



May 18, 2026

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Washington, DC 20580

Comment submitted electronically via <https://www.regulations.gov>

Re: Food Delivery Fees ANPRM (Project No. P267101)

Truth in Advertising, Inc. (“TINA.org”) submits this comment in response to the Federal Trade Commission’s April 16, 2026 Advance Notice of Proposed Rulemaking (“ANPRM”) seeking comment on whether a rule is needed to address unfair or deceptive fees practices in connection with online food and grocery delivery platforms.¹

For the reasons set forth below, TINA.org strongly supports the Commission's commencement of a rulemaking proceeding regarding online food delivery platforms and urges the Commission to promulgate a rule that requires clear, upfront and complete disclosure of all fees and charges associated with food and grocery delivery services. TINA.org further urges the Commission to ensure that any such rule covers fee disclosures across all online food delivery channels, whether they are operated by third parties or the restaurants and retailers themselves.

I. INTEREST OF COMMENTER

TINA.org is a nonpartisan, nonprofit consumer advocacy organization dedicated to combating deceptive advertising and consumer fraud; promoting understanding of the serious harms commercial dishonesty inflicts; and working with consumers, businesses, self-regulatory bodies and government agencies to advance countermeasures that effectively prevent and stop deception in the economy. Its website, www.tina.org, provides information about common deceptive advertising techniques; consumer protection laws, regulatory actions and other lawsuits; and ad alerts about specific deceptive marketing campaigns.

Through its collaborative approach and attention to emerging issues and complexities, TINA.org has become a trusted authority on false and misleading tactics, testifying before Congress on issues related to consumer protection, deceptive marketing and economic justice.² TINA.org regularly draws on its expertise to advocate for consumer interests before the FTC and other governmental bodies, and appears as *amicus curiae* in cases raising important questions of consumer protection law.³

Since its inception, TINA.org has received more than 10,000 tips and complaints from consumers, filed legal actions with regulatory agencies against hundreds of companies and entities, published more than 1,600 ad alerts and more than 1,100 news articles, and tracked more than 6,600 federal class actions alleging deceptive marketing. Notably, since 2015, state and federal agencies have obtained monetary judgments of more than \$1 billion against wrongdoers based on TINA.org’s legal actions and evidence, and returned tens of millions in ill-gotten gains to consumers.

Hidden and misleading fees have been a frequent subject of TINA.org’s education and advocacy work, and the food delivery sector in particular has been the subject of multiple TINA.org investigations, ad alerts and class actions that we monitor.

II. JUNK AND HIDDEN FEES ARE PERVASIVE IN THE ONLINE FOOD DELIVERY INDUSTRY

Deceptive fee practices are a systemic and growing problem across the economy. Within the \$432 billion online food delivery industry, which is used by approximately two-thirds of U.S. consumers, hidden and deceptive fees are widespread.⁴

Major food delivery platforms have been accused of systematically advertising low or no delivery fees while simultaneously concealing the true cost of the service through undisclosed fees, price markups and other mandatory charges. TINA.org has tracked more than a dozen class-action lawsuits against food delivery platforms alleging exactly this conduct, including:

- Grubhub masking fees by labeling them as “service fees,” secretly marking up menu prices for delivery orders by 15% to 20%, or both.⁵
- DoorDash hiding delivery fees, charging undisclosed price markups on delivery food and falsely marketing tips as going entirely to delivery drivers when the company retains a portion.⁶
- Postmates failing to adequately disclose a service fee that it charges in addition to its delivery fee, leaving consumers unaware of the full cost of their orders at the time of purchase.⁷
- Amazon falsely marketing free two-hour grocery delivery for Prime members while charging a \$9.95 service fee on Whole Foods deliveries, and failing to include service fees in the advertised prices displayed on Amazon Fresh.⁸
- Target’s Shipt delivery service failing to adequately disclose a \$3.99 “CA Shoppers Benefits Fee” added to all orders delivered in California.⁹
- Walmart failing to adequately disclose that certain items are excluded from the free delivery and shipping benefits advertised to Walmart+ subscribers.¹⁰

In addition, both this Commission¹¹ and other regulators¹² have taken action against major delivery platforms for similar conduct.

These cases are not outliers. They reflect a structural feature of the market where platforms advertise low or zero delivery fees to attract consumers, then recover revenue through misleading fees and markups disclosed only after the consumer has invested time building an order. The result, as the ANPRM notes, is that consumers paid nearly 80% more on average ordering through a delivery platform than picking up the same order, with markups reaching as high as 90% on some platforms.¹³

III. DECEPTIVE FOOD DELIVERY FEES CAUSE SIGNIFICANT HARM

Deceptive fee practices in the food delivery industry impose substantial and avoidable harms on consumers, distort competition and undermine the earnings of delivery workers.

