

RESORT FEES: BECAUSE THAT POOL YOU DIDN'T USE ISN'T FREE

Presented by:



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As a former certified public accountant, Jeff Robb provides valuable perspective on business issues and financial bottom lines related to legal issues that arise in the hospitality industry. Jeff represents hotel owners, brands, managers and lenders with a wide range of hospitality matters. He assists investors with the purchase and sale of hotels, including preparation and negotiation of purchase and sale agreements and related documents. Jeff has experience negotiating franchise agreements and comfort letters with franchisors throughout the hospitality industry. Jeff also works with hotel owners and management companies to draft and negotiate management agreements, technical and consulting service agreements, and similar documents. He also negotiates and reviews a wide range of day-to-day hotel-related agreements, including space leases, service agreements, and group sales agreements. In addition to his work with hospitality clients, Jeff represents and advises several manufacturers with regard to mergers and acquisitions, corporate governance and operational agreements.

Resort Fees: Because That Pool You Didn't Use Isn't Free

Presented by: Jeff Robb, Member, Hospitality Practice Group

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The Basics of Mandatory Guest Fees

- What are mandatory guest/resort fees?

- Additional mandatory fee charged for access to facilities/amenities
- “destination fees” “urban fees”
- Originally more prevalent at resort properties, now more widespread
- Opportunity for hotels to realize additional revenue and potentially shield from online travel agencies (e.g., Expedia, Booking.com)

Resort Fee

A daily resort fee of \$35.00 (subject to change) is applied to each room of your stay in order to provide the following services and amenities, which enhance the guest experience. Please contact the hotel directly for more information.

- Welcome Glass of Prosecco on arrival
- Beach Access w/2 Beach Chairs & towels
- Pool Toys/Floats
- Water and SunTan Lotion at Pool
- \$10.70 Discounted Day Pass at Crunch Fitness
- Lobby Coffee 7am - 10am
- 2 bottled waters per room
- local and domestic phone calls
- Roof top Yoga - Wed, Sat, Sun morning
- Poolside Popcorn
- Art Deco Tour Discounted tickets at 25% off retail pricing
- Artechouse Discounted Entry \$5.00 off retail cost

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Industry Position on Mandatory Guest Fees



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Mandatory Guest Fees as “Drip Pricing”

- Charging a resort fee is not the issue; how the fee is presented and disclosed is the issue!
- Research shows that consumers tend to fix on the price that they first encounter, even after the total cost is disclosed.
- Advertising lower initial price then tacking on additional fees is called “drip pricing.”
- Hotels advertised lower price to stand out on OTAs.



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Sample Attorney General Actions



- Washington, DC
 - July 9, 2019 – AG sues Marriott alleging violations of the District’s Consumer Protection Procedures Act
- Nebraska
 - July 24, 2019 – AG sues Hilton alleging violations of the state’s Consumer Protection Act
- Pennsylvania
 - November 17, 2021 – AG and Marriott enter into settlement with respect to compliance with the commonwealth’s Unfair Trade Practices and Consumer Protection Law
- Texas
 - May 16, 2023 - AG and Marriott enter into settlement with respect to compliance with the state’s Deceptive Trade Practices Act

PA’s Unfair Trade Practices and Consumer Protection Law

- Unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful. Some examples:
 - Passing off goods or services as those of another;
 - Representing that goods are of a particular quality if they are not; or
 - **“Engaging in any other fraudulent or deceptive misconduct which creates a likelihood of confusion or misunderstanding.”**
- Violators may be required to restore money or property acquired by violation of law and be subject to civil penalties not to exceed \$5,000 per violation (or more if such violation is willful).



PA Settlement with Marriott

- PA alleges that Marriott misrepresented room rates, mandatory fees and total price by promoting room prices that did not include all mandatory fees. Marriott denies, but agrees to:
 - **Clearly and conspicuously** disclose all mandatory fees and the total price of lodging in any written or electronic advertisement.
 - In any advertisement including a room rate, the total price (including room rate and mandatory fees) must be most prominently displayed price.
 - When sorting by price on Marriott websites, the price being sorted must be total price.

