



August 6, 2019

Mary K. Engle, Associate Director  
Division of Advertising Practices  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, DC 20580

Dear Ms. Engle:

We, Consumer Reports,<sup>1</sup> write to urge the Federal Trade Commission (FTC) to investigate and initiate enforcement action against hotels that charge mandatory resort fees that are not included in the base, advertised rate of the hotel room. In addition, we seek a clear statement from the FTC that advertisements for hotel rooms, including those made by third-party operators, that do not include mandatory fees in the quoted price, are deceptive and violate the FTC Act prohibition against unfair or deceptive acts or practices.

The FTC identified a clear problem seven years ago, and took initial steps to combat the practice, but since then has been largely silent and has abdicated its responsibility in this area. In 2012 and 2013, the Commission issued warning letters to hotels and online travel agencies (OTAs) that did not adequately disclose resort fees. Those actions did not deter the practice, but the FTC has taken no further steps to enforce the law or to limit the expanded use of these fees.<sup>2</sup> Over the past seven years, US hotel fees and surcharges

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<sup>1</sup> Consumer Reports is the world's largest independent product-testing organization. It conducts its advocacy work in the areas of privacy, telecommunications, financial services, food and product safety, health care, among other areas. Using its dozens of labs, auto test center, and survey research department, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 6 million members and publishes its magazine, website, and other publications.

<sup>2</sup> The only public action from the FTC during this intervening period was the release of a report from the Bureau of Economics in January 2017. That report found that separating mandatory resort fees "is likely to harm consumers by increasing the search costs and cognitive costs of finding and choosing hotel accommodations." In addition, the analysis finds no benefits to consumers from these separately disclosed mandatory fees that could not be achieved by simply listing the total price. Mary Sullivan, *Economic Issues*:

have steadily increased every year from \$2 billion in 2012, to \$2.7 billion in 2017, to a forecasted \$2.93 billion in 2018.<sup>3</sup> These fees are now being charged at a wide range of hotels and have a variety of names, including “urban amenities fees” or “destination fees,” that imply that the fee is largely related to the location of the hotel. These fees have continued to skyrocket in cities such as New York, San Francisco, Washington, DC, and others. For instance, New York City went from 15 hotels charging such a fee in 2016, to 42 in 2017, and then 85 in 2018.<sup>4</sup> According to hotel websites, these fees cover items such as restaurant credit, internet access, domestic and international phone calls, and discount coupons for tours and events.

A nationally representative survey of over 2,000 US adults conducted by Consumer Reports in 2018 demonstrates the confusion and frustration caused by these fees. In that survey, 34 percent of people who have received a hotel bill in the past two years said they encountered a hidden or surprise fee on that bill, and more than half said that those hotel fees had caused them to go over budget. Virtually all—96 percent—of the survey respondents who had encountered hidden or surprising fees for the services we asked about in the previous two years found them to be annoying.<sup>5</sup>

An examination by Consumer Reports, detailed below, demonstrates that the vast majority of the hotels and travel sites targeted by the FTC in 2012 and 2013 continue to use deceptive pricing in their advertisements.

### FTC Actions in 2012 and 2013

More than seven years ago, the FTC convened a workshop on drip pricing at which then-Chairman Leibowitz pointed to the “importance of truthful, nondeceptive price advertising” and talked about how: “drip pricing, by advertising only part of a price, has the potential to mislead and harm consumers, causing them to pay too much and to waste time searching for cell phone plans, airline or concert tickets, hotel room, or rental cars with deceptively low prices.”<sup>6</sup>

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*Economic Analysis of Hotel Resort Fees*, FED. TRADE COMM’N (Jan. 2017), [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>3</sup> Julie Sickel, *U.S. Hotel Fees and Surcharges Projected to Hit \$2.93B in 2018*, BUS. TRAVEL NEWS (Oct. 24, 2018), <https://www.businesstravelnews.com/Lodging/US-Hotel-Fees-and-Surcharges-Projected-to-Hit-2-93B-in-2018>.

<sup>4</sup> *New York City*, KILL RESORT FEES, <http://killresortfees.com/newyorkcity>.

<sup>5</sup> Penelope Wang, *Protect Yourself from Hidden Fees*, CONSUMER REPORTS (May 29, 2019), <https://www.consumerreports.org/fees-billing/protect-yourself-from-hidden-fees/>.

<sup>6</sup> *A Conference on the Economics of Drip Pricing*, FED. TRADE COMM’N (May 21, 2012), [https://www.ftc.gov/sites/default/files/documents/public\\_events/economics-drip-pricing/transcript.pdf](https://www.ftc.gov/sites/default/files/documents/public_events/economics-drip-pricing/transcript.pdf).

In the year after that workshop, the FTC sent letters to 34 hotels and 11 OTAs warning each that their websites may violate Section 5 of the FTC Act by “misrepresenting the hotel room reservation price quoted to customers.”<sup>7</sup> They also confirmed that “some hotels exclude resort fees from the quoted reservation price.”<sup>8</sup> The letters detailed the problems with including only the room rate and applicable taxes in the “estimated price” and adding resort fees later on. At times, the Commission found that the resort fee was noted off to the side, hidden by a hyperlink, buried in the fine print, or even that the hotel failed to identify resort fees anywhere.

The letters were clear: “[the FTC] believe[s] that online hotel reservation sites should include in the quoted total price any unavoidable and mandatory fees, such as resort fees, that the consumers will be charged.”<sup>9</sup> The letters urged hotels to make the total inclusive estimate the most prominent figure for consumers.

