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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To limit and eliminate excessive, hidden, and unnecessary fees imposed on consumers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. BYNUM introduced the following bill; which was referred to the Committee
on _____

A BILL

To limit and eliminate excessive, hidden, and unnecessary
fees imposed on consumers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Junk Fee Prevention
5 Act”.

6 **SEC. 2. PROTECTING CONSUMERS FROM EXCESSIVE AND**
7 **HIDDEN FEES.**

8 (a) PROTECTING CONSUMERS FROM HIDDEN
9 FEES.—

1 (1) IN GENERAL.—A covered entity shall clearly
2 and conspicuously display, in each advertisement
3 and when a price is first shown to a consumer, the
4 total price of the good or service provided by the
5 covered entity, including any mandatory fees a con-
6 sumer would incur during the purchase of the good
7 or service and any mandatory government charge re-
8 lated to such purchase.

9 (2) PRICE CONSISTENCY.—A covered entity
10 shall ensure that any mandatory fee incurred by a
11 consumer during the purchase process does not
12 change from that advertised to the consumer.

13 (b) EXCESSIVE FEES.—A covered entity shall not im-
14 pose on a consumer or advertise any mandatory fees that
15 are excessive or deceptive for any good or service offered
16 by the covered entity.

17 (c) TICKET HOLDBACKS.—If a good or service pro-
18 vided by a covered entity is a ticket to a sporting event,
19 theater, musical performance, or other live performance
20 that an audience watches as the live performance occurs,
21 the covered entity shall, not less than 72 hours prior to
22 the first public sale or presale of such ticket, clearly and
23 conspicuously disclose to the public, including at the point
24 of sale, the total number of tickets offered for sale by the
25 covered entity or available for the given event.

1 (d) PROTECTING REFUNDS.—A covered entity shall
2 clearly and conspicuously disclose any guarantee or refund
3 policy prior to the completion of a transaction by the con-
4 sumer and, in the event of a refund, provide a refund in
5 the amount of the total cost of the ticket including any
6 mandatory fees.

7 (e) SPECULATIVE TICKETING.—If a covered entity
8 does not possess a ticket at the time of the sale, it shall
9 provide to the consumer—

10 (1) a clear and conspicuous notice that the cov-
11 ered entity does not possess the ticket; and

12 (2) a full refund if the covered entity cannot
13 provide the ticket advertised to the consumer in a
14 timely manner prior to the event.

15 (f) RULEMAKING ON EXCESSIVE AND HIDDEN
16 FEES.—The Federal Trade Commission may promulgate
17 rules in accordance with section 553 of title 5, United
18 States Code, regarding the disclosure and imposition of
19 mandatory or deceptive fees, including any such fee not
20 described in subsections (a) through (e).

21 (g) EXCESSIVE FEES.—In considering whether a
22 mandatory fee is excessive, the Federal Trade Commission
23 or court shall take into consideration—

1 (1) whether the fee is reasonable and propor-
2 tional to the cost of the good or service provided by
3 the covered entity;

4 (2) the reason for which the covered entity
5 charges such fee; and

6 (3) any other factors determined appropriate by
7 the Federal Trade Commission or the court.

8 (h) ENFORCEMENT.—

9 (1) ENFORCEMENT BY THE COMMISSION.—

10 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-
11 TICES.—A violation of this section or a regula-
12 tion promulgated thereunder shall be treated as
13 a violation of a rule defining an unfair or de-
14 ceptive act or practice under section
15 18(a)(1)(B) of the Federal Trade Commission
16 Act (15 U.S.C. 57a(a)(1)(B)).

17 (B) POWERS OF THE COMMISSION.—

18 (i) IN GENERAL.—The Federal Trade
19 Commission shall enforce this section in
20 the same manner, by the same means, and
21 with the same jurisdiction, powers, and du-
22 ties as though all applicable terms and pro-
23 visions of the Federal Trade Commission
24 Act (15 U.S.C. 41 et seq.) were incor-

1 porated into and made a part of this sec-
2 tion.

