov/state-of-the-union-2023/>.

7. Further, on November 9, 2023, the FTC proposed a rule against Junk Fees that would “prohibit . . . misrepresenting the total costs of goods and services by omitting mandatory fees from advertised prices and misrepresenting the nature and purpose of fees.”<sup>4</sup> To substantiate the need for the rule, the FTC specifically referenced comments stating that “hotels . . . often do not include fees, such as hotel resort fees and vacation rental fees such as cleaning fees, in advertised nightly rates, artificially lowering the true cost of hotel rooms and rentals vis-a-vis competitors.”<sup>5</sup>

8. As President Biden said in proposing the F.T.C. ban, these Junk Fees often add as much as 20% to the advertised price—which is “wrong . . . it’s just taking advantage of people.”<sup>6</sup>

9. Indeed, in 2017 alone, the Junk Fee revenue of the U.S hotel industry was approximately \$2.7 billion,<sup>7</sup> and across industries in the U.S. Junk Fees exceed \$64 billion annually.<sup>8</sup>

10. Junk Fee practices, like Accor’s, are not just wrong—they are illegal.

11. Junk Fees violate the District of Columbia Consumer Protection Procedures Act, D.C. Code §§ 28–3901, *et seq.*, (“CPPA”), which *requires* businesses to sell goods and services for their advertised prices.

12. While Accor appears to have stopped charging undisclosed Junk Fees in or about September 2023 in response to lawsuits Travelers United brought against other hotel chains

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<sup>4</sup> *Trade Regulation Rule on Unfair or Deceptive Fees*, 88 Fed. Reg. 77420 (proposed Nov. 9, 2023) (to be codified at 16 C.F.R. pt. 464), *available at* <https://www.federalregister.gov/documents/2023/11/09/2023-24234/trade-regulation-rule-on-unfair-or-deceptive-fees>.

<sup>5</sup> *Id.*

<sup>6</sup> *President Biden speaks on FTC’s proposed junk fee ban*, YouTube (Oct. 11, 2023), <https://www.youtube.com/watch?v=1TiAhSIS8W0>.

<sup>7</sup> Shelle Santana, Steven K. Dallas, & Vicki G. Morwitz, *Consumer Reactions to Drip Pricing*, Mktg. Science (forthcoming), at 4.

<sup>8</sup> *Biden proposes a ban on ‘junk fees’—from concert tickets to hotel rooms*, NPR (Oct. 11, 2023), <https://www.npr.org/2023/10/11/1205164556/junk-fees-biden-white-house-rules>.

operating in the District of Columbia (the “District”), Accor has not taken any steps to refund Americans the tens, if not hundreds, of millions of dollars in Junk Fees that they have been charged.

13. Travelers United brings this action under the CPPA to hold Accor accountable for falsely advertising hotel room rates in the District and to residents of the District and force Accor to pay back the unlawful Junk Fee revenues it has taken from consumers together with statutory penalties and punitive damages.

### **JURISDICTION AND VENUE**

14. This Court has jurisdiction over the subject matter of this case pursuant to D.C. Code § 11-921 and D.C. Code § 28–3905(k)(2).

15. This Court has personal jurisdiction over the Defendant pursuant to D.C. Code § 13-423(a).

### **PARTIES**

#### **A. Travelers United**

16. Plaintiff Travelers United, Inc. is a nonprofit public interest organization. Travelers United is a Delaware tax exempt corporation that is registered as a foreign corporation in the District of Columbia. Travelers United is based in Washington, D.C. and Virginia.

17. The mission of Travelers United is to improve and enhance travel for consumers. Travelers United has been instrumental in advocating against hidden hotel fees both federally and locally in the District.

18. Travelers United has met with many members of the D.C. Council and their staff regarding the issue of the hotel Junk Fees. Nationally, Travelers United has worked and met with members of Congress, the National Association of Attorneys General, other national consumer advocacy groups, and the Federal Trade Commission educating, alerting, and advocating against hidden hotel Junk Fees.

19. Travelers United has standing to bring its claims under D.C. Code § 28–3905(k)(1)(D)(i) because it qualifies as a public interest organization with a sufficient nexus to the consumer interests at issue in the litigation.

**B. Accor**

20. Defendant Accor S.A. is a French company that is publicly traded on the Euronext Paris stock exchange. It appears to be the ultimate parent company of most Accor-related entities.

21. Defendant Accor Business and Leisure Management LLC is a Delaware limited liability company and has its principal place of business in Chicago, Illinois. It owns and operates hotels for Accor S.A. in the United States.

22. Defendant Accor Management US Inc. is incorporated in Delaware and has its principal place of business in Oxon Hill, Maryland. It is a hotel operator for Accor S.A. in the United States. Hotel brands operated by Defendants Accor S.A., Accor Business and Leisure Management LLC, and Accor Management US Inc. in the United States include, but are not limited to, Sofitel, Fairmont, 21c Museum Hotels, MGallery, Mama Shelter, Raffles, and Swissôtel.<sup>9</sup>

23. Does 1-20 are persons and/or entities who worked in conjunction with Accor to engage in the unlawful conduct described in this Complaint, whose identities are presently unknown to Plaintiff. Plaintiff expressly reserves its right to amend this Complaint once those identities become known to it.

24. Accor has, at all relevant times, engaged in trade or commerce in the District by advertising, offering, and providing hotel lodging to customers nationwide in its hotels in the District and to District residents in hotels outside of the District.

**FACTUAL BACKGROUND**

**A. Companies Use Junk Fees to Trick Consumers.**

25. Large, sophisticated companies—like Accor—with large, sophisticated marketing departments know that Junk Fees trick consumers into paying more for a good or service than they otherwise would.

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<sup>9</sup> See Accor, <https://all.accor.com/ssr/app/accor/hotels/united-states/index.en.shtml?dateIn=2024-09-17&nights=1&compositions=1&stayplus=false&snu=false&accessibleRooms=false> (last visited Dec. 12, 2023).

26. Indeed, in 2017 alone, the Junk Fee revenue of the U.S hotel industry was approximately \$2.7 billion,<sup>10</sup> and across industries in the U.S. Junk Fees exceed \$64 billion annually.<sup>11</sup>

27. Two common types of Junk Fees practices are “drip pricing” and “partitioned pricing,” both of which are used by Accor to illicitly generate tens, if not hundreds, of millions of dollars in extra (and unearned) profits each year.

28. **Drip Pricing:** Drip pricing occurs when a company does not disclose the total price of a product or service until late in the purchase process, after consumers have already expended time and effort selecting the product or service and have already committed to a particular purchase.

29. Consumers who are not provided the complete price until checkout are likely to proceed with their purchase even if continuing to search for a cheaper price would be more “optimal” for them because consumers want to avoid “the cost of the time and cognitive effort involved” in continuing to search for a product or service.<sup>12</sup>

30. Once a consumer decides what to buy, he is unlikely to depart from that decision because of the “additional cognitive effort” involved in resuming his search.<sup>13</sup> In other words, omitting Junk Fees from the advertised cost of a product or service through drip pricing induces consumers to pay a higher total price than they otherwise would have.