Unfortunately, the FTC did not take any public steps following the issuance of these letters. And this lack of continued enforcement efforts has resulted in a market where hotels are still engaging in these deceptive pricing practices. As discussed below, Consumer Reports has examined the websites of the 34 hotels that received letters from the Commission in 2012 and 2013. We found that 31 of the 34 hotels continue to charge resort fees, and that none of the 31 includes those resort fees in the price quoted to consumers. Similarly, none of the 10 OTAs that are still operating includes the resort fees in its initial quoted prices.

### FTC Authority and Position

The FTC Act gives the Commission authority to protect consumers from “unfair or deceptive acts or practices.”<sup>10</sup> The FTC has used this authority to define parameters for advertising. As explained in the Commission’s Deception Policy Statement, an ad is considered deceptive if it either contains a statement or omits information that is likely to mislead consumers.<sup>11</sup>

The FTC has provided additional context to its interpretation of the requirements of online advertising through its guide for internet commerce in *Dot Com Disclosures*. There, the FTC laid out clear rules on how to evaluate whether a particular disclosure is adequately

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<sup>7</sup> FED. TRADE COMM’N ACT, 15 U.S.C. § 45(a); *Letter from the FTC to Aston Kaanapali Shores*, FED. TRADE COMM’N (Apr. 11, 2013), [https://www.ftc.gov/system/files/documents/foia\\_requests/2016-00453\\_warning\\_letters\\_93\\_pgs.pdf](https://www.ftc.gov/system/files/documents/foia_requests/2016-00453_warning_letters_93_pgs.pdf).

<sup>8</sup> *Warning Letters*, *supra* note 7.

<sup>9</sup> *Id.*

<sup>10</sup> FED. TRADE COMM’N ACT, *supra* note 7.

<sup>11</sup> FED. TRADE COMM’N, *FTC Policy Statement on Deception* (1983), <http://www.ftc.gov/bcp/policystmt/ad-decept.htm>.

clear and conspicuous so as to avoid being deceptive. Among the criteria are: the placement of the disclosure in the advertisement and its proximity to the claim it is qualifying; the prominence of the disclosure; whether encountering the disclosure is unavoidable; the font size and color of the disclosure in comparison to the claim; and whether the disclosure needs to be repeated in order to be effectively communicated.<sup>12</sup> The *Dot Com Disclosures* guidance document notes that “if a business advertises a product’s basic cost on one page, the existence and nature of any unexpected additional fees should be prominently disclosed on the same page and immediately adjacent to the cost claim.”<sup>13</sup>

In its letters to the hotels, the FTC was more direct, stating in reference to hidden resort fees:

These practices may violate the law by misrepresenting the price consumers can expect to pay for their hotel rooms. We believe that online hotel reservation sites should include in the quoted total price any unavoidable and mandatory fees, such as resort fees, that consumers will be charged to stay at the hotel. While a hotel reservation site may breakdown the components of the reservation estimate (e.g., room rate, estimated taxes, and any mandatory, unavoidable fees), the most prominent figure for consumers should be the total inclusive estimate.<sup>14</sup>

Furthermore, there is federal precedent for requiring advertisements to include all mandatory fees. In 2011, the Department of Transportation (DOT) updated its existing advertising rules to prohibit the advertising of any fare that did not include all mandatory charges. In setting this rule, DOT made the determination that “it would be unfair and deceptive” to advertise a price for an airline ticket that does not include “all charges required to make that purchase.”<sup>15</sup> The Department concluded: “In order to understand the true cost of travel, consumers need to be able to see the entire price they need to pay to get to their destination the first time the airfare is presented to them.”<sup>16</sup>

Since 2011 the DOT has been active in enforcing violations of these rules, underscoring the need for vigilance in enforcing any such requirements. For example, in December 2016 the DOT issued a Consent Order against Frontier Airlines, assessing a penalty of

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<sup>12</sup> *Dot Com Disclosures: How to Make Effective Disclosures in Digital Advertising*, FED. TRADE COMM’N (Mar. 2013), <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf>.

<sup>13</sup> *Warning Letters*, *supra* note 7.

<sup>14</sup> *Id.*

<sup>15</sup> *Enhancing Airline Passenger Protections*, U.S. DEP’T OF TRANSP. (Apr. 25, 2011) (76 F.R. § 23166), <https://www.transportation.gov/sites/dot.gov/files/docs/2016-26178%20FR%20EAPP%20III%20final%20rule.pdf>.

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

\$60,000 for violations of the Full-Fare Advertising Rule (4 C.F.R. § 399.84(a)) and the statutory prohibition against unfair and deceptive practices (49 U.S.C. § 41712).<sup>17</sup> Among Frontier's violations were falsely advertising fares (i.e., "TODAY ONLY: Fly for only a buck") and advertising base fares "in the same sized font as the total fare inclusive of all [mandatory] taxes and fees."<sup>18</sup>

Through its rule, the Department has extended the reach beyond airlines, to cover any travel services purchased through a seller in conjunction with air travel services. So, if a consumer is purchasing a package that includes airfare, hotel, and a rental car, that same full-fare advertising rule applies to all elements of the package. The DOT's Advisory Committee for Aviation Consumer Protection examined this situation and recommended that the FTC, which has jurisdiction over hotels, follow in the footsteps of DOT and insist upon full fare advertising. It specifically recommended that "the FTC require mandatory hotel resort fees be included in the published room rates."<sup>19</sup>