3 (ii) PRIVILEGES AND IMMUNITIES.—

4 Any person who violates this section or a
5 regulation promulgated thereunder shall be
6 subject to the penalties and entitled to the
7 privileges and immunities provided in the
8 Federal Trade Commission Act (15 U.S.C.
9 41 et seq.).

10 (iii) AUTHORITY PRESERVED.—Noth-
11 ing in this section shall be construed to
12 limit the authority of the Federal Trade
13 Commission under any other provision of
14 law.

15 (2) ENFORCEMENT BY STATES.—

16 (A) IN GENERAL.—If the attorney general
17 of a State has reason to believe that a covered
18 entity has violated or is violating this section or
19 a regulation promulgated thereunder that af-
20 fects the residents of that State, the State, as
21 parens patriae, may bring a civil action in any
22 appropriate district court of the United States,
23 to—

24 (i) enjoin any further violation by the
25 covered entity;

- 1 (ii) enforce compliance with this sec-
2 tion or such regulation;
3 (iii) obtain other remedies permitted
4 under State law; and
5 (iv) obtain damages, restitution, or
6 other compensation on behalf of residents
7 of the State.

8 (B) NOTICE.—The attorney general of a
9 State shall provide prior written notice of any
10 action under subparagraph (A) to the Commis-
11 sion and provide the Commission with a copy of
12 the complaint in the action, except in any case
13 in which such prior notice is not feasible, in
14 which case the attorney general shall serve such
15 notice immediately upon instituting such action.

16 (C) INTERVENTION BY THE COMMIS-
17 SION.—Upon receiving notice under subpara-
18 graph (B), the Commission shall have the
19 right—

- 20 (i) to intervene in the action;
21 (ii) upon so intervening, to be heard
22 on all matters arising therein; and
23 (iii) to file petitions for appeal.

24 (D) LIMITATION ON STATE ACTION WHILE
25 FEDERAL ACTION IS PENDING.—If the Commis-

1 sion has instituted a civil action for violation of
2 this section or a regulation promulgated there-
3 under, no attorney general of a State, or official
4 or agency of a State, may bring a separate ac-
5 tion under subparagraph (A) during the pend-
6 ency of that action against any defendant
7 named in the complaint of the Commission for
8 any violation of this section or a regulation pro-
9 mulgated thereunder that is alleged in the com-
10 plaint. An attorney general of a State, or offi-
11 cial or agency of a State, may join a civil action
12 for a violation of this section or a regulation
13 promulgated thereunder filed by the Commis-
14 sion.

15 (E) RULE OF CONSTRUCTION.—For pur-
16 poses of bringing a civil action under subpara-
17 graph (A), nothing in this section shall be con-
18 strued to prevent the chief law enforcement of-
19 ficer or official or agency of a State, from exer-
20 cising the powers conferred on such chief law
21 enforcement officer or official or agency of a
22 State, by the laws of the State to conduct inves-
23 tigations, administer oaths or affirmations, or
24 compel the attendance of witnesses or the pro-
25 duction of documentary and other evidence.

1 (i) DEFINITIONS.—In this section:

2 (1) COVERED ENTITY.—

3 (A) IN GENERAL.—The term “covered en-
4 tity” means—

5 (i) a provider of short-term lodging or
6 an online platform that allows for the
7 booking of short-term lodging;

8 (ii) a provider of a ticketing service
9 that sells tickets for an event or retains the
10 authority to otherwise distribute tickets for
11 such event, whether as a primary seller of
12 tickets or in the secondary marketplace for
13 ticket sales; or

14 (iii) any other entity determined ap-
15 propriate by the Commission through a
16 rulemaking in accordance with section 553
17 of title 5, United States Code.

18 (B) SHORT-TERM LODGING.—

19 (i) IN GENERAL.—Except as provided
20 in clause (ii), the term “short-term lodg-
21 ing” means any lodging that is offered for
22 an occupancy of less than 6 months or
23 temporary sleeping accommodations at a
24 hotel, motel, inn, short-term rental, vaca-
25 tion rental, or other place of lodging.