31. **Partitioned Pricing:** Partitioned pricing occurs where a portion of the costs for a good or service is excluded from the total price. When Junk Fees are initially “partitioned” from total price, consumers are unable to make effective price comparisons between goods and service

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<sup>10</sup> Santana et al., *Consumer Reactions to Drip Pricing*, *supra* note 7, at 4.

<sup>11</sup> *Biden proposes a ban on ‘junk fees’—from concert tickets to hotel rooms*, *supra* note 8.

<sup>12</sup> Mary W. Sullivan, *Economic Issues: Economic Analysis of Hotel Resort Fees*, Bureau of Economics Fed. Trade Comm’n (Jan. 2017), at 16-17, [https://www.ftc.gov/system/files/documents/reports/economic-analysis-hotel-resort-fees/p115503\\_hotel\\_resort\\_fees\\_economic\\_issues\\_paper.pdf](https://www.ftc.gov/system/files/documents/reports/economic-analysis-hotel-resort-fees/p115503_hotel_resort_fees_economic_issues_paper.pdf).

<sup>13</sup> *Id.* at 17.

leading to distortions in the market. In other words, partitioning Junk Fees make consumers less likely to be able to effectively select “the most valuable option”<sup>14</sup> when making a purchase.

32. Making matters worse, consumers exposed to advertising that partitions Junk Fees from total price are also more likely to underestimate the total price of a given product or service even when the Junk Fees and base price are presented simultaneously,<sup>15</sup> meaning they are further impeded from comparing their options. Consumers are even more likely to underestimate the total price when the font size of the Junk Fee is smaller than that of the base price.<sup>16</sup>

33. A reason that consumers underestimate total price when presented with partitioned pricing is that they will often entirely disregard the Junk Fee altogether because of the cognitive costs and effort involved in adding the partitioned prices. Also, when presented with the task of performing quick mental computation, consumers use the heuristic referred to as “anchoring and adjustment” in which they “overweight the anchor information (e.g., the base price) and adjust insufficiently for the rest of the information (e.g., the [Junk Fee]).”<sup>17</sup>

34. These drip pricing and partitioned Junk Fee practices are not innocuous. When a Junk Fee is hidden and/or partitioned, consumers cannot reasonably compare the cost of a product or service across available options within a company or across companies.

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<sup>14</sup> *Id.* at 23; David Adam Friedman, *Regulating Drip Pricing*, 31 *Stan. L. & Pol’y Rev.* 51, 68 (2020) (Lan Xia and Kent Monroe experiments showed that “price separation may enhance consumers’ . . . perceived value . . . and reduce further information search intentions” due to “insufficient price adjustment” (quoting Lan Xia & Kent Monroe, *Price Partitioning on the Internet*, 18 *J. Interactive Mktg.* 63 (2004)) (cleaned up)).

<sup>15</sup> Sullivan, *Economic Issues: Economic Analysis of Hotel Resort Fees*, *supra* note 12, at 21-22.

<sup>16</sup> *Id.* at 25.

<sup>17</sup> *Id.* at 23-24 (in an experiment where “[t]wo groups of high-school students were asked to estimate a numerical expression in five seconds,” and “[o]ne group was given the expression  $8 \times 7 \times 6 \times 5 \times 4 \times 3 \times 2 \times 1$ , while the other group was given the same expression in reverse order:  $1 \times 2 \times 3 \times 4 \times 5 \times 6 \times 7 \times 8$ ,” “[b]oth groups underestimated the total (40,320), but the median estimate given for the descending sequence (2,250) was higher than that of the ascending sequence (512)” (citing Tversky, Amos and Daniel Kahneman (1974), *Judgment Under Uncertainty: Heuristics and Biases*, *Science*, 185 (September), 1124-31)).

35. Indeed, as the companies that engage in Junk Fee practices are well aware, consumers choose a product or service based on the advertised “base price,” and not based on the drip price or partitioned price, especially when the Junk Fee is not adequately disclosed.<sup>18</sup>

36. Accordingly, “buyers may be hurt” because “[w]hen there is uncertainty over possible drip sizes . . . consumers more frequently fail to identify the cheapest offer.” Rasch et al. *Drip pricing and its regulation: Experimental evidence*, *supra* note 18; *see, e.g.*, Santana et al., *Consumer Reactions to Drip Pricing*, *supra* note 7, at 6 (studies showed that “consumers exposed to drip pricing . . . are significantly more likely to 1) initially select the option with the lower base price, 2) make a financial mistake by ultimately selecting the option that has a higher total price than the alternative option, given the add-ons chosen, and 3) be relatively dissatisfied with their choice”).

37. As the FTC’s Bureau of Economics has explained, the use of resort fees adds steps to the process of determining the actual price of a hotel room, which forces consumers to pay more than they would if presented with full, complete prices:

With the separate disclosure of resort fees, searching for hotel accommodations on hotel websites requires more steps than if resort fees were included in the room rate. If resort fees were included in the room rate, consumers could compare rooms at different hotels by simply viewing the room pages at the hotel websites and remembering the prices. With separately-disclosed resort fees, consumers would need to add the room rate to the resort fee and remember the total for each hotel under consideration or keep track of the room rates and resort fees separately for each hotel.

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<sup>18</sup> Alexander Rasch et al. *Drip pricing and its regulation: Experimental evidence*, 176 J. Econ. Behavior & Org. 353 (2020), available at <https://www.sciencedirect.com/science/article/abs/pii/S0167268120301189> (“buyers . . . based their purchase decision exclusively on the base price”); *see also* Jane L. Levere, *Paying a ‘Resort Fee’ When You’re Not at a Resort*, N.Y. Times (Oct. 22, 2018), <https://www.nytimes.com/2018/10/22/business/luxury-hotels-urban-areas-cities.html> (according to Robert Mandelbaum, director of research information services for CBRE Hotels’ Americas Research, “Resort fees are a very profitable way for hotels to raise revenue and not advertise they’re raising room rates. By a strict definition, they’re not raising room rates but adding a mandatory fee”).



Alternatively, the consumer could click through to the booking page for each hotel to view the total charges for the trip and remember the total.<sup>19</sup>

38. As a result, consumers are forced either to “incur higher total search and cognitive costs or to make an incomplete, less informed decision that may result in a more costly room, or both.”<sup>20</sup>

39. The FTC has thus characterized Junk Fees as especially egregious when they are hidden (*i.e.*, “disclosed only at a later stage in the consumer’s purchasing process or not at all”), because openly disclosed Junk Fees would enable consumers to determine that the cost of a given product or service is not favorable relative to the cost charged by competitors and choose to do business elsewhere. *See, e.g., Unfair or Deceptive Fees Trade Regulation Rule Commission Matter No. R207011, supra* note 2 (“After a market leader took unilateral action to phase out hidden fees, the platform ‘lost significant market share and abandoned the policy after a year because consumers perceived the platform’s advertised prices to be higher than its competitors’ displayed prices.” (citation omitted)).