And just recently, two state Attorneys General have brought suits against major hotel chains for violations of consumer protection laws due to the use of hidden resort fees. On July 9, the DC Attorney General brought suit against Marriott for violations of its Consumer Protection Procedures Act, making the case for a "straight-forward price deception case...whereby Marriott initially hides a portion of a hotel room's daily rate from consumers."<sup>20</sup> Just two weeks later, the Nebraska Attorney General brought suit against Hilton for "hiding the true price of hotel rooms...failing to clearly disclose all booking fees [and]...misleading consumers about what resort fees actually pay for."<sup>21</sup>

The FTC should align its efforts with those of the DOT and state attorneys general to clearly define these practices as deceptive, and step up their enforcement efforts against hotels and other OTAs that do not include the full cost in their price quotes.

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<sup>17</sup> *Consent Order 2016-12-5*, U.S. DEP'T OF TRANSP. (Dec. 9, 2016), [www.transportation.gov/sites/dot.gov/files/docs/eo-2016-12-5.pdf](https://www.transportation.gov/sites/dot.gov/files/docs/eo-2016-12-5.pdf).

<sup>18</sup> *Id.*

<sup>19</sup> *Ninth meeting of the Advisory Comm. on Aviation*, U.S. DEP'T OF TRANSP. (Sept. 2015), <https://www.transportation.gov/sites/dot.gov/files/docs/resources/individuals/aviation-consumer-protection/285496/acap-record-9th-meeting.pdf>.

<sup>20</sup> *AG Racine Sues Marriott for Charging Deceptive Resort Fees and Misleading Tens of Thousands of District Consumers*, ATTORNEY GEN. OF D.C. (July 9, 2019), <https://oag.dc.gov/release/ag-racine-sues-marriott-charging-deceptive-resort>.

<sup>21</sup> *AG Peterson Sues Hilton on Behalf of Nebraska Consumers*, ATTORNEY GEN. OF NEB. (July 23, 2019), <https://ago.nebraska.gov/news/ag-peterson-sues-hilton-behalf-nebraska-consumers>.

## The Current State of Play

Although the 2012 and 2013 letters threatened that “the FTC may take action”<sup>22</sup> if the violations were not addressed, seven years later, many of the hotels still use these same deceptive practices. As part of Consumer Reports’s *What the Fee?!* campaign<sup>23</sup> to highlight surprising fees and charges across industries, we followed up on the hotels and OTAs that received warning letters. We found that 31 of the 34 hotels and the ten OTAs that received warning letters in 2012 and 2013 have failed to comply, and continue to deceive consumers by hiding the full price from consumers.<sup>24</sup>

### *Hotel Operators*

Thirty-one of the 34 hotels that received warning letters in 2012 and 2013 continue to charge resort fees, and none of those 31 include that fee in the advertised price on the website. Consumers must click an additional one to three times after seeing the price of a hotel in order to see the true total they will have to pay. For four of the hotels, the first mention of a resort fee is in the cart when the consumer is finalizing the transaction.<sup>25</sup>

The Four Seasons Scottsdale, which received a letter from the FTC on April 11, 2013, mentions the existence of the resort fee on the first reservation page, but in a way that most consumers are unlikely to see it. The first prominent mention of the mandatory resort fee is not made until two screens after seeing the first advertised price, when the consumer is finalizing the reservation. As shown in Figure 1a, consumers are shown the advertised price, in this case \$221, on the first screen.

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<sup>22</sup> *Warning Letters*, *supra* note 7.

<sup>23</sup> See *What the Fee!?*, CONSUMER REPORTS, WhattheFee.com (last visited July 31, 2019).

<sup>24</sup> One OTA—Quikbook—originally was sent a warning letter is no longer in business.

<sup>25</sup> See Mohegan Sun, Wynn Las Vegas & Encore Hotel, Eldorado Hotel Casino, & Atlantis Casino Resort Spa. A fifth hotel—the Monumental Hotel Orlando—does not include the resort fee on its own website at all, but also does not take reservations through that site. The resort fee can be found through OTAs or by calling the hotel’s phone number.