PA Settlement with Marriott

- Marriott also agrees to:
 - When separating line items reflecting the elements of the price, Marriott must list mandatory fees separate from taxes/government fees.
 - Before booking is completed at Marriott website, Marriott must clearly and conspicuously disclose at least some of the goods/services covered by any mandatory fee.

Sample Marriott Disclosure

SELECT A ROOM AND RATE

Standard Rates From 320 USD/Night | Prepay and Save From 278 USD/Night | Deals and Packages From 276 USD/Night

You can select accessible room options after choosing a room.

6 Room Types Available Show with taxes and fees \$ USD

Deluxe Guest room, 1 King [Room Details](#)

Member Rate Prepay Non-refundable Non-changeable **278 USD / NIGHT**
Includes 45 USD Resort Fee

Prepay in full, non-refundable if cancelled more than 1 day after...
[Rate Details](#)

Prepay Non-refundable Non-changeable **290 USD / NIGHT**
Includes 45 USD Resort Fee

Prepay in full, non-refundable if cancelled more than 1 day after...
[Rate Details](#)

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Federal Regulation/Legislation

- Federal Trade Commission - Rule on Unfair or Deceptive Fees
 - Effective May 12, 2025
- Hotel Fees Transparency Act of 2025
 - Passed House in April 2025; currently under consideration in Senate



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FTC Rule on Unfair or Deceptive Fees

Prong #1

- (a) It is an unfair and deceptive practice and a violation of this part for any business to offer, display, or advertise any price of a covered good or service without clearly and conspicuously disclosing the total price.
- (b) In any offer, display, or advertisement that represents any price of a covered good or service, a business must disclose the total price more prominently than any other pricing information. However, where the final amount of payment for the transaction is displayed, the final amount of payment must be disclosed more prominently than, or as prominently as, the total price.
- (c) A business must disclose clearly and conspicuously, before the consumer consents to pay for any covered good or service:
 - (1) The nature, purpose, and amount of any fee or charge imposed on the transaction that has been excluded from total price and the identity of the good or service for which the fee or charge is imposed; and
 - (2) The final amount of payment for the transaction.

Clear and Conspicuous Disclosure of the Total Price

- (a) It is an unfair and deceptive practice and a violation of this part for any business to offer, display, or advertise any price of a **covered good or service** without **clearly and conspicuously** disclosing the **total price**.
- “**Covered good or service**” means:
 - (1) Live-event tickets; or
 - (2) Short-term lodging, including temporary sleeping accommodations at a hotel, motel, inn, short-term rental, vacation rental, or other place of lodging.

Clear and Conspicuous Disclosure

- Clear(ly) and conspicuous(ly) means a required disclosure that is easily noticeable (i.e., difficult to miss) and easily understandable by ordinary consumers, including in all of the following ways:
 - A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
 - An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
 - The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
 - The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

What is (and is not) “Clear and Conspicuous”?



Total Price

- “**Total price**” means the maximum total of all fees or charges a consumer must pay for any good(s) or service(s) and any mandatory ancillary good or service, except that **government charges, shipping charges, and fees or charges for any optional ancillary good or service may be excluded.**
- Taxes can be excluded from the advertised price.

Clear and Conspicuous Disclosure of the Total Price

- (a) It is an unfair and deceptive practice and a violation of this part for any business to offer, display, or advertise any price of a **covered good or service** without **clearly and conspicuously** disclosing the **total price.**
- Let's see two examples...

FTC Rule Hotel Example #1

- At check-in, a hotel automatically charges a resort fee for the use of its facilities, although it waives the fee if a guest notices and challenges it. The resort fee is a mandatory ancillary service. **Must the fee be included in total price?**
- **Yes, hotel must include the fee in the total price** because: (1) a reasonable consumer would expect use of the hotel facilities to be included with the stay; and (2) automatically including the fee makes the good or service mandatory by effectively limiting people's ability to consent.