1 (ii) EXCLUSION.—The term “short-
2 term lodging” shall not include an accom-
3 modation of 6 months or more through a
4 landlord-tenant relationship.

5 (2) DECEPTIVE FEE.—The term “deceptive
6 fee” includes—

7 (A) any fee for which the nature, purpose,
8 amount, or refundability of such fee is mis-
9 represented; and

10 (B) any mandatory fee misrepresented as
11 an optional fee that a consumer must opt out
12 of.

13 (3) MANDATORY FEE.—The term “mandatory
14 fee” includes—

15 (A) any fee or surcharge that a consumer
16 is required to pay to purchase a good or service
17 being advertised;

18 (B) a fee or surcharge that is not reason-
19 ably avoidable;

20 (C) a fee or surcharge for a good or service
21 that a reasonable consumer would not expect to
22 be included with the purchase of the good or
23 service being advertised; or

24 (D) any other fee or surcharge determined
25 appropriate by the Commission.

1 **SEC. 3. COMMUNICATIONS SERVICE FEES.**

2 (a) **ENDING EARLY TERMINATION FEES.—**

3 (1) **IN GENERAL.**—A provider of a covered serv-
4 ice may not charge a fee to, or impose a requirement
5 that is excessive or unreasonable on, a consumer for
6 the termination of a covered service before the end
7 of any period specified in any agreement between the
8 provider and the consumer.

9 (2) **ENDING EXCESS BILLING CYCLE**
10 **CHARGES.**—After termination of a covered service,
11 the provider of the covered service shall provide to
12 the consumer a prorated credit or rebate for the re-
13 maining days in the billing cycle.

14 (3) **DEVICE PURCHASE AND RETURN.**—This
15 subsection does not prevent a provider of a covered
16 service from charging a consumer for—

17 (A) the cost of rental or loan equipment
18 that is not returned to the provider within a
19 reasonable period of time; or

20 (B) the outstanding cost of a purchased
21 device.

22 (4) **REGULATIONS.**—The Federal Communica-
23 tions Commission may promulgate regulations to
24 carry out this subsection.

25 (b) **TRUTH IN BILLING AND ADVERTISING.—**

1 (1) AGGREGATE PRICE TRANSPARENCY IN BILL-
2 ING.—

3 (A) IN GENERAL.—A provider of a covered
4 service shall state an aggregate price for the
5 covered service through a single, clear, easy-to-
6 understand, and accurate line item on the bill
7 of a consumer, including a bill for a legacy or
8 grandfathered covered service plan.

9 (B) DISCLOSURE OF END DATE OF INTRO-
10 DUCTORY OR TEMPORARY PRICE.—A provider
11 of a covered service shall state, on the bill of
12 each consumer paying an introductory or tem-
13 porary price, the date on which the introductory
14 or temporary price ends by disclosing—

15 (i) either—

16 (I) the period during which the
17 discounted price will be charged; or

18 (II) the date on which the period
19 will end, resulting in a price change
20 for the covered service; and

21 (ii) the post-promotion rate not later
22 than—

23 (I) 60 days before the date on
24 which the introductory or temporary
25 price ends; and

1 (II) 30 days before such date.

2 (C) ITEMIZATION.—A provider of a cov-
3 ered service may state an itemized explanation
4 of the elements that compose the aggregate
5 price required by subparagraph (A) on the bill
6 of a consumer.

7 (2) AGGREGATE PRICE TRANSPARENCY FOR
8 PROMOTIONAL MATERIALS.—

9 (A) IN GENERAL.—A provider of a covered
10 service that communicates a price for the cov-
11 ered service in promotional materials shall state
12 an aggregate price for the covered service and,
13 at the option of the provider of the covered
14 service, an itemized explanation of the elements
15 of such price in a clear, easy-to-understand, and
16 accurate manner.