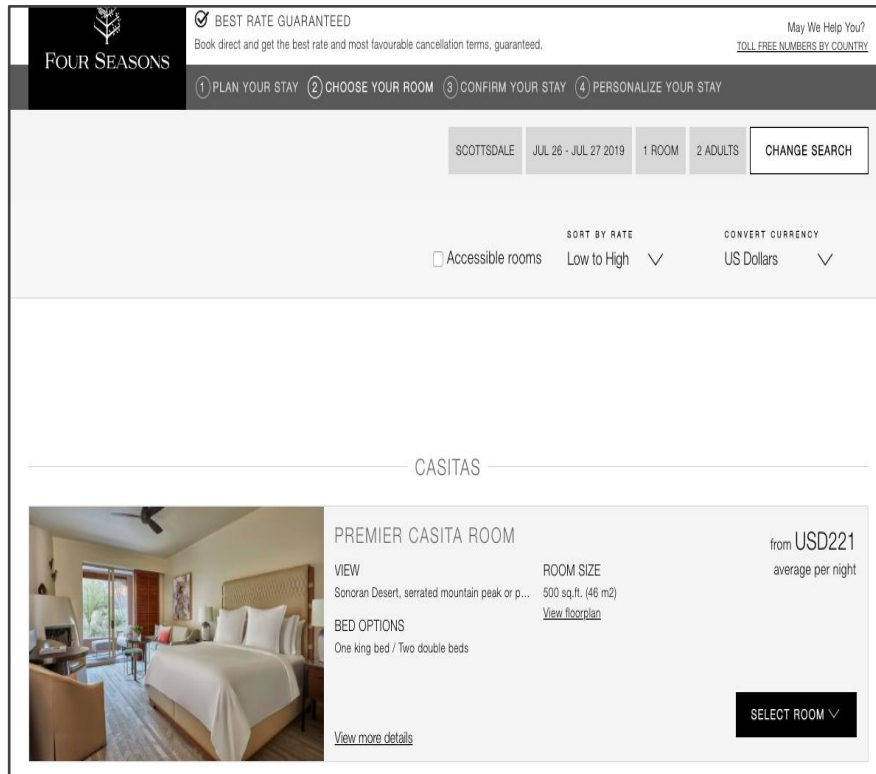


Figure 1a: Four Seasons Scottsdale, first advertised price of room.

At the bottom of this first reservation page, which requires scrolling past 13 room and suite options, consumers can read the fine print that discloses other fees including resort fees (see Figure 1b).

All offers are subject to availability at the time of reservation. Offers are not valid in conjunction with any other offer or contract and do not apply to groups. Rates are per room, per night, vary by arrival date and/or length of stay, and do not include applicable taxes, service charges, levies, resort fees, gratuities or surcharges, unless otherwise noted. Early departure fees may apply. Rates are subject to change.

Figure 1b: Four Seasons Scottsdale, fine print located at the very bottom of first reservation page.

In order to proceed with a reservation, consumers must click “select room” and then click again for the desired bed option (see Figure 1c).

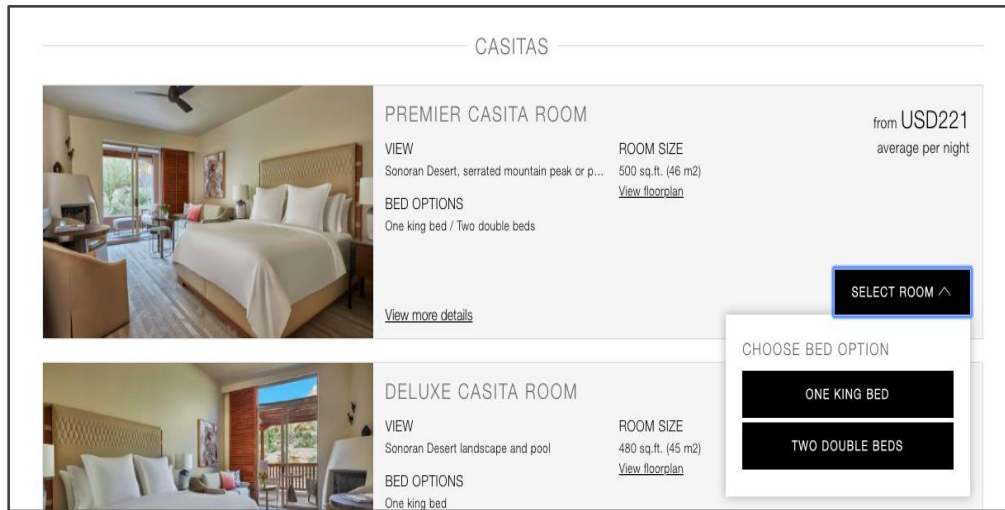


Figure 1c: Four Seasons Scottsdale, consumer select bed option.

Consumers are then brought to a second page again with the same advertised price, along with higher priced options for special add ons (see Figure 1d).