40. Moreover, drip and/or partitioned pricing runs afoul of the FTC Act itself. *See* 15 U.S.C. § 45(a)(1) (declaring unlawful “unfair or deceptive acts or practices in or affecting commerce”). The FTC’s guidance on bait and switch advertising states that “[n]o statement . . . should be used in any advertisement which creates a false impression of the . . . value . . . of the product offered, or which may otherwise misrepresent the product in such a manner that later, on disclosure of the true facts, the purchaser may be switched from the advertised product to another.” 16 C.F.R. § 238.2(a). If the first contact is secured by the deceptive bait advertisement, it is a violation of law even if the true facts are subsequently made known to the buyer. 16 C.F.R. § 238.2(b). Through drip and/or partitioned pricing, companies induce consumers to choose a

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<sup>19</sup> Sullivan, *Economic Issues: Economic Analysis of Hotel Resort Fees, supra* note 12, at 2-3.

<sup>20</sup> *Id.* at 4; *see also* Friedman, *Regulating Drip Pricing, supra* note 14, at 67 (“. . . sellers provide buyers with the ‘initial value’ in the form of the initially-presented base price. . . . Buyers are influenced by the initial value, so a lower base price would create the impression of a lower overall price.” (citing Gorkan Ahmetoglu et al., *Pricing Practices: A Critical Review of their Effects on Consumer Perceptions and Behaviour*, 21 *J. Retailing & Cons. Services* 696, 697 (2014))).

product or service based on an advertised price (*i.e.*, the “bait”), despite ultimately charging a different and higher price than advertised (the “switch”).

41. Given this, it is no surprise companies are motivated to hide Junk Fees through drip and/or partitioned pricing for as long as possible in the search and purchase process, as duping consumers into paying Junk Fees brings in substantial revenue. In 2017 alone, the Junk Fee revenue of the U.S. airline and U.S hotel industries was approximately \$57 billion and \$2.7 billion, respectively.<sup>21</sup>

42. In many instances, companies even compound the benefit they obtain through these practices by increasing Junk Fees at a higher rate than they increase the base price of the underlying product or service itself.<sup>22</sup> As a result, the product or service appears cheaper to consumers than competitor products or services, even though the total cost of the product or service, inclusive of Junk Fees, is equally if not more expensive than those other companies’ products or services.<sup>23</sup>

43. Companies are also able to increase hidden Junk Fees without suffering meaningful market consequences.<sup>24</sup> In particular, companies are free to charge excessive Junk Fees in part because drip pricing impedes fair, honest, and free market competition as they are not adequately disclosed alongside the base price.<sup>25</sup>

44. Hence, through drip and/or partitioned pricing, companies can charge excessive Junk Fees while skirting economic consequences, as shrouding the fee avoids deterring consumers from purchasing a given product or service based on a Junk Fee and its effect on the total price.

45. Meanwhile, competitor companies and consumers face the consequences. Companies that engage in drip and/or partitioned pricing will lure consumers away from properly

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<sup>21</sup> Santana et al., *Consumer Reactions to Drip Pricing*, *supra* note 7, at 4.

<sup>22</sup> *Unfair or Deceptive Fees Trade Regulation Rule Commission Matter No. R207011*, *supra* note 2.

<sup>23</sup> *See id.*

<sup>24</sup> Rasch et al., *Drip pricing and its regulation: Experimental evidence*, *supra* note 18.

<sup>25</sup> *Id.* (“firms fiercely compete in base prices but not in drip prices,” so “total price increases when firms use drip pricing”).

behaving competitors that do not engage in such practices (and thus appear to charge higher prices) and will earn more profit than those competitors.<sup>26</sup> Junk Fee hotels, *i.e.*, hotels engaging in drip and/or partitioned Junk Fee practices, gain further advantage because they only pay commission to online travel agents on the base price rather than the total price even though the Junk Fees are mandatory.<sup>27</sup>

46. Junk Fees charged through drip and/or partitioned pricing also generate significant burden for individual consumers. *See Unfair or Deceptive Fees Trade Regulation Rule Commission Matter No. R207011*, *supra* note 2 (explaining that “[c]onsumers faced with such fees pay upward of twenty percent more than when the actual price was disclosed upfront,” and, as a result, such fees “impose substantial economic harms on consumers”).

#### **B. The FTC and State Attorneys General Are Turning Off the Faucet on Hotel Drip Pricing.**

47. In November 2012, the FTC warned the hotel industry that drip pricing as it pertains to charging resort fees may violate federal consumer protection law by “misrepresenting the price consumers can expect to pay for their hotel rooms.”<sup>28</sup> The FTC specifically warned the hotels that the largest and most prominent price for a hotel room should include the resort fee, and should be provided to the consumer upfront and not later in the checkout process, to avoid constituting hotel Junk Fee drip pricing.<sup>29</sup> These fees are required to be revealed in the advertised room rate, not later in the checkout process or even later when the consumer checks into the hotel.<sup>30</sup>

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<sup>26</sup> *Id.* (“ . . . where there is uncertainty about the drip size, sellers with a high drip-price limit can earn profits above the competitive level.”).

<sup>27</sup> *See Sullivan, Economic Issues: Economic Analysis of Hotel Resort Fees*, *supra* note 12, at 3.

<sup>28</sup> Warning Letter from Mary K. Engle, Assoc. Dir. for Advert. Pracs., Fed. Trade Comm’n (Nov. 2012), *available at* <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-warns-hotel-operators-price-quotes-exclude-resort-fees-other-mandatory-surcharges-may-be/121128hoteloperatorsletter.pdf>; *see also FTC Warns Hotel Operators that Price Quotes that Exclude ‘Resort Fees’ and Other Mandatory Surcharges May Be Deceptive*, Fed. Trade Comm’n (Nov. 28, 2012), <https://www.ftc.gov/news-events/news/press-releases/2012/11/ftc-warns-hotel-operators-price-quotes-exclude-resort-fees-other-mandatory-surcharges-may-be>.

<sup>29</sup> Warning Letter from Mary K. Engle, *supra* note 28.

<sup>30</sup> *Id.*

48. The FTC’s Bureau of Economics then issued a report in 2017 confirming its concerns about this practice of drip pricing. That report concluded that “consumers are likely being harmed by the hotel industry practice of disclosing mandatory resort fees separate from posted room rates, without first disclosing the total price.”<sup>31</sup>

49. More recently, in November 2023, the FTC proposed a rule that would “prohibit . . . misrepresenting the total costs of goods and services by omitting mandatory fees from advertised prices and misrepresenting the nature and purpose of fees.”<sup>32</sup> According to the FTC, comments had stated that omitting fees from advertised nightly hotel room rates “artificially lower[s] the true cost of hotel rooms and rentals vis-a-vis competitors.”<sup>33</sup> This impacts consumer decision-making, as “studies have shown that both partitioned pricing and drip pricing causes consumers to underestimate the total price of the product.”<sup>34</sup>

50. According to President Biden in announcing the proposed ban, Junk Fees often add as much as 20% to the advertised price—which is “wrong . . . it’s just taking advantage of people.”<sup>35</sup> “It’s just about simple fairness. [F]olks are . . . tired of being taken advantage of.”<sup>36</sup> “These junk fees may not matter to the wealthy. But they sure matter to working folks in homes like the one I grew up in.”<sup>37</sup>

51. In sum, separating resort and other Junk Fees that consumers are obligated to pay in order to book a hotel room from advertised room rates without first disclosing the total price harms consumers by artificially increasing the search costs and the cognitive costs of finding and

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<sup>31</sup> *FTC Economic Issue Paper Examines the Impact of Disclosing Mandatory Hotel Resort Fees Separately From Room Rates*, Fed. Trade Comm’n (Jan. 5, 2017), <https://www.ftc.gov/news-events/news/press-releases/2017/01/ftc-economic-issue-paper-examines-impact-disclosing-mandatory-hotel-resort-fees-separately-room>.

