

Fifth Circuit Strikes Down FTC's 'Junk Fee' Rule for Auto Dealers

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On January 24, 2025, the Fifth Circuit Court of Appeals [struck down](#) an FTC rule aimed at curbing deceptive advertising and sales practices in the auto industry. The [rule](#), which sought to prohibit certain “junk fees” and misleading pricing tactics, was challenged by industry groups who argued that the FTC had exceeded its authority.

The FTC's Combating Auto Retail Scams (CARS) rule (previously discussed [here](#)) required auto dealers to provide consumers with a clear and conspicuous “Offering Price” that included all required charges, with limited exceptions. It also would have prohibited several practices, including:

- Bait-and-switch Advertising. Advertising a vehicle at a certain price and then not having that vehicle available when a consumer attempts to purchase it.
- Failing to Disclose Key Terms in Advertisements. Key terms for which the rule required a disclosure included the total price of the vehicle, including the enumeration of all additional all fees and charges.
- Charging Consumers for Add-on Products without Consent. Such add-on products included items like extended warranties, gap insurance, and paint protection.

The Fifth Circuit sided with the industry groups, vacating the FTC's rule. The court found that the CARS rule exceeded the FTC's authority to address “unfair or deceptive acts or practices” by regulating pricing practices that were not inherently deceptive. Additionally, the court determined that the FTC failed to provide adequate notice of the proposed rulemaking, violating procedural rules.

Putting It Into Practice: The decision to strike down the rule marks the latest development in state and federal efforts war on “junk fees” in the financial sector. While the Fifth Circuit Court determined the FTC overstepped its regulatory authority in this instance, federal and state agencies have clearly prioritized combatting “junk fees” (a trend we previously discussed [here](#), [here](#), and [here](#)). Companies should closely monitor this development to see if other federal circuit courts follow suit.

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