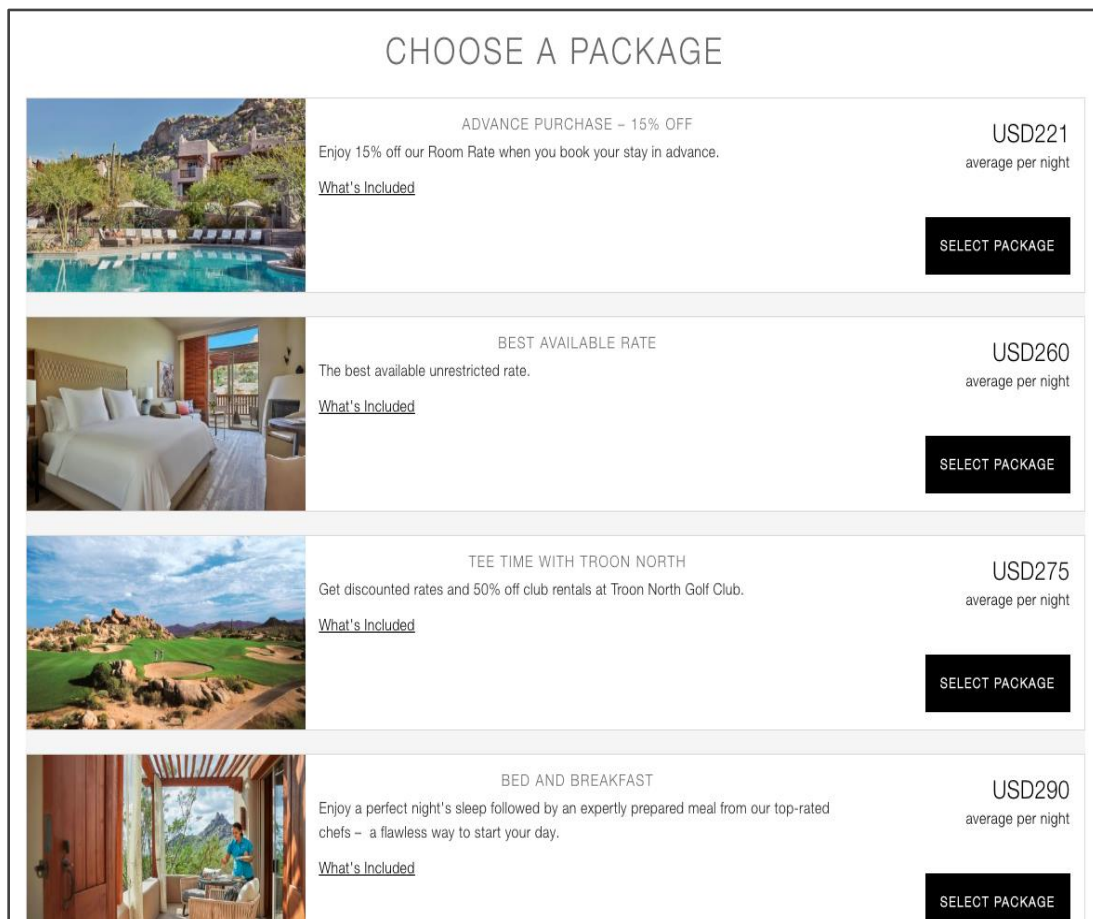


Figure 1d: Four Seasons Scottsdale, consumer brought to second screen showing same advertised nightly rate plus other options for add-ons.



Consumers must click for a third time to select a package, and are brought to a third screen where the resort fee is mentioned for the first time alongside the room rate. At this point, the true total price, in this case \$291.89—a more than 30 percent increase—is displayed (see Figure 1e).

**BEST RATE GUARANTEED**  
Book direct and get the best rate and most favourable cancellation terms, guaranteed.

May We Help You?  
[TOLL FREE NUMBERS BY COUNTRY](#)

1 PLAN YOUR STAY
2 CHOOSE YOUR ROOM
3 CONFIRM YOUR STAY
4 PERSONALIZE YOUR STAY

### YOUR RESERVATION

Scottsdale  
July 26 - July 27, 2019  
1 Room - 2 Adults

**Premier Casita Room**  
Advance Purchase – 15% Off

One king bed

Average Rate **USD221.00**

[Hide Daily Rates \(1 Night\)](#)

Friday, July 26 **USD221.00**

Total Room Rates **USD221.00**

Room Tax (14.02%) **USD30.98**

Resort Fee (USD 35 plus 14.02% tax) **USD39.91**

Estimated Total\*

CURRENCY SELECTED  
USD 291.89

\* Estimated total cost of room, taxes, service charges and applicable package inclusions. Estimated total cost does not include airport transfers or requested amenities. Actual taxes, service charges, levies, resort fees and surcharges are calculated upon check-out and are subject to change without notice. Extra person/extra bed charges are additional to the rates displayed unless otherwise noted. Early departure fees may apply. Should you shorten your stay prior to arrival or during your stay, your room rate may change.

### CONFIRM YOUR STAY

SIGN IN TO BOOK FASTER

USE EMAIL OR PHONE

JUST USD47 MORE/NIGHT  
UPGRADE TO THE VISTA CASITA ROOM

Premier Casita Rooms offer the most dramatic views of the valley, mountain peaks or pool.

UPGRADE

BOOKING FOR MYSELF

BOOKING FOR SOMEONE ELSE

TRAVEL AGENT BOOKING

#### GUEST DETAILS

First Name*	
Last Name*	
Mobile Phone Number*	
Email Address*	
Confirm Email Address*	
Country/Region*	

#### CREDIT CARD DETAILS

Name On Card*	
Credit Card Number*	
Credit Card Expiry Date*	Month Year

Accepted Cards

#### TERMS & CONDITIONS

☐ I have read & accepted the [Terms & Conditions](#)

BOOK

Figure 1e: Four Seasons Scottsdale, the third screen a consumer sees, at which point they first see mention of the resort fee alongside the room rate, as well as the true total price.

Five of the hotels that mention a resort fee on the first page of the booking process do so through a hyperlink.<sup>26</sup> Consumers booking with Red Rock Casino Resort Spa must click on “Rate Breakdown with daily Hotel Service fee” in order to see the mention and price of the resort fee before clicking on to book the room (see Figures 2a, 2b, and 2c).

**red rock**  
CASINO · RESORT · SPA

Dates & Guests Rooms & Rates Guest Information Secure Payment Confirmation

**BEST ONLINE DEALS:**  
Select Other Room Offers

**STAY DATES:**  
Arrival Date: 2019 July Nights: 01

**GUESTS:**  
Adults: 01 Children: 00

**OFFER / AGENT CODE:**  
Offer Code: Enter Offer Submit Travel Industry (IATA) Travel Agent IATA

**PLAYER CARD INFORMATION:**  
Boarding Pass: Account # Zip Code

**ROOM CHOICE:**  
Select room type below:  
Luxury Room-Bed type assigned at check in  
Refresh Rates »  
Change room type for additional availability  
« Return to Calendar