<sup>32</sup> *Trade Regulation Rule on Unfair or Deceptive Fees*, *supra* note 4.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *President Biden speaks on FTC’s proposed junk fee ban*, *supra* note 6.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

booking hotel accommodations. Unless the total price is disclosed upfront, consumers are not reasonably able to make an informed decision as to which product or service would be most favorable for them to purchase.

52. Seeking to protect consumers from this harm, numerous Attorneys General have brought enforcement actions to put an end to Junk Fee practices in the hotel industry. For example, in 2019, the Attorney General for the District of Columbia filed a lawsuit against Marriott International, Inc. (“Marriott”) under the CPPA “for hiding the true price of hotel rooms from consumers and charging hidden resort fees to increase profits.”<sup>38</sup> Other Attorneys General have brought similar actions against hotel corporations for inducing consumers to effectuate purchases that are not cost effective, while the companies gain millions.<sup>39</sup>

53. Despite the 2012 warning letter from the FTC, Attorney General enforcement actions, and, most importantly, the substantiated harms to consumers, Accor continued to advertise room prices that do not include its resort and other Junk Fees.

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<sup>38</sup> *AG Racine Sues Marriott for Charging Deceptive Resort Fees and Misleading Tens of Thousands of District Consumers*, Office of the Att’y Gen. of D.C. (July 9, 2019), <https://oag.dc.gov/release/ag-racine-sues-marriott-charging-deceptive-resort>; Compl. for Violations of the Consumer Prot. Procedures Act, *District of Columbia v. Marriott Int’l, Inc.* (D.C. Super. Ct.), at 3 ¶¶ 4-5, available at <https://oag.dc.gov/sites/default/files/2019-07/Marriott-Complaint.pdf> (alleging “price deception” robs “consumers of the ability to readily ascertain and compare the actual price of a room at a Marriott hotel to the price of the hotel rooms offered by Marriott’s competitors and at other Marriott hotels”).

<sup>39</sup> See, e.g., Amended Complaint for Injunctive and Other Relief, [https://ago.nebraska.gov/sites/ago.nebraska.gov/files/doc/2019.07.24\\_Hilton%20Dopco%20Inc.\\_Amended%20Complaint.pdf](https://ago.nebraska.gov/sites/ago.nebraska.gov/files/doc/2019.07.24_Hilton%20Dopco%20Inc._Amended%20Complaint.pdf) (Nebraska suit against Hilton for “drip pricing” whereby consumers are “misled or confused concerning the true cost of an overnight stay”); *AG Shapiro’s Action Requires Marriot to Disclose “Resort Fees,”* Pa. Att’y Gen. Michelle A. Henry (Nov. 17, 2021), <https://www.attorneygeneral.gov/taking-action/ag-shapiros-action-requires-marriott-to-disclose-resort-fees/> (Pennsylvania settlement with Marriott, whereby Marriott agreed “to prominently disclose the total price of a hotel stay . . . on the first page of its booking website as part of the total room rate”); *Office of the Attorney General Sues Travel Reservation Site for Deceptive Trade Practices Regarding the True Price of Hotel Rooms*, Ken Paxton Att’y Gen. of Tex. (Aug. 10, 2023), <https://www.texasattorneygeneral.gov/news/releases/office-attorney-general-sues-travel-reservation-site-deceptive-trade-practices-regarding-true-price> (Texas suit against travel reservation company for “omitting mandatory fees from the advertised room rate”).

**C. Accor's Deceptive Junk Fee Advertising.**

54. Until very recently, Accor did not include Junk Fees in its advertised hotel room prices. By doing so, Accor misrepresented and concealed the actual cost of their rooms from consumers.

55. For instance, when a consumer searched for a hotel on Accor's website, Accor's practice was to initially advertise a room rate that excluded Junk Fees, but then to add Junk Fees into the final charges a consumer was required to pay.

56. Further, even when a consumer would select a hotel room on Accor.com, Accor still did not disclose the total nightly price to the consumer but would bifurcate or partition the Junk Fee charges from the room rate. Hence, a consumer could still not reasonably compare the total price of a room against the price of other rooms at Accor and other hotel companies.

57. As a result, Accor hid the actual cost of its rooms, deceiving consumers and tricking them out of their hard-earned money.

58. Accor charged these additional Junk Fees, which sometimes exceeded \$30 per day at Accor properties, to increase its revenues without appearing to raise the room rate at its hotels.

59. Accor engaged in these practices at locations within the District and at locations throughout the country booked by residents of the District.

1. **Junk Fees at Sofitel Washington DC Lafayette Square**

60. For example, when consumers would search for a hotel room in the District on Accor.com, the consumer would receive a variety of potential hotel options from within the Accor family of brands with purported lowest per night pricing information, including for the Sofitel Washington DC Lafayette Square and the Fairmont Washington D.C. Georgetown:

2 PROPERTIES CLOSE TO YOUR SEARCH See map Filters Sort by: Distance



**Sofitel Washington DC Lafayette Square** \*\*\*\*\*

Hotels - [0.5 mi from your search](#)

All      4.4/5 [see reviews](#)

[Open rate calendar](#)

Rate from(1)  
-10%

**US\$254 US\$229**

For 1 room  
1 adult | Average per night

[See the hotel](#) [See the rooms](#)



Other brands from the group can also accommodate you nearby

ALL - ACCOR LIVE LIMITLESS

Get 5% off by joining the loyalty program. It's free to join. [Become a member](#)



**Fairmont Washington D.C. Georgetown** \*\*\*\*

Hotels - [0.8 mi from your search](#)

All      4.6/5 [see reviews](#)

[Open rate calendar](#)

Rate from(1)

**US\$324**

For 1 room  
1 adult | Average per night

[See the hotel](#) [See the rooms](#)

**% Save all year round**  
Join ALL for the best price every time you book – starting now. [Find out More](#) →

**🕒 Free cancellation**  
Book your stay with peace of mind, you can cancel later.

61. Before September 2023, at least some Accor hotels were “Junk Fee hotels,” *i.e.*, hotels engaging in drip and/or partitioned Junk Fee practices. However, the initial advertisement did not provide any indication as to whether a particular hotel was a Junk Fee hotel.

62. As it turns out the Sofitel location was a Junk Fee location, while the Fairmont was not.

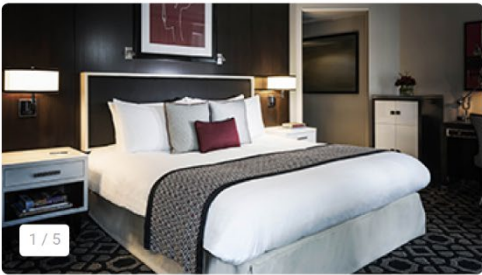
63. For example, as shown in the image above, the advertised lowest nightly price for Sofitel Washington DC Lafayette Square was \$229 per night.

