



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Remarks by Chair Lina M. Khan
Center for American Progress
September 25, 2024**

Thank you, Emily, for the generous introduction. Thank you to the CAP events team for helping put this together. And many thanks to CAP President Patrick Gaspard for hosting this conversation. It's an honor to be here. CAP has no doubt been driving some of the sharpest economic thinking in our country in recent years, and I'm appreciative to have this chance to discuss the FTC's work lowering costs for working families and fighting back against tricks and traps in our economy.

Senator Luján has been such a fierce advocate in Congress for the FTC's work, protecting consumers from subscription traps and fighting for their freedom to repair their products. I'm looking forward to our discussion.

I'd like to share with you all some of the work we are doing at the Federal Trade Commission to promote fair dealing and honest, competitive markets that keep prices low for Americans and keep illegal monopolies in check.

As part of our work, we hear from thousands of Americans all across the country about what they are seeing and facing across markets. One person who reached out said that being a consumer can feel like gearing up for battle.¹ That phrasing stuck with me because that person was an active-duty military member. And they were talking about buying a car.

It captured so vividly this basic way that being a consumer in today's economy can feel as if you always need to be on guard, looking out around every corner to make sure you're not about to get tricked or get ripped off—even when you're just trying to go about the most ordinary of transactions. Canceling a subscription. Finding an apartment to rent. Booking a hotel for a family vacation you've been saving up for. Buying a ticket to see your kid's favorite band.

None of these should require inordinate canniness, or enormous willpower, or some kind of expertise in consumer protection. And yet too often, it can feel like they do.

It wasn't always this way. And it doesn't have to be this way.

The Federal Trade Commission was created by Congress to make sure our markets are honest, competitive, and fair. This has long been our mission. But over the decades, our approach to doing that work has changed. Under President Ronald Reagan, the FTC adopted the view that

¹ Comment Submitted by Tom Demeri, Combating Auto Retail Scams Trade Regulation Rule, *Regulations.gov* (Jul. 22, 2022), <https://www.regulations.gov/comment/FTC-2022-0046-0637>.

the best way to protect consumers was to make sure businesses weren't lying to them. So long as people had access to accurate information, the thinking was, they would be well-positioned to make the best choice and protect themselves.

Today we see that this cramped and one-dimensional view of consumer protection is not actually enough to protect consumers in the 21st century.

For one, we've seen that people can still be misled or treated unfairly, even if there is a disclosure buried somewhere in the terms of service. And we've seen how declining competition can allow firms to become too big to care, so people don't actually have real choice. Blow most of your paycheck at the supermarket, or your family goes hungry. Cough up hundreds of dollars a month to a big pharmaceutical company, or go without your life-saving medicine. Let a tech app surveil your kid, or they get shut out of doing their homework. Pay your landlord's junk fees, or risk being evicted from your home.

These are not fair choices.

Under the Biden-Harris Administration, the government has been using all of our tools to foster fair competition and fight for consumers—and it's been an honor for the FTC to be on the frontlines of this fight.²

One area where this work is absolutely critical is housing. No American should pay more in rent or be kicked out of their homes due to illegal business practices.

Yesterday, the FTC announced an action against the nation's largest landlord of single-family homes, Invitation Homes.³

According to our complaint, Invitation Homes was actively hiding junk fees from prospective tenants until they received their leases—and sometimes, not until after they'd already signed them. This could cost each renter \$1,700 a year or more.

This was not some kind of oversight. The CEO told his team to make those fees mandatory so the company could, quote, "juice this hog."

Imagine this: you tour an apartment within your budget. It costs \$55 to apply and then \$500 to reserve it. After you've paid those nonrefundable fees, you learn that the rent is actually higher than advertised. But you can't get your money back. So you move in anyway, only to discover that your unit has a mold problem, exposed wiring, and rodents come and go.

² See White House, *FACT SHEET: White House Competition Council Announces New Actions to Lower Costs and Marks Second Anniversary of President Biden's Executive Order on Competition* (July 19, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/07/19/fact-sheet-white-house-competition-council-announces-new-actions-to-lower-costs-and-marks-second-anniversary-of-president-bidens-executive-order-on-competition/>.

³ Press Release, Fed. Trade Comm'n, *FTC Takes Action Against Invitation Homes for Deceiving Renters, Charging Junk Fees, Withholding Security Deposits, and Employing Unfair Eviction Practices* (Sept. 24, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-takes-action-against-invitation-homes-deceiving-renters-charging-junk-fees-withholding-security>.