**SELECT A ROOM:**

**Luxury Room-Bed type assigned at check in**  
Perfect for a great Las Vegas vacation getaway, our spacious King Resort rooms range in size from 515 to 615 sq. ft. and are designed with modern contemporary décor and a wealth of amenities like no other hotel rooms in Las Vegas.  
Amenities:  
• View of the Las Vegas Strip  
• 42-inch High Definition Plasma TV  
• VOIP internet phones  
• Sitting area  
• Executive work desk  
• Automated, fully-stocked private bar  
• In-room safe  
\$290.00  
\$290.00 avg nt rate  
Book Room »  
» Rate Breakdown with daily Hotel Service fee

**Luxury King Strip View - Anytime Rate**  
Perfect for a great Las Vegas vacation getaway, our spacious King Resort rooms range in size from 515 to 615 sq. ft. and are designed with modern contemporary décor and a wealth of amenities like no other hotel rooms in Las Vegas.  
Amenities:  
• View of the Las Vegas Strip  
• 42-inch High Definition Plasma TV  
• VOIP internet phones  
• Sitting area  
• Executive work desk  
• Automated, fully-stocked private bar  
• In-room safe  
\$300.00  
\$300.00 avg nt rate  
Book Room »  
» Rate Breakdown with daily Hotel Service fee

Figure 2a: Red Rock Casino Resort Spa, first reservation page with hyperlink “Rate Breakdown with daily Hotel Service fee” in small, white text that is not obviously a link.

<sup>26</sup> See Fiesta Henderson, Peppermill Hotel, Red Rock Casino Resort Spa, Treasure Island, & Tuscana Resort.

×

## RATE BREAKDOWN

ROOM TYPE: Luxury Room-Bed type assigned at check in  
STAY DATES: Friday, July 26 - Saturday, July 27

DATE:	RATE:
Friday, July 26	\$290.00
Resort Fee Total	\$44.07
Taxes	\$37.70
STAY TOTAL:	\$371.77

\* A daily resort fee of \$44.07 (tax inclusive) will be added to all room reservations upon check-in.

Book Room »

Figure 2b: Red Rock Casino Resort Spa, pop-up after clicking on “Rate Breakdown with daily Hotel Service fee.”

red rock

CASINO · RESORT · SPA

Dates & Guests

Rooms & Rates

Guest Information

Secure Payment

RESERVATION DETAILS:

Preferred Room Type: Luxury Room-Bed type assigned at check in

Guests/Children: 1 / 0

Arrival Date: 7/26/19

Number of Nights: 1

PRICE SUMMARY:

Room Total: \$290.00

Tax: \$37.70

Resort Fee Total: \$44.07

Reservation Total: \$371.77

Resort Fee Includes:

- Access to Fitness Facility
- In-Room Internet Access
- Airport & Strip Shuttle
- Shoe Shine
- Unlimited Local & Toll-Free Calls
- Access to more than 7,300 digital daily newspapers and magazines powered by PressReader

« Modify

ENTER GUEST DETAILS:

Personal Information

First Name \*

Last Name \*

Address \*

City \*

State/Province \*

Zip Code \*

Country \*

Phone Number \*

E-mail Address \*

Special Requests

Enter any special request below:

Optional Comment or Request

Additional options

- ☐ Guaranteed Early Check-In (9am-12pm) \$40+tax
- ☐ Guaranteed Late Check-Out (1pm) \$25+tax
- ☐ Guaranteed Late Check-Out (2pm) \$50+tax
- ☐ Guaranteed Late Check-Out (3pm) \$75+tax

Room Reservation Terms & Conditions

☐ I accept all the terms in the [online reservation agreement](#)


Figure 2c: Red Rock Casino Resort Spa check out page after clicking on “Book Now.”

These mandatory fees make up a significant portion of the total price for all of the hotels that received warning letters. The resort fees range from \$6.75 to \$45, with an average cost of \$31.39 per day.<sup>27</sup> In addition, our research shows the percent increase in cost after taxes and fees are added on to the original advertised cost range anywhere between 11 percent and a whopping 127 percent.<sup>28</sup> Tuscana Resort, which received a letter from the FTC on November, 26 2012, held the highest percent increase due to not only their resort fee of \$21.57, but also their mandatory cleaning fee that starts at \$68.10 (see Figures 3a and 3b).

Your Stay: 8/21/2019 - 8/22/2019
Guests: 2 Adults

Modify Search / Promo Code

View By Rate
View By Room



### 1 Bedroom Condominium Suite

- Sleeps up to 4
- One queen bed and sofa bed
- Fully equipped kitchen

[More about this room](#)

FROM  
**75.65** USD / Night  
Excluding Taxes & Fees

HIDE AVAILABLE RATES

#### Hang Ten Savings

Limited Time Offer - Get 10% off our best available rate when you book now.

[Read more](#)
  
[Policies](#)
  

89.00-USD  
**80.10** USD / Night  
Excluding Taxes & Fees  
[View Price Breakdown](#)

SELECT

#### Best Available Rate

The lowest non-membership rate you'll find online. Our everyday guarantee.

[Read more](#)
  
[Policies](#)
  

89.00 USD / Night  
Excluding Taxes & Fees  
[View Price Breakdown](#)

SELECT

#### Automobile Association Membership Travel Discount

Show your membership card at check-in and save!

[Read more](#)
  
[Policies](#)
  

89.00-USD  
**80.10** USD / Night  
Excluding Taxes & Fees  
[View Price Breakdown](#)

SELECT

Figure 3a: Tuscana Resort room selection page.