64. If a consumer clicked “See the hotel,” she was still not presented with an accurate and complete room price that included the Junk Fees. The consumer was instead led to a page that did not disclose the total price inclusive of Junk Fees, but instead partitioned the \$69.58 Junk Fee (in small font) from the room rate (in large font):

### Choose your room

Prices for 1 person and 2 nights

11 ROOMS FOR YOUR SEARCH Filter :  Breakfast included  Accessible room



#### SUPERIOR 1 KING

2 people · 34m<sup>2</sup> / 365ft<sup>2</sup>

1 King size bed(s)

[See the room details](#)

Standard rates (2)Deals and/or package rates (3)

**Stay Longer, Experience More - Save up to 20%**

- Cancel free of charge until Aug 18th 6:00 PM
- No prepayment required

Average per night  
-10%

~~US\$254.00~~ US\$**228**.60

Taxes not included : US\$72.92

Fees not included : US\$69.58

of which Urban Experience Fees: US\$34.79 per night

[Pricing conditions](#)

Select this rate

65. Due to this partitioned pricing, consumers still could not reasonably compare the costs and benefits of a given Accor hotel room to other rooms available through Accor and at other companies because the full price was not displayed.<sup>40</sup>

<sup>40</sup> The Junk Fee referenced on this page is not only separate and apart from the advertised room price, but it is not conspicuous to consumers seeking to determine the price of the room (as it is printed in small font and is not text a consumer must click to proceed with the booking process).



66. When a consumer would select “Select this Rate” on the screen above, she was taken to the next page where she was presented with a price summary that continued to represent an incomplete room price of \$228.60 per night (\$457.20 for a two-night stay), as it displayed the aggregate \$457.20 room charge for a two-night stay partitioned from the (inconspicuous) \$69.58 Junk Fee:

[← Back](#)

## Complete your booking

Fields marked with an asterisk (\*) are required

You can cancel for free until Aug 18th 6:00 PM



### Your details


Already have an account? [Sign in](#)


Title \*

First name \*


Last name \*




**SOFITEL**  
SOFITEL WASHINGTON DC LAFAYETTE SQUARE  
Hotels 5 

 Check-in 3:00 PM | Check-out 12:00 PM


---

 August 19, 2023 → August 21, 2023  
2 nights

 1 adult

---

ROOM	US\$457.20
TAXES	US\$72.92
FEES	US\$69.58

[See cart details](#) 

---

**TOTAL** (fees and taxes included) **US\$599.70**

67. And when the consumer would select “See cart details,” she was shown detailed price information where even here she was not presented with a complete room price inclusive of Junk Fees. Instead, she saw an “avg/night” room charge of \$228.60, partitioned Junk Fees of \$69.58, and taxes of \$72.92:

The image shows two parts of a Sofitel booking interface. On the left is the 'Complete your booking' form, and on the right is a summary of the booking details.

**Complete your booking**  
Fields marked with an asterisk (\*) are required

Free until Aug 18th 6:00 PM

**Your details**

Already have an account? [Sign in](#)

Title \*  
-

First name \*  
[Text input field]

Last name \*  
[Text input field]

Nationality  
to help the hotelier to welcome you  
-

Country or region \*  
United States

**SOFITEL**  
SOFITEL WASHINGTON DC LAFAYETTE SQUARE  
Hotels 5  
Check-in 3:00 PM | Check-out 12:00 PM

August 19, 2023 → August 21, 2023  
2 nights

1 adult

[Hide cart details](#)

**ROOM**  
SUPERIOR 1 KING

Stay Longer, Experience More - Save up to 20%  
• Discount -10% (included) avg/night  
[Pricing conditions](#)

**TAXES**  
Taxes US\$72.92

**FEES**  
Fees US\$69.58  
of which Urban Experience Fees: US\$34.79 per night  
[Learn more](#)

**TOTAL (fees and taxes included) US\$599.70**

68. Accor thus never disclosed a complete and accurate room price to the consumer inclusive of Junk Fees. And though Accor finally provided a “TOTAL” on this page, it is the last page of the booking process, at which time a consumer has already invested time and effort into selecting and booking a room, and has already psychologically committed to the room.<sup>41</sup>

<sup>41</sup> Consumers who accessed Accor’s booking process through Google were similarly misled. For instance, upon information and belief, such consumers first saw the Sofitel Washington DC Lafayette Square homepage at <https://www.sofitel-washington-dc.com/>, followed by the “Choose your room” page on which Accor would advertise an inaccurate room price (*supra* ¶¶ 64-65), followed by the “Complete your booking” page that continued to display an incomplete room price (*supra* ¶ 66), even when the consumer would seek to view complete price information by clicking “See cart details” (*supra* ¶ 67). Nowhere did Accor disclose an accurate room charge that incorporates Junk Fees.

69. Accor’s Junk Fee practices were further misleading because elsewhere it did not treat fees for similar services as separate from the room charge. In particular, Sofitel Washington DC Lafayette Square offered a special “FLEXIBLE RATE - BED AND BREAKFAST” option that it advertised to consumers on the “Choose your room” page. Upon information and belief, with this option Accor would give consumers breakfast and would include the additional charge associated with this benefit in the advertised room rate (*i.e.*, “Breakfast [was] included” in the base room price):

**FLEXIBLE RATE - BED AND BREAKFAST**

- Cancel free of charge until Aug 17th 6:00 PM
- No prepayment required
- Breakfast included

Average per night

US\$**294.00**

Taxes not included : US\$81.03

Fees not included : US\$69.58

of which Urban Experience Fees: US\$34.79 per night

[Pricing conditions](#)

Select this rate

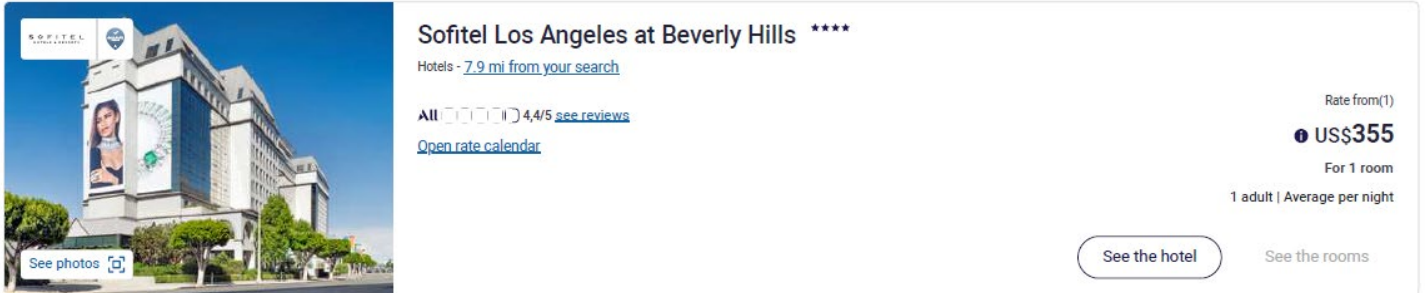
70. Unlike its incorporation of the additional charge for breakfast in its advertised price for the “FLEXIBLE RATE - BED AND BREAKFAST” room, however, Accor advertised its room prices exclusive of Junk Fees.

