

Notice Regarding Request Relating to the Informal Hearing in Project No. R207011, the Trade Regulation Rule on Unfair or Deceptive Fees

The Commission received a request seeking an extension of time in connection with the informal hearing scheduled for April 24, 2024, in the above-referenced matter. This request asks that the Commission extend the time period to submit documentary submissions because “the short turnaround time is insufficient.”¹ This request is denied for the reasons stated below.

Pursuant to Section 18 of the FTC Act, 15 U.S.C. § 57a, the Commission published the notice of proposed rulemaking (NPRM) concerning the Trade Regulation Rule on Unfair or Deceptive Fees in the Federal Register on November 9, 2023, with a sixty-day comment period that ended on January 8, 2024.² On January 2, 2024, the Commission extended the NPRM’s comment period another thirty days to February 7, 2024.³

In the NPRM, the Commission did not identify any disputed issues of material fact that need to be resolved at an informal hearing and solicited the public’s views on whether there are any such issues.⁴ The NPRM informed interested persons that they must submit any requests to present views orally by the conclusion of the notice and comment period, no later than January 8, 2024.⁵ The Commission received eight requests to present orally or participate at an informal hearing and nine additional requests to participate in a hearing if one were held (without requesting a hearing themselves).⁶ Additionally, a number of commenters proposed potential disputed issues of material fact for the Commission’s consideration.⁷

On March 27, 2024, the Commission published in the Federal Register an initial and final notice of informal hearing, which scheduled the informal hearing for April 24, 2024.⁸ In that notice, the Commission explained its finding that there are no disputed issues of material fact necessary to be resolved.⁹ Hearing participants were given until April 10, 2024, to provide documentary submissions if they wished to supplement their oral statements.¹⁰ These

¹ Letter from the U.S. Chamber of Commerce, Request for Extension to Provide Written Comments Ahead of the Informal Hearing on Trade Regulation Rule on Unfair or Deceptive Fees.

https://www.ftc.gov/system/files/ftc_gov/pdf/r207011requestforextension04042024.pdf.

² See Fed. Trade Comm’n, Notice of Proposed Rulemaking to Promulgate a Trade Regulation Rule on Unfair or Deceptive Fees, 88 Fed. Reg. 77420 (Nov. 9, 2023).

³ See Fed. Trade Comm’n, Notice of Proposed Rulemaking to Promulgate a Trade Regulation Rule on Unfair or Deceptive Fees; extension of comment period, 89 Fed. Reg. 38 (Jan. 2, 2024).

⁴ 88 Fed. Reg. at 77440.

⁵ *Id.* at 77420.

⁶ See Fed. Trade Comm’n, Initial and Final Notice of Informal Hearing on the Trade Regulation Rule on Unfair or Deceptive Fees, 89 Fed. Reg. 21216 (Mar. 27, 2024).

⁷ *Id.* at 21218.

⁸ *Id.* at 21216.


⁹ *Id.* at 21218.

¹⁰ This period provides the presiding officer with two weeks to review any supplemental materials prior to the informal hearing. The presiding officer retains the powers necessary to oversee “the orderly conduct of the informal hearing” pursuant to the Commission Rules of Practice, including accepting written submissions on a different schedule. 16 C.F.R. § 1.13(a)(2)(viii).

periods afforded the public a meaningful opportunity to provide the Commission with written comments regarding its rulemaking proposal. Generally, agencies must provide 15 days' advance notice of a hearing. *See* 44 U.S.C. § 1508.

Here, interested parties had three months to consider whether they wanted to present views orally at an informal hearing, after which the Commission provided 29 days' advance notice of the informal hearing. The request to extend the time to submit documentary evidence simply states that the time period is insufficient; it does not explain why the requester believes more time is necessary to provide documentary submissions in this instance.¹¹ Based on the facts and law, the Commission declines to expand or extend the period for documentary submissions. As stated in the hearing notice, the requester here (like the other hearing participants) will be given an opportunity to make an oral statement of up to 15 minutes at the hearing, the presiding officer may grant an extension of time for good cause shown, and transcripts of the oral statements will be placed in the rulemaking record.¹²

By the Commission, Commissioners Holyoak and Ferguson dissenting.



April J. Tabor
Secretary

ISSUED: April 16, 2024

¹¹ Requester's written submission, which was filed on April 10, 2024, does not indicate that there were any materials that requester lacked time to include due to the schedule set forth in the Commission's hearing notice. *See* U.S. Chamber of Commerce, Written Comment, Unfair or Deceptive Fees Rule, Commission Matter No. R207011 (April 10, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/r207011uscochrgsubmission04102024.pdf.

¹² 89 Fed. Reg. at 21221.