With Americans spending an estimated \$5 billion in delivery fees per year,¹⁴ the most immediate harm of hidden delivery fees is to consumers' wallets. Independent analyses have repeatedly found that ordering through a delivery platform can substantially inflate the cost of a meal (a fact the platforms are continually trying to obscure). By way of example, a 2025 survey of food deliveries from five major chains in the country's 10 largest metropolitan areas found that ordering delivery costs 79.5% (or \$9.30) more on average than picking up the same meal.¹⁵ Other analyses have found markups as high as 105% with Postmates, 95% with DoorDash, 93% with Grubhub and 80% with Uber Eats.¹⁶

This costly reality, however, is commonly concealed by the hidden-fee architecture used by many delivery services,¹⁷ which results in consumers facing an average of \$12.80 in hidden fees per order and spending up to 21% more than they would under an all-in pricing model.¹⁸ This deceptive process exerts coercive "search cost" pressure as a consumer who has spent time selecting items from a menu – only to discover at checkout that the true cost substantially exceeds the price advertised – faces a choice between abandoning the order and losing the time invested or accepting charges they neither anticipated nor agreed to.¹⁹

Research cited by the Commission in the ANPRM confirms that consumers facing drip-pricing schemes frequently underestimate the total cost of the transaction and are reluctant to restart their search.²⁰ One delivery-app user quoted in a CNBC report on rising fees captured the dynamic well: "You see something listed as 15 bucks and then you go to checkout and it adds up to, like, 25, but you've already kind of in your head committed to getting that thing or you're looking forward to it. It adds an extra friction between backing out of ordering."²¹ And as a result of such manipulation, consumers using delivery apps often spend more than they can afford, with nearly 30% admitting to overspending on delivery services, and one in three consumers spending more than \$300 per year on delivery fees alone.²²

The harms also extend beyond consumers. Deceptive fee practices disadvantage honest businesses that advertise transparent pricing. By advertising artificially low prices and recovering revenue through hidden fees, food delivery platforms gain a competitive advantage over businesses that are honest with their prices – creating pressure on all operators to engage in deceptive marketing tactics.²³

Hidden-fee architecture also harms the delivery workers on whom the platforms depend. Between 40% and 60% of delivery-driver earnings come from tips, and the unanticipated total costs that consumers face at checkout, including service and delivery fees that consumers may erroneously attribute to the driver, may directly suppress tipping behavior.²⁴ Consumer Reports documented that platforms routinely fail to make clear which fees compensate the driver versus which fees flow to the platform, leaving workers to absorb the consequences of fee structures they did not design and from which they do not benefit.²⁵

In short, fee transparency benefits the entire marketplace. As Consumer Reports observed, “consumers deserve to know what they’re paying for—be it a service fee, a tip, or a meal—and who they’re paying for it—so that they can make informed choices about whether and how to utilize these services, with an understanding of how these services can affect their local community.”²⁶ All-in, itemized pricing enables consumers to comparison shop, rewards honest operators and restores tipping behavior to the level consumers actually intend – none of which is possible under the current opaque, drip-pricing models used by delivery platforms.

IV. ENFORCEMENT ALONE IS INSUFFICIENT—A RULE IS NECESSARY

TINA.org applauds the Commission’s actions against Grubhub, Instacart, Amazon and Walmart. But as the ANPRM acknowledges, deceptive fee practices persist despite these enforcement efforts. Case-by-case enforcement cannot keep pace with a market serving hundreds of millions of American consumers across dozens of competing platforms.²⁷

A rule is necessary to unlock civil penalty authority, provide regulatory certainty and deter unlawful conduct before it occurs. Without a rule, the Commission’s remedial authority remains constrained by the Supreme Court’s decision in *AMG Capital Management*, which eliminated the availability of equitable monetary relief under Section 13(b).²⁸ A rule would allow the Commission to seek monetary penalties against violators and more readily obtain redress for harmed consumers – giving the FTC the financial deterrent it currently lacks.

TINA.org also notes that while numerous states have enacted price transparency and fee disclosure laws, they cannot adopt uniform rules that apply to all food delivery platforms across the country.²⁹ The resulting patchwork of requirements creates compliance uncertainty and allows platforms to benefit from regulatory gaps in less-protected jurisdictions. A federal rule would establish a clear, national baseline.

Bipartisan legislative attention to the issue – including the recently introduced Promoting Real-time Information on Cost Expenditure (PRICE) Act, which would require food and grocery delivery apps to provide users with all fees up front and bar surveillance pricing – reinforces that a federal standard is both warranted and overdue.³⁰

V. RECOMMENDATIONS

TINA.org urges the Commission to promulgate a rule that, at a minimum:

1. **Requires