That's what Invitation Homes was doing to thousands of tenants across the country, in places like Atlanta, Phoenix, Tampa, and more.

To add insult to injury, Invitation Homes pocketed security deposits, charging renters for damage that was done *before* they moved in. Invitation Homes even initiated illegal evictions during the pandemic, when the CDC had put a moratorium in place.

And despite promising 24/7 emergency maintenance, Invitation Homes subjected residents to dangerous living conditions, sometimes for weeks on end. A woman who was six months pregnant lost heat for several days in the dead of winter. One resident had a sewage backup flooding their bathroom; it took Invitation Homes four days to call them back, and six days to come actually fix the plumbing.

Yesterday, the FTC announced that we secured almost \$50 million to reimburse residents who were harmed by these illegal practices. And we will continue to use all our tools to make sure that Americans are not paying inflated rent or being kicked out of their homes because of these tactics.

Invitation Homes is unfortunately not the only company that advertises a product for one price, then tacks on a bunch of fees so the final cost is much higher.

If you've been to a concert recently, you know the drill. The tickets are \$50. You wait for hours in an online queue, and you manage to get some tickets. But once you add in the handling fee, the processing fee, the service fee, the convenience fee, suddenly that \$50 ticket is an \$89 ticket. You've spent all morning trying to get these tickets, only to learn at checkout that they're almost double the original price.

As one commenter put it: "Why is there a processing fee and a service fee? Isn't the act of processing the service they are offering?"⁴

People deserve to know up front what they're being asked to pay—without the endless worry that they'll later be saddled with mysterious fees that they haven't budgeted for and can't escape.

That's why the FTC has proposed a rule to eliminate these deceptive surprise fees that collectively cost Americans billions of dollars a year.⁵

We've also unfortunately seen a rise in subscription traps. We've all been there. Every month, you're paying for that gym membership you don't really use, or streaming services you never signed up for in the first place. But it's absurdly difficult to actually cancel these services.

⁴ Comment Submitted by Jessica Madsen, Trade Regulation Rule on Unfair or Deceptive Fees, *Regulations.gov* (Nov. 9, 2023), <https://www.regulations.gov/comment/FTC-2023-0064-0588>.

⁵ Press Release, Fed. Trade Comm'n, FTC Proposes Rule to Ban Junk Fees (Nov. 14, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-proposes-rule-ban-junk-fees>.

You have to call customer service and spend an hour on the phone with a bot before you finally get through to a human being.

Customer Service then transfers you to Memberships. They transfer you to Cancellations. And then suddenly the call drops and you have to do it all over again. It can feel like you're stuck in some type of endless doom loop. And many people understandably just give up—and pay dozens if not hundreds of dollars for subscriptions they don't want or need. And of course, that's kind of the point: to wear you down and keep taking your money, month after month.

I'm excited that the Commission will be considering finalization of a “click to cancel” rule that would require companies to make it just as easy to cancel a subscription as it is to sign up for one.⁶

Another tactic that we worry businesses could be quietly adopting is surveillance pricing: when companies collect private data from your devices and use it to target prices to individual consumers. They can use information, like your precise location, your browsing history—or even how much you get paid and when—to determine exactly how much to charge you.

You can imagine the ways this could very quickly become exploitative. Imagine if a grocery store knows that your child has a peanut allergy, then charges your family more for the granola bars without nuts. Or imagine an airline knows that you've had a death in the family and need to fly across the country to make the funeral, and then jacks up the price just for you.

The FTC has launched an investigation to get to the bottom of this practice, to make sure that companies aren't surreptitiously exploiting people's data to nickel and dime them.⁷

All too often, unfortunately, we still hear about how Americans cannot afford life-saving medicines. The FTC is doing everything we can to stop unlawful practices that make prescription drugs unaffordable.

For example, the FTC uncovered that some pharmaceutical companies were abusing the FDA's patent system, filing junk listings on inhalers to keep prices high. Earlier this year, we called out four major inhaler manufacturers on these tricks—and three of them have since announced they will lower the cost of inhalers from hundreds of dollars down to just \$35.⁸

⁶ Press Release, Fed. Trade Comm'n, Federal Trade Commission Proposes Rule Provision Making it Easier for Consumers to “Click to Cancel” Recurring Subscriptions and Memberships (Mar. 23, 2023), <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-takes-action-against-invitation-homes-deceiving-renters-charging-junk-fees-withholding-security>.