17 (B) DISCLOSURE OF LOCATION-DEPEND-
18 ENT PRICING.—If the aggregate price described
19 in subparagraph (A) fluctuates based on service
20 location, the provider of a covered service shall
21 state where and how a consumer may obtain
22 the location-specific aggregate price, such as
23 electronically or by contacting a customer serv-
24 ice or sales representative.

1 (C) DISCLOSURE OF TEMPORARY AGGRE-
2 GATE PRICING.—If part or all of the aggregate
3 price described in subparagraph (A) is tem-
4 porary, a provider of a covered service shall
5 state the post-promotion rate, the date on
6 which the post-promotion rate was calculated,
7 and the period for which each rate applies in
8 the promotional materials.

9 (D) ITEMIZATION.—A provider of a cov-
10 ered service may state an itemized explanation
11 of the elements that compose the aggregate
12 price required by subparagraph (A) in the pro-
13 motional materials.

14 (E) EXCEPTION.—The requirements under
15 this paragraph shall not apply to the marketing
16 of legacy or grandfathered covered service plans
17 that are not generally available to new cus-
18 tomers.

19 (c) RULEMAKING ON MANDATORY FEES.—

20 (1) INITIAL RULEMAKING PROCEEDING.—Not
21 later than 180 days after the date of enactment of
22 this Act, the Federal Communications Commission
23 shall commence a rulemaking proceeding—

24 (A) to consider whether and how the Fed-
25 eral Communications Commission should—

1 (i) require the disclosure of manda-
2 tory fees with respect to a covered service;
3 or

4 (ii) prohibit the imposition of manda-
5 tory fees with respect to a covered service,
6 in particular any such fee that a consumer
7 would reasonably assume to be included in
8 the advertised price of such service; and

9 (B) in which the Federal Communications
10 Commission may promulgate regulations to im-
11 plement the requirements or prohibitions de-
12 scribed in subparagraph (A).

13 (2) SUBSEQUENT STUDY OR REGULATIONS.—
14 Any time after the completion of the rulemaking
15 proceeding required under paragraph (1), the Fed-
16 eral Communications Commission may conduct a
17 study or promulgate regulations regarding manda-
18 tory fees with respect to covered services.

19 (d) ENFORCEMENT.—

20 (1) IN GENERAL.—A violation of this section or
21 a regulation promulgated under this section shall be
22 treated as a violation of the Communications Act of
23 1934 (47 U.S.C. 151 et seq.) or a regulation pro-
24 mulgated under that Act.

1 (2) MANNER OF ENFORCEMENT.—The Federal
2 Communications Commission shall enforce this sec-
3 tion and the regulations promulgated under this sec-
4 tion in the same manner, by the same means, and
5 with the same jurisdiction, powers, and duties as
6 though all applicable terms and provisions of the
7 Communications Act of 1934 (47 U.S.C. 151 et
8 seq.) were incorporated into and made a part of this
9 section.

10 (e) DEFINITIONS.—In this section:

11 (1) COVERED SERVICE.—The term “covered
12 service”—

13 (A) means—

14 (i) broadband internet access service
15 (as defined in section 8.1(b) of title 47,
16 Code of Federal Regulations (or any suc-
17 cessor regulation));

18 (ii) voice service (as defined in section
19 227(e)(8) of the Communications Act of
20 1934 (47 U.S.C. 227(e)(8));

21 (iii) commercial mobile service (as de-
22 fined in section 332(d) of the Communica-
23 tions Act of 1934 (47 U.S.C. 332(d));

24 (iv) commercial mobile data service
25 (as defined in section 6001 of the Middle

1 Class Tax Relief and Job Creation Act of
2 2012 (47 U.S.C. 1401)); or

3 (v) a service provided by a multi-
4 channel video programming distributor (as
5 defined in section 602 of the Communica-
6 tions Act of 1934 (47 U.S.C. 522)), to the
7 extent that such distributor is acting as a
8 multichannel video programming dis-
9 tributor; and

10 (B) includes any other service offered or
11 provided as part of a bundle or package with
12 any service described in clauses (i) through (v)
13 of subparagraph (A).