71. Because of Accor’s deceptive Junk Fee Practices, Accor would advertise a price (such as \$229) at which it did not intend, and was not willing, to sell the room. And because of these deceptive Junk Fee practices, a consumer could not reasonably compare the total price of a room against the price of other rooms at Accor and other hotel companies.

**2. Accor Also Charged Junk Fees to Residents of the District When They Booked Travel Outside the District.**

72. The same is true for consumers based in the District who seek to book a room outside the District.

73. For example, if a resident of the District attempted to book a hotel room in the Los Angeles, California area through Accor.com, she would see an advertisement for Sofitel Los Angeles at Beverly Hills, among other options, along with nightly pricing information, without any indication of which options were Junk Fee hotels:



**Sofitel Los Angeles at Beverly Hills** \*\*\*\*  
Hotels - [7.9 mi from your search](#)  
All      4.4/5 [see reviews](#)  
[Open rate calendar](#)

Rate from(1)  
**US\$355**  
For 1 room  
1 adult | Average per night

[See photos](#) [See the hotel](#) [See the rooms](#)

///

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74. If the consumer from the District would select Sofitel Los Angeles at Beverly Hills with an advertised price of \$355 per night, she went through the same multistep process as above, and despite selecting the advertised price of \$355 on at least two occasions, could not complete the transaction for that price. Instead, she was required to pay a \$36.56 “Urban Experience” Junk Fee per night, which was paid to and kept by Accor:

**SOFITEL**  
SOFITEL  
SOFITEL LOS ANGELES AT BEVERLY HILLS  
Hotels 4

Check-in 3:00 PM | Check-out 12:00 PM

August 19, 2023 → August 21, 2023  
2 nights

1 adult

[Hide cart details](#)

**ROOM**  
SUPERIOR ROOM, 1 King Bed

FLEXIBLE RATE US\$355.00  
avg/night

[Pricing conditions](#)

---

**TAXES**

VAT US\$100.82  
Taxes US\$14.20

---

**FEES**

Fees US\$73.12  
*of which Urban Experience Fees: US\$36.56 per night*

[Learn more](#)

---

**TOTAL (fees and taxes included) US\$898.14**

75. Once again, Accor concealed the Junk Fee throughout the booking process.

76. Thus, a District-based consumer had no way to purchase a hotel room with Accor without incurring a Junk Fee of \$36.56 per night and, as a result, had no ability to complete the hotel reservation transaction for the advertised price of \$355 per night.

77. Because of Accor's deceptive Junk Fee practices, a consumer also could not reasonably compare the total price of a room against the price of other rooms at Accor and other hotel companies.<sup>42</sup>

\*\*\*

78. For these reasons, Accor's presentation of its Junk Fees is an unfair and deceptive trade practice.

79. On at least three separate occasions in the booking process, Accor advertised a room price that did not include Junk Fees that a consumer was required to ultimately pay to Accor in order to book the room. Moreover, during the booking process, Accor also advertised an incomplete and inaccurate room price that did not include Junk Fees by partitioning Junk Fees from the room rate, and did not even conspicuously disclose the Junk Fee.

**3. Consumers Could Not Effectively Compare Prices Across Brands because of Accor's Deceptive Practices.**

80. Accor's deceptive Junk Fee advertising stood in stark contrast to the practices of some of Accor's competitors.

81. Take for example, Marriott's current<sup>43</sup> advertisement to book a room as compared to Accor's Junk Fee practices described above. Because of Accor's practices, a consumer deciding whether to book a room at The Madison Hotel or Sofitel Washington DC Lafayette Square could

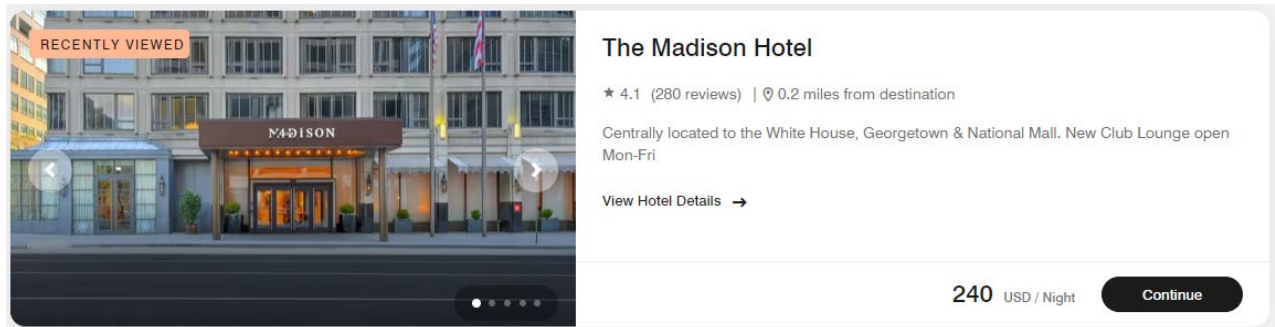
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<sup>42</sup> Upon information and belief, consumers who accessed the websites for Accor's Junk Fee hotels that are located outside of the District through Google were similarly misled. *See supra* note 41 (describing how consumers who accessed the hotel webpage through Google were shown incomplete room prices on the hotel website).

<sup>43</sup> Upon information and belief, Marriott changed its practices. However, Marriott used to engage in deceptive Junk Fee practices, like Accor, inducing consumers to purchase hotel rooms based on misrepresentation of total room price.

have been induced to believe that a room at Sofitel Washington DC Lafayette Square was cheaper, though the actual complete price was not.

82. A consumer looking to book a two-day stay in Washington, DC, for example, may have seen Marriott's advertisement for The Madison Hotel, displaying a price of \$240 per night to book a room:



RECENTLY VIEWED

**The Madison Hotel**

★ 4.1 (280 reviews) | 0.2 miles from destination

Centrally located to the White House, Georgetown & National Mall. New Club Lounge open Mon-Fri

[View Hotel Details →](#)

240 USD / Night [Continue](#)

83. A consumer searching for a hotel room in Washington, D.C. may have also stumbled across Sofitel Washington DC Lafayette Square, and, if so, may have seen an advertisement for a cheaper nightly rate per night of \$229:



SOFITEL

**Sofitel Washington DC Lafayette Square \*\*\*\*\***

Hotels - [0.5 mi from your search](#)

All **4.4/5** [see reviews](#)

[Open rate calendar](#)

Rate from(1) **-10%**

**US\$254 US\$229**

For 1 room

1 adult | Average per night


[See the hotel](#) [See the rooms](#)

///

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84. Based on these two advertisements, a consumer should have expected to pay at least \$11.00 less per night if she were to select Sofitel Washington DC Lafayette Square rather than The Madison Hotel. However, if the consumer would have purchased the room at Sofitel Washington DC Lafayette Square instead of the room at The Madison Hotel, she would actually have paid more. The total price for the two-night stay at The Madison Hotel is \$556.56:

 <b>Summary of Charges</b>	<b>240.00</b>	<b>+ 76.56</b>	<b>556.56</b>
	<small>USD Avg/Night</small>	<small>Taxes and Fees</small>	<small>USD Subtotal</small>
<b>1 room for 2 night(s)</b>			
Saturday, October 14, 2023			256.00 USD
Sunday, October 15, 2023			224.00 USD
<b>Total Cash Rate</b>			<b>480.00 USD</b>
Estimated government taxes and fees			76.56 USD
<b>Total for Stay</b>			<b>556.56 USD</b>
<b>Additional Charges</b>			
Valet parking, fee: 69 USD daily			
Changes in taxes or fees implemented after booking will affect the total room price			

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85. By contrast, the total price for the Sofitel Washington DC Lafayette Square two-night stay was \$599.70:

The screenshot shows a hotel booking cart for a Superior 1 King room. The room price is US\$228.60, which includes a 10% discount. Taxes are US\$72.92 and fees are US\$69.58, including Urban Experience Fees of US\$34.79 per night. The total price, including taxes and fees, is US\$599.70.