FTC Rule Hotel Example #2

- A hotel offers guests the option to select a trip protection plan when booking online. The guest affirmatively must check a box to add the plan (the plan is not pre-selected). **Must the cost of the plan be required in the total price?**
- In this case, the plan is an optional ancillary good or service and **the fee is not required to be included in the total price.**

Prominence of Pricing

- (b) In any offer, display, or advertisement that represents any price of a covered good or service, **a business must disclose the total price more prominently than any other pricing information**. However, where the final amount of payment for the transaction is displayed, **the final amount of payment must be disclosed more prominently than, or as prominently as, the total price**.

Final Payment Most Prominent

Stay

SUPERIOR ROOM - ONE KING BED
VEGAS ESCAPE - 20% OFF
2 ADULTS

USD 934.00
Includes Mandatory Fee

HIDE RATE DETAILS ▲

Average Nightly Rate Includes Mandatory Fee	USD 467.00
Daily Rates 2 Nights	
Friday, Aug 29	USD 284.00
Saturday, Aug 30	USD 540.00
Resort Fee (USD 55 per room, per night)	USD 110.00
Room Tax (13.38% of Resort Fee)	USD 14.72
Room Tax (13.38% of room rate)	USD 110.25
Est. Total*	USD 1,058.97

Disclosure of Excluded Fees

- (c) A business must disclose clearly and conspicuously, before the consumer consents to pay for any covered good or service:
- (1) **The nature, purpose, and amount of any fee or charge imposed on the transaction that has been excluded from total price and the identity of the good or service for which the fee or charge is imposed;** and
- (2) The final amount of payment for the transaction.

Disclosure of Excluded Fees

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USD 934.00
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HIDE RATE DETAILS ▲

Average Nightly Rate Includes Mandatory Fee	USD 467.00
Daily Rates 2 Nights	
Friday, Aug 29	USD 284.00
Saturday, Aug 30	USD 540.00
Resort Fee (USD 55 per room, per night)	USD 110.00

Itinerary Requests**

- AUG 29, MORNING
- Experiences**
- VEGAS VIEWS HELICOPTER TOUR** USD 378.00
15 MINUTES / 2 ADULTS
Taxes & fees may apply
- [REMOVE](#)

Room Tax (12.38% of Resort Fee)	USD 14.72
Room Tax (13.38% of room rate)	USD 110.25
Est. Total*	USD 1,436.97

FTC Rule on Unfair or Deceptive Fees Prong #2

- In any offer, display, or advertisement for a covered good or service it is an unfair and deceptive practice and a violation of this part for any business to misrepresent any fee or charge, including: **the nature, purpose, amount, or refundability of any fee or charge; and the identity of the good or service for which the fee or charge is imposed.**
- Example: “Environmental Fee” must actually be used to benefit the environment.

Hotel Fees Transparency Act of 2025

- Current draft is generally consistent with the FTC regulation
- Hotels/short-term renters of lodging/third party online sellers must clearly, conspicuously and prominently:
 - Display the total services price
 - Disclose the total services price when covered services are first displayed; and
 - Prior to final purchase, disclose any taxes or government fees.
- Total services price includes base room rate and mandatory fees

Hotel Fees Transparency Act of 2025

- Sellers may less prominently display individual components of the total services price in connection with displaying the total most prominently.
- Violations would be punishable potential refund of money and payment of damages.



Industry Response

- Major hotel companies have generally modified their websites to comply
- However...independent hotels may not be aware of compliance requirements

Sample Major Brand Resort Fee Approval Process

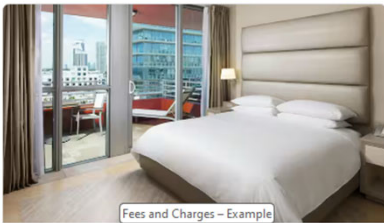
- Keep in mind that brands don't typically own the hotels.
- Multiple independent parties at each hotel:
 - Hotel owner
 - Brand
 - Hotel manager
- So say a hotel owner wants to start charging a resort fee at its hotel...what is the process?

