

FTC Finalizes Significantly Narrowed Junk Fees Rule – Initial Takeaways Applicable to the Auto Industry

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On December 17, 2024, the Federal Trade Commission (FTC) issued its final trade regulation rule, “Rule on Unfair or Deceptive Fees,” commonly referred to as the “Junk Fees Rule.” We review the significance of the Final Rule as it applies to the auto industry.

Final Junk Fees Rule Limited to Live-Event Tickets and Short-Term Lodging

The Final Rule – which the FTC has emphasized is bipartisan in nature – has been significantly narrowed from its October 2023 Proposed Rule. As finalized, the Junk Fees Rule applies only to the offering of a “Covered Good or Service,” defined as:

- Live-event tickets; or
- Short-term lodging, including temporary sleeping accommodations at a hotel, motel, inn, short-term rental, vacation rental, or other place of lodging.

Junk Fees Rule Impact on the Auto Industry and CARS Rule

Conversely, the Proposed Rule would have applied broadly to any “Business.” While the Proposed Rule included a carve-out for motor vehicle dealers subject to the FTC’s Combatting Auto Retail Scams (CARS) Rule, the Final Rule removed the carve-out for motor vehicle dealers required to comply with the CARS Rule because of the Final Rule’s narrowed scope.

The viability of the CARS Rule is currently in the hands of the U.S. Fifth Circuit Court of Appeals, which heard oral arguments on the trade groups’ litigation in October. If the CARS Rule were to be struck down by the Fifth Circuit,

the auto industry has been preparing for the potential applicability of the Junk Fees Rule in its place.

However, due to the significantly narrowed Final Junk Fees Rule, an invalidated CARS Rule would lessen the regulatory burdens on both motor vehicle dealers and the auto industry, including auto finance companies.

Certainly, the FTC could continue to take action under its Section 5 UDAP authority, but the lack of a Final Rule likely precludes the FTC from seeking equitable monetary relief in federal court based on the 2021 U.S. Supreme Court decision in *AMG Capital Management*. The CFPB will continue to supervise and enforce compliance based on its UDAP authority, but its priorities under the new presidential administration remain unknown.

Commissioner Ferguson Dissents, Somewhat

The FTC approved the publication of the Final Rule with a 4-1 vote, with President-elect Trump's pick for FTC Chair, Commissioner Andrew Ferguson, [dissenting](#). Of note, Commissioner Ferguson did not dissent on the merits of the Final Rule but "only on the ground that the time for rulemaking by the Biden-Harris FTC is over."

Hinshaw's [financial services regulatory and compliance team](#) and [auto finance industry group](#) will continue to monitor developments related to junk fees at the federal and state levels. Please feel free to contact Dustin Alonzo or Lauren Campisi with any questions.

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