14 (2) MANDATORY FEE.—The term “mandatory
15 fee” includes—

16 (A) any fee or surcharge that a consumer
17 is required to pay to purchase a covered service;

18 (B) any fee or surcharge that is not rea-
19 sonably avoidable;

20 (C) a fee or surcharge for a good or service
21 that a reasonable consumer would not expect to
22 be included with the purchase of the good or
23 service being advertised; and

1 (D) any other fee or surcharge determined
2 appropriate by the Federal Communications
3 Commission.

4 (3) PROMOTIONAL MATERIAL.—The term “pro-
5 motional material” includes video programming in
6 which a provider of a covered service advertises or
7 markets a covered service to consumers.

8 **SEC. 4. AIR CARRIER ANCILLARY FEE TRANSPARENCY.**

9 (a) REPORTING REQUIREMENTS.—Section 41708 of
10 title 49, United States Code, is amended by adding at the
11 end the following new subsection:

12 “(d) ANCILLARY FEES.—

13 “(1) QUARTERLY REPORTS.—

14 “(A) IN GENERAL.—The Secretary shall
15 require any air carrier or foreign air carrier op-
16 erating in the United States to file with the
17 Secretary a report for each quarter of the fiscal
18 year on the total revenue such air carrier or
19 foreign air carrier earned from ancillary fees
20 (as defined in paragraph (2)).

21 “(B) CONTENTS.—A quarterly report filed
22 by an air carrier or foreign air carrier under
23 subparagraph (A) shall include, at a minimum,
24 the following information:

1 “(i) The revenue received from ancil-
2 lary fees during the reporting period, pro-
3 vided in an exact dollar amount, includ-
4 ing—

5 “(I) the total amount received;

6 “(II) the total amount
7 disaggregated by each critical ancil-
8 lary service provided; and

9 “(III) the total amount
10 disaggregated by class of service.

11 “(ii) The manner in which the air car-
12 rier or foreign air carrier collects ancillary
13 fees, including whether the fee for a crit-
14 ical ancillary service is included in the base
15 fare price or charged to the consumer
16 through another method.

17 “(iii) The average dollar amount
18 charged to a consumer for each critical an-
19 cillary service provided.

20 “(C) PUBLICATION.—Notwithstanding sec-
21 tion 329(b)(1)(A), the Secretary shall compile
22 the information provided in the quarterly re-
23 ports filed pursuant to subparagraph (A) in a
24 single quarterly report (which shall include a
25 comparison of the total revenue received from

1 ancillary fees by each air carrier or foreign air
2 carrier) and publish such report on the internet
3 website of the Department of Transportation.

4 “(2) DEFINITIONS.—For purposes of this sub-
5 section:

6 “(A) ANCILLARY FEES.—The term ‘ancil-
7 lary fees’ means any fee charged, through a di-
8 rect payment or other form of compensation, by
9 an air carrier or foreign air carrier for the pro-
10 vision of—

11 “(i) a critical ancillary service; or

12 “(ii) any other service not subject to
13 taxation under section 4261 of the Internal
14 Revenue Code of 1986.

15 “(B) CRITICAL ANCILLARY SERVICE.—The
16 term ‘critical ancillary service’ means, with re-
17 spect to an air carrier or foreign air carrier,
18 any supplemental service provided by the air
19 carrier or foreign air carrier that is critical to
20 the purchasing decision of a consumer, includ-
21 ing—

22 “(i) transporting checked or carry-on
23 baggage;

24 “(ii) modifying or canceling a reserva-
25 tion;

1 “(iii) selecting or otherwise indicating
2 a preference for seating on an aircraft; or
3 “(iv) any other service determined ap-
4 propriate by the Secretary.”.

5 (b) RECORD REQUIREMENTS.—Section 41709(a) of
6 title 49, United States Code, is amended by inserting “(in-
7 cluding information regarding the source of revenue and
8 whether such money was received from a base fare price
9 or from an ancillary fee (as defined in section 41708(d))”
10 after “receipts and expenditures of money”.