Sample Major Brand Resort Fee Approval Process

- Brand confirms hotel meets eligibility for guest fee.
- Hotel owner fills out application and indemnifies Brand for any related losses incurred.
- Guideline is that amenities/services provided must be a multiple of fee charged (e.g., 3x or 4x).
- Brand reviews application for approval.
- Owner trains staff on fee implementation and then implements.



Sample Hilton Disclosure



Fees and Charges – Example

1 King Standard City View Balcony

[View room details](#)

Book From \$474

Price includes \$40.00 USD resort charge per night, but excludes tax

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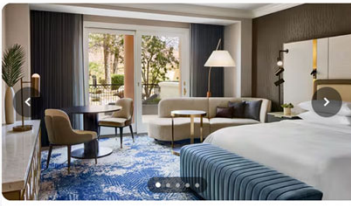
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Deluxe Guest room, 1 King [Room Details](#)

Member Rate Prepay Non-refundable Non-changeable **278 USD / NIGHT** [Select](#)
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Prepay in full, non-refundable if cancelled more than 1 day after...
[Rate Details](#)

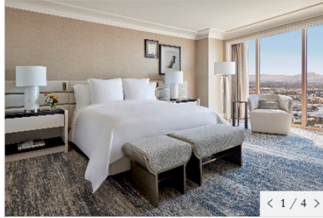
Prepay Non-refundable Non-changeable **290 USD / NIGHT** [Select](#)
Includes 45 USD Resort Fee

Prepay in full, non-refundable if cancelled more than 1 day after...
[Rate Details](#)

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Sample Four Seasons Disclosure

GUEST ROOMS (5)



Superior Room →

- One king bed, One rollaway or one crib (An additional fee applies for rollaway.)
- 500 sq.ft. (46 m2)
- 3 adults, or 2 adults and 1 child

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Sample Four Seasons Disclosure

VEGAS ESCAPE - 20% OFF

Rate Details

Free Cancellation until May 13, 2025

Avg. price per night ~~USD 499~~

Includes Mandatory Fee (taxes calculated at checkout)

ADD TO CART

ROOM RATE

Rate Details

Free Cancellation until May 13, 2025

Avg. price per night ~~USD 610~~

Includes Mandatory Fee (taxes calculated at checkout)

ADD TO CART

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Sample Independent Hotel Disclosures

Cozy Standard Double Queen **\$178.00**
\$169.00
Avg Per Night Per Room
 1 Bedroom 2 Beds
 Max 4 Guests
 VIEW ROOM DETAILS
 Pricing Details

BOOK NOW

Booking Information

Cozy Standard Double Queen **\$178.00**
\$169.00
Avg Per Night Per Room
 1 Bedroom 2 Beds
 Max 4 Guests
 VIEW ROOM DETAILS

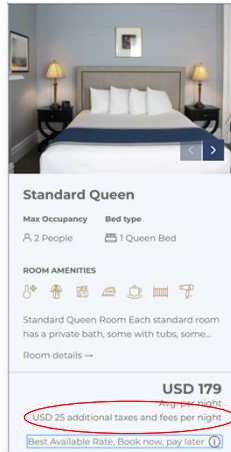
DETAILS	
Fri, Aug 29, 2025	\$169.00
State Tax	\$10.14
County Tax	\$0.85
Service Charge	\$10.14
TOTAL	\$190.13

BOOK NOW

Booking Information

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Sample Independent Hotel Disclosures



Best Available Rate, Book now, pay later - Standard Queen	
Fri, Aug 29, 2025 - Sat, Aug 30, 2025	
1 adult 1 night	USD 179
Taxes	USD 25
Total Rate	USD 204

Accounting/Economic Impact of Guest Fees

- Under the Uniform System of Accounts for the Lodging Industry (USALI), guest fees are classified as Miscellaneous Income
- Certain fees charged by brands or managers may be based on Rooms Revenue, which would exclude Miscellaneous Revenue
- Definitions must be carefully reviewed when examining relevant hospitality industry contracts

Thank you & Questions

Key Takeaways

- Resort fees are here to stay
- Federal regulation now in effect; legislation incoming
- Watch out for independent hotels that may not yet be in compliance!

Let's stay connected

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