Hide cart details	
<b>ROOM</b>	
SUPERIOR 1 KING	
Stay Longer, Experience More - Save up to 20%	<b>US\$228.60</b>
• Discount -10% (included)	avg/night
<a href="#">Pricing conditions</a>	
<hr/>	
<b>TAXES</b>	
Taxes	<b>US\$72.92</b>
<hr/>	
<b>FEES</b>	
Fees	<b>US\$69.58</b>
<i>of which Urban Experience Fees: US\$34.79 per night</i>	
<a href="#">Learn more</a>	
<b>TOTAL</b> (fees and taxes included)	<b>US\$599.70</b>

86. From the onset of the search process, therefore, consumers of hotels that do not currently charge Junk Fees or that include Junk Fees in their advertised room prices are able to compare accurate total price across companies and rooms in order to make an informed choice as to which company and room is right for them.

87. However, as shown above, Accor's consumers were not. Accor did not intend to sell or sell rooms at their advertised prices. Instead, Accor's practice was to advertise false and misleading room prices that exclude Junk Fees, thereby inducing consumers to undertake the search and cognitive effort to pick a hotel room and to psychologically commit to a room based on an inaccurate room rate.

88. Accor's Junk Fees practices thus not only harmed consumers, but gave Accor an unfair advantage over its competitors who properly advertise the full price of a room.

## **THE DISTRICT’S CONSUMER PROTECTION PROCEDURES ACT**

89. The District of Columbia Consumer Protection Procedures Act protects consumers from a wide range of unfair and deceptive business practices. *See* D.C. Code § 28–3904.

90. Consistent with these protections, CPPA Section 28–3901(c) directs courts to construe the CPPA broadly “to promote its purpose,” including ensuring that “a just mechanism exists to remedy all improper trade practices” and promoting “through effective enforcement[] fair business practices throughout the community.” D.C. Code §§ 28–3901(c), (b)(1), (2).

91. Among other things, the CPPA “establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia,” D.C. Code § 28–3901(c), and makes it unlawful to “advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered” and “make false or misleading representations of fact concerning . . . the price in comparison to [the] price of [a] competitor[’s],” D.C. Code §§ 28–3904(h), (j).

92. CPPA Section 28–3904 is explicit that a violation occurs regardless of “whether or not any consumer is in fact misled, deceived, or damaged” by the unlawful practice.

93. Further, the CPPA authorizes public interest organizations, such as Travelers United, to bring claims on behalf of a class of consumers:

[A] public interest organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action . . . .

D.C. Code §§ 28–3905(k)(1)(D).

94. Where a violation is found, the CPPA provides for statutory damages of \$1,500 *per violation*, among other relief. D.C. Code § 28–3905(k)(2)(A)(i).

95. Under the CPPA, a nonprofit or public interest organization may also seek an injunction against the use of the unlawful trade practice. D.C. Code § 28–3905(k)(2)(D).

## CLASS ALLEGATIONS

96. This action is brought and may properly proceed as a class action pursuant to D.C. Rule of Civil Procedure 23 (“Rule 23”), including Sections (b)(1), (b)(2) and (b)(3) of Rule 23.

97. Travelers United seeks certification of the following nationwide class (the “**National Class**”), consisting of the following individuals:

All individuals in the United States who booked a room at an Accor hotel within the District of Columbia for personal use and paid a resort, destination, and/or other similar fee to Accor.

98. Travelers United also seeks certification of the following District of Columbia class (the “**District Class**”), consisting of the following individuals:

All residents of the District of Columbia who booked a room at an Accor hotel within the United States for personal use and paid a resort, destination, and/or other similar fee to Accor.

99. The National Class and District Class are collectively referred to as the “Classes,” and their members are collectively referred to as the “Class members.”

100. Accor’s deceptive Junk Fee practices violated each Class members’ individual statutory right to truthful information from Accor about the actual price of nightly room rates purchased, leased, or received in the District of Columbia.

101. Accor’s deceptive Junk Fee practices have resulted in actual injury and harm to the Class members in the amount of the Junk Fees which were absent from the advertised price and which they paid as a result of Accor’s drip and/or partitioned Junk Fee practices.

102. Travelers United explicitly reserves its right to amend, add to, modify, and/or otherwise change the proposed class definitions as discovery in this action progresses.

103. The following people are excluded from any of the Classes: (1) any Judge or Magistrate presiding over this action, members of their staffs (including judicial clerks), and members of their families; (2) Defendant, Defendant’s subsidiaries, parents, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest, and their current or former employees, officers and directors; (3) persons who properly execute and

file a timely request for exclusion from the Classes; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Travelers United’s counsel and Defendant’s counsel, and non-attorney employees of their firms; and (6) the legal representatives, successors, and assigns of any such excluded persons.

104. **Numerosity.** Travelers United is informed and believes that there are tens of thousands or potentially millions of members of the Classes. The Classes are so large that the joinder of all of their members is impracticable. The exact number of members of each of the Classes can be determined from information in the possession and control of Accor.

105. **Commonality.** Accor has acted or refused to act on grounds that apply generally to the Classes. Absent certification of the Classes, the relief sought herein creates the possibility of inconsistent judgments and/or obligations imposed on Accor. Numerous common issues of fact and law exist, including, without limitation:

- a. Whether Accor’s drip and/or partitioned Junk Fee practices are a trade practice under the CPPA;
- b. Whether hotel rooms are consumer goods or services under the CPPA;
- c. Whether Accor’s offer, lease, and/or sale of hotel rooms renders it a merchant under the CPPA;
- d. Whether Accor’s advertising, or causing of advertising by third parties, of prices and room rates for lodging in their hotels that do not include Junk Fees constitutes an advertisement or offer without the intent to sell the lodging as advertised, which is an unlawful trade practice that violates the CPPA (D.C. Code § 28–3904(h));
- e. Whether Accor’s drip and/or partitioned Junk Fee practices constitute a “misrepresent[ation] as to a material fact which has a tendency to mislead” (D.C. Code § 28–3904(e));
- f. Whether Accor’s drip and/or partitioned Junk Fee practices “fail to state a material fact” that “tends to mislead” (D.C. Code § 28–3904(f));

- g. Whether Accor’s drip and/or partitioned Junk Fee practices “use innuendo or ambiguity as to a material fact, which has a tendency to mislead” (D.C. Code § 28–3904 (f-1)); and
- h. Whether Accor’s drip and/or partitioned Junk Fee practices “make false or misleading representations of fact concerning . . . the price in comparison to price of competitors or one’s own price at a past or future time,” (D.C. Code § 28–3904 (j)).