⁷ Press Release, Fed. Trade Comm'n, FTC Issues Orders to Eight Companies Seeking Information on Surveillance Pricing (July 23, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-issues-orders-eight-companies-seeking-information-surveillance-pricing>.

⁸ Press Release, Fed. Trade Comm'n, FTC Challenges More Than 100 Patents as Improperly Listed in the FDA's Orange Book (Nov. 7, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/11/ftc-challenges-more-100-patents-improperly-listed-fdas-orange-book>; *see also*, Press Release, Fed. Trade Comm'n, FTC Issues Policy Statement on Brand Pharmaceutical (Sept. 14, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-issues-policy-statement-brand-pharmaceutical-manufacturers-improper-listing-patents-food-drug>; Press Release, Sen. Bernie Sanders, Chairman Sanders, Baldwin, Luján, Markey Launch HELP Committee

And just last week, the FTC filed an administrative complaint alleging that three prescription drug middlemen artificially inflated the price of insulin.⁹

We'll keep using all our tools to ensure no American is paying more for medicine because of illegal business tactics.

When you zoom out and add it all up, these types of underhanded tactics could be costing people hundreds, maybe even thousands of dollars every year. But it actually costs so much more than that.

It costs you your time. And it can come at the expense of people's dignity.

The Federal Trade Commission, at the end of the day, is working to restore dignity to people's everyday economic lives—in part, by making sure we're bringing cases that fully represent the ways that consumers are being harmed in today's economy. In several recent cases, we have gotten people compensated not just for the money they lost, but for the time they lost—and for violations of their privacy, too.¹⁰

Across the Biden-Harris Administration, the government has been working hard to lower costs and protect Americans from corporate wrongdoing, coercion, and abuse.¹¹

Imagine this: You book a hotel room. It says it costs \$100. And it actually just costs \$100. There's no convenience fee. It's just convenient. And the price they charge you is the same price they charge me.

You can cancel your unwanted subscriptions with just a click. You have a safe place to live, with reasonable rent. And you can actually afford the medicines you need.

Investigation into Efforts by Pharmaceutical Companies to Manipulate the Price of Asthma Inhalers (Jan. 8, 2024), <https://www.sanders.senate.gov/press-releases/news-chairman-sanders-baldwin-lujan-markey-launch-help-committee-investigation-into-efforts-by-pharmaceutical-companies-to-manipulate-the-price-of-asthma-inhalers/>.

⁹ Press Release, Fed. Trade Comm'n, FTC Sues Prescription Drug Middlemen for Artificially Inflating Insulin Drug Prices (Sept. 20, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-sues-prescription-drug-middlemen-artificially-inflating-insulin-drug-prices>.

¹⁰ See, e.g., Press Release, Fed. Trade Comm'n, FTC Takes Action Against Publishers Clearing House for Misleading Consumers About Sweepstakes Entries (June 27, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/06/ftc-takes-action-against-publishers-clearing-house-misleading-consumers-about-sweepstakes-entries>; Press Release, Fed. Trade Comm'n, FTC Finalizes Order Requiring Credit Karma to Pay \$3 Million and Halt Deceptive 'Pre-Approved' Claims (Jan. 23, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/01/ftc-finalizes-order-requiring-credit-karma-pay-3-million-halt-deceptive-pre-approved-claims>; Press Release, Fed. Trade Comm'n, BetterHelp Customers Will Begin Receiving Notices About Refunds Related to a 2023 Privacy Settlement with FTC (May 6, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/05/betterhelp-customers-will-begin-receiving-notices-about-refunds-related-2023-privacy-settlement-ftc>; Press Release, Fed. Trade Comm'n, FTC Sends Refunds to Ring Customers Stemming from 2023 Settlement over Charges the Company Failed to Block Employees and Hackers from Accessing Consumer Videos (April 23, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/04/ftc-sends-refunds-ring-customers-stemming-2023-settlement-over-charges-company-failed-block>.

¹¹ See White House, *supra* note 2.

This world saves people more than hard-earned money and valuable time. It saves you an inordinate amount of stress and headache.

This is the world we all deserve to live in. A world where you have another choice and the freedom to choose it. Where you aren't constantly afraid that you're being ripped off. Where you aren't waking up every morning and gearing up for battle.

This is the world that the FTC and the Biden-Harris Administration are fighting to make possible.

We aren't asking for anything extraordinary. We're asking for the most ordinary things on earth: our time, our dignity, and our peace of mind.

Thank you.