<sup>27</sup> Hotel resort fee data was compiled by researchers at Consumer Reports from the websites of the 34 hotels sent warning letters. The research presented in this letter was collected from June 16 to July 22, 2019.

<sup>28</sup> *Id.*

Price Breakdown	
Room Type	1 Bedroom Condominium Suite
Rate Type	Hang Ten Savings
Wednesday, August 21, 2019	USD 80.10
Room Total	USD 80.10
Taxes and Fees	
Sales Tax	USD 6.01
Room Tax	USD 4.81
Amenity Fee	USD 21.57
Cleaning Fee	USD 68.10
<b>Total</b>	<b>USD 180.59</b>

Figure 3b: Tuscana Resort, pop-up after clicking on “View Price Breakdown.”

Consumers have justifiable complaints about the price of these resort fees, the deceptive manner in which they are communicated, and what it is they even cover. Consumers who wrote to Consumer Reports about these fees have described them as “a ripoff,” “a set-up to charge more money,” “a bait and switch tactic,” “outrageous,” and “sickening.”<sup>29</sup>

Out of the 31 hotel operators that received warning letters but continue to charge these fees, eight do not specify what the resort fee covers on any of the web pages throughout the booking process.<sup>30</sup> Of all the hotel operators that describe what the resort fee covers, there is no single amenity that is consistent throughout all hotels. The amenities more commonly covered include local and toll free calls, internet access, and fitness center access, while the more unique amenities covered include watersports rental, resorts savings card, electric car charger station, and golf bag storage. This variety in amenities covered from hotel to hotel leaves customers confused as to what services they are “paying extra” for and what is simply covered by the room rate.

<sup>29</sup> Consumer Reports received more than 3,700 stories from consumers in response to a request for information about hidden and frustrating fees in the marketplace. More than 1,300 of those were about hotel and travel-related fees.

<sup>30</sup> See Aston Kaanapali Shores, Atlantis Casino Resort Spa, Four Seasons Scottsdale, Hyatt Regency Waikiki Beach, Mohegan Sun, Monumental Hotel Orlando, Treasure Island, & Trump International Hotel.



## Online Travel Agencies

Consumers use OTAs to comparison shop. Unfortunately, with the use of resort fees by hotel operators, comparison shopping cannot be completed without significant costs to the consumer in time and energy. All ten of the still-operational OTAs that were sent warning letters in 2012 or 2013—several of which are joined in common ownership—fail to display the resort fee on the first page of the search where consumers see the advertised rate, which is where they comparison shop.<sup>31</sup> Consumers must click on a specific hotel in order to see the mention and price of a hotel's resort fee. Consumers must then click again in order to see the true total price. This obfuscation of the true price of a stay at these hotels means that consumers are prevented from conveniently making cost comparisons between hotels.

Furthermore, even when the OTAs finally do disclose the full cost, they vary in how they display the total to the consumer at check-out. Booking.com is most transparent, in that once a consumer has selected a hotel to review, the only price displayed is the price with all taxes and fees included. The other nine OTAs display two totals, one that includes just the base price, and the other that includes taxes and fees. These two side-by-side totals can mislead the consumer, especially when both totals are displayed in the same font size and one must scroll down to see the true total (see Figure 4).

The screenshot shows the Expedia checkout page for Planet Hollywood Resort & Casino. The page is divided into several sections:

- Header:** Expedia logo, Sign in link, and a banner for "Secure booking — only takes 2 minutes!".
- Left Sidebar:** Contains a sign-in prompt, a confirmation message ("Great choice! You chose the cheapest room at Planet Hollywood Resort & Casino. Don't wait, book now!"), room details ("Room 1: 2 Adults, 1 King Bed, Non-smoking"), contact information fields (Contact name, Mobile phone number), and a "Protect your hotel" section with a "Recommended" badge.
- Main Content Area:** Displays the hotel name, a photo of the resort, guest reviews ("Great Location" with 996 reviews), and room details ("1 Room: Ultra Hip Room, 1 King Bed, Non Smoking"). It also shows check-in and check-out dates (Thu, Jul 25 to Fri, Jul 26) and a 1-night stay.
- Price Summary:** A table showing the breakdown of costs:

Room 1: 2 Adults	avg./night
1 Night	\$85.02
Taxes & Fees	\$11.38
<b>Total due today:</b>	<b>\$96.40</b>
Due at Property: Resort fee	\$41.95
<b>Room Total:</b>	<b>\$138.35</b>

Figure 4: Expedia checkout page with two totals listed—"Total due today" and "Room Total."

<sup>31</sup> Eleven OTAs received these letters. This analysis excludes Quikbook which is no longer in business.

Priceline, which owns Booking.com, takes a different, less transparent approach. On Priceline, as at the other OTA sites, consumers must select a hotel from the comparison page without seeing any reference to fees (see Figure 5a).

The screenshot shows the Priceline website interface for a hotel search in Las Vegas, NV, for the dates Fri, Jul 26 - Sat, Jul 27, for 1 room. The search results show 30 of 259 hotels. The page includes filters for amenities (Free Wifi, Free Breakfast, Free Parking) and neighborhoods (Las Vegas, NV, The Strip - Central East, The Strip - Central West). The results are sorted by Recommended, Lowest Price, and Customer Rating. Two hotel listings are visible: The Venetian Resort Hotel Casino and Treasure Island Hotel & Casino. The Venetian listing shows a price of \$151 per night, which is much lower than the average price of \$256 for a 5-star hotel in Las Vegas, NV. The Treasure Island listing shows a price of \$167 per night, which is a Priceline VIP price that drops when you sign in.