106. **Predominance.** These common issues predominate over individualized inquiries in this action because Accor’s liability can be established as to all members of the Classes as discussed herein.

107. **Typicality.** Travelers United brings this action on behalf of Classes of consumers for whom it advocates in connection with its mission to improve and enhance travel, including through initiatives to oppose hidden hotel fees. Hence, its mission is to promote the objectives of the Classes of consumers it seeks to represent. Travelers United’s claims are also typical, if not identical, to the claims that could be asserted by all members of the Classes. Their claims all arise from Accor’s deceptive Junk Fee practices applicable to all such Class members and are based on the same legal theory as to how and why those practices violate the CPPA. *See Nat’l Veterans Legal Servs. Program v. United States*, 235 F. Supp. 3d 32, 40 (D.D.C. 2017) (“typicality focuses on the similarities between the class representative’s claims and those of the class”).

108. **Adequacy.** The CPPA provides that Travelers United, as a public interest organization, can bring this action on behalf of the interests of a class of consumers. *See* D.C. Code § 28–3905(k)(1)(D)(i). In doing so, Travelers United will fairly and adequately represent and protect the interests of the Classes and has retained counsel competent and experienced in complex litigation and class actions. Travelers United’s claims are representative of the claims of the members of the Classes, as its claims arise from the allegation that each member of the Classes lost money by paying Junk Fees to Accor because of Accor’s unlawful practices. Travelers United also has no interests antagonistic to those of the Classes, and Accor has no defenses unique to

Travelers United. Travelers United and its counsel are committed to vigorously prosecuting this action on behalf of the Classes and have the financial resources to do so. Neither Travelers United nor their counsel have any interest adverse to the Classes.

109. **Superiority.** There are substantial benefits to proceeding as a class action that render proceeding as a class action superior to any alternatives, including that it will provide a realistic means for members of the Classes to recover damages; the damages suffered by members of the Classes may be relatively small; it would be substantially less burdensome on the courts and the parties than numerous individual proceedings; many members of the Classes may be unaware that they have legal recourse for the conduct alleged herein; and because issues common to members of the Classes can be effectively managed in a single proceeding. Travelers United knows of no difficulty that could be encountered in the management of this litigation that would preclude its maintenance as a class action.

110. Travelers United reserves the right to revise each of the foregoing allegations based on facts learned through additional investigation and in discovery.

### **COUNT 1**

#### **Violation of the Consumer Protection Procedures Act, D.C. Code §§ 28-3901 *et seq.* On Behalf of the Classes**

111. The allegations of Paragraphs 1 through 110 are re-alleged as if fully set forth herein.

112. The D.C. Consumer Protection Procedures Act is a remedial statute that is to be broadly construed. It establishes “an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia.” D.C. Code § 28–3901(c). CPPA Section 28–3904 is explicit that a violation occurs regardless of “whether or not any consumer is in fact misled, deceived, or damaged” by the unlawful practice.

113. Travelers United has standing to bring this Count on behalf of the Classes under D.C. Code § 28–3905(k)(l)(D)(i), which provides in relevant part that “a public interest

organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action under subparagraph (A) of this paragraph for relief from such use by such person of such trade practice.”

114. Travelers United is a public interest organization that has done significant advocacy work against Junk Fees across the travel industry, both locally in the District and at the federal level.

115. The CPPA prohibits unlawful trade practices in connection with the offer, sale, advertisement, and supply of consumer goods and services. D.C. Code § 28–3904.

116. The hotel rooms Accor offers to consumers are leased or sold for personal, household, or family purposes and, therefore, are consumer goods or services.

117. Accor, in the ordinary course of business, offers to lease, sell, or supply consumer goods and services and, therefore, is a merchant. D.C. Code § 28–3901(a)(3).

118. Accor’s advertising of prices and room rates for lodging in their hotels that do not include nightly Junk Fees that were then charged as a prerequisite to booking a hotel room constitutes an advertisement or offer without the intent to sell the lodging as advertised, which is an unlawful trade practice that violates the CPPA, D.C. Code § 28–3904(h).

119. Because cost is a material fact to consumers deciding whether to book a hotel room, and because drip and partitioned pricing misrepresent the price of a hotel room and total cost to the consumer, through this conduct Accor engaged in unfair and/or deceptive trade practices by “misrepresent[ing] . . . a material fact which has a tendency to mislead,” D.C. Code § 28–3904(e), “fail[ing] to state a material fact” and “such failure tends to mislead,” D.C. Code § 28–3904(f), “us[ing] innuendo or ambiguity as to a material fact, which has a tendency to mislead,” D.C. Code § 28–3904(f-1), and/or “mak[ing] false or misleading representations of fact concerning . . . the price in comparison to price of competitors or one’s own price at a past or future time,” D.C. Code § 28–3904(j).

120. Accor's deceptive Junk Fee practices violated each Class member's individual statutory right to truthful information from Accor about the actual nightly rate for hotels rooms purchased, leased, or received in the District of Columbia.

121. Class members suffered actual injuries as a result of Accor's unfair and deceptive practices in the amount of the Junk Fees that consumers were required to pay in order to book a hotel room which were not included in the advertised price but were paid.

122. Each night that Accor charged Junk Fees constitutes a violation of the CPPA.

123. Given these practices, Travelers United and the Class members are also entitled to injunctive relief. D.C. Code § 28-3905(k)(2)(D).

124. WHEREFORE, Travelers United respectfully requests this Court enter judgment in its favor and the favor of the Classes and against Accor, as follows:

- a. Permanently enjoin Accor, pursuant to D.C. Code § 28-3905(k)(2)(D), from advertising rates for hotel rooms that exclude resort, destination, and/or other similar fees that consumers are required to pay to book a room;
- b. Permanently enjoin Accor, pursuant to D.C. Code § 28-3905(k)(2)(D), from partitioning advertised hotel room prices from resort, destination, and/or other similar fees that consumers are required to pay to book a room;
- c. Award the Class members actual damages;
- d. Award the Class members treble damages of the actual damages as provided in the CPPA, or statutory damages of \$1,500.00 per violation, whichever is greater;
- e. Award Travelers United and the Class members punitive damages as determined by the trier of fact as Accor's actions were replete with malice and were accompanied with fraud, ill will, recklessness, wantonness, oppressiveness, and willful disregard of the Class members' rights as described above;



- f. Award Travelers United and the Class members reasonable attorneys' fees and costs as provided in the CPPA;
- g. Grant any additional relief as may be necessary to restore to the Class members money which may have been acquired by means of Accor's unlawful trade practices pursuant to D.C. Code 28-3905(k)(2)(E); and
- h. Grant Travelers United and the Class members other and further relief as the Court finds necessary and proper.

**JURY DEMAND**

125. Travelers United demands a trial by jury.

Date: December 15, 2023

/s/ Hassan Zavareei\_\_\_\_\_

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