Hotel Name	Location	Price per Night	Rating	Star Rating	Price Type
The Venetian Resort Hotel Casino	The Strip - Northeast	\$151	8.9	5-Star	Best Deal / Top Booked
Treasure Island Hotel & Casino	The Strip - Northwest	\$167	7.8	4-Star	Priceline VIP / Non-VIP price

Figure 5a: Priceline comparison page.

Only once consumers click on a hotel can they then see mention of an extra, mandatory fee in smaller, paler text in comparison to the original advertised price (see Figure 5b).

Available Rooms

Best Price. GUARANTEED.

Special Discount when you book by phone: Call 844-639-6500

Fri, Jul 26 - Sat, Jul 27

1 Room

Update Search

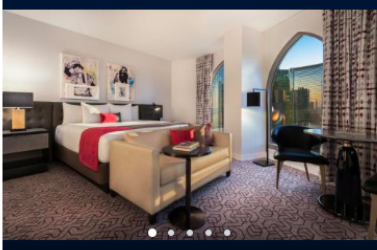

Room Type	Options	Price per Night
Ultra Resort Vista Room, 1 King, Non-Smoking		
 <div> <a href="#">Room Details and Photos</a> </div> <div> <div>1 King</div> <div>Room Size: 586ft<sup>2</sup></div> <div>Free Parking</div> </div>	<div>Non Refundable ⓘ</div> <div>✓ Free WIFI</div> <div> <div>BEST DEAL</div> <div>\$336</div> <div>+\$37 nightly fee</div> </div> <div>Book</div>	

Figure 5b: Priceline, specific hotel page.

Consumers must then click again in order to see the total cost. The display highlights the subtotal, or “Total Priceline Charges,” in a bright green font color. The true total, or “Total Cost,” is in bold, but dark grey, non-highlighted text (see Figure 5c).



It takes just **2 minutes** to secure this great deal! **No account needed.**



**Planet Hollywood Resort And Casino**  
The Strip - Central East

**162 people are viewing this hotel**

★★★★

Check-in → Check-out

**26** July Friday → **27** July Saturday

Rooms: 1 Nights: 1

**Reservation Name** (Age 21 or older)

Enter the name of the person checking into each room. Remember to bring a valid photo ID and credit card at check-in.

**Room 1\***

☐ Guest name and billing name are the same

**Choose Your Payment Method** (Click one option below)

☐ PayPal

**Enter Your Billing Address** (As shown on your credit card statement) **Book Faster by Signing In**

**Ultra Resort Vista Room, 1 King, Non-Smoking** **\$336 per night**

Includes:

- Non Refundable
- Free WiFi and Free Parking

Room Cost	\$336.00
1 Room x 1 Night	\$336.00
<b>Taxes &amp; Fees</b>	\$44.96
<b>Total Priceline Charges</b>	<b>\$380.96</b>
Resort Fee*	\$37.00
<b>Total Cost</b>	<b>\$417.96</b>

Have a promo code? ▾

**Best Price. GUARANTEED.**

Prices are in USD.  
\*Collected at the property. Please bring a valid form of payment.

Special Discount when you book by phone: **Call 844-639-6500**

Figure 5c: Priceline booking page.

Not only is Priceline failing to display the full cost of a stay, but by highlighting the lower cost, it is employing a form of dark patterns to obscure the true price from consumers. According to darkpatterns.org, which tracks these tactics, “Dark Patterns are tricks used in websites and apps that make you do things that you didn't mean to, like buying or signing up for something.”<sup>32</sup> Companies commonly use such patterns to encourage or manipulate users into doing more of what the company wants. In this case, Priceline is nudging consumers towards booking a seemingly lower-priced stay. In other cases, websites use dark patterns in design to encourage consumers to act in ways that benefit the company, such as being more active on their site or permitting more expansive data sharing. Such dark patterns could constitute deceptive or misleading practices under the FTC Act. In 2018, Consumer Reports submitted a letter to the Commission raising concerns that Facebook uses misleading dark patterns in order to nudge and manipulate

<sup>32</sup> “What are Dark Patterns?”, DARK PATTERNS, <https://www.darkpatterns.org/> (last visited July 12, 2019).

users towards giving consent to sharing as much data for as many purposes as possible.<sup>33</sup>

## Conclusion

The Federal Trade Commission's examination of hotel resort fees in 2012 and 2013 led to important findings about the deception inherent in separating out mandatory resort fees from the base cost of a hotel room. Unfortunately, the Commission's actions to date have not led to improved disclosure of resort fees for travelers. We urge the FTC to take appropriate steps to begin enforcement proceedings against those hotels that are deceiving their customers in order to prevent future consumer harm.

Sincerely,

Anna Laitin  
Director, Financial Policy

Consumer Reports  
1101 17th Street NW  
Suite 500  
Washington, DC 20036

Cc: Chairman Simons, Commissioners Phillips, Slaughter, Chopra, and Wilson

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<sup>33</sup> Katie McInnis & Gabrielle Rothschild, *Letter to FTC on Norwegian Consumer Council Report "Deceived by Design" and CU Research on Facebook and Google Sign-Up*, CONSUMER REPORTS (June 27, 2018), <https://advocacy.consumerreports.org/research/letter-to-ftc-norwegian-consumer-council-report-deceived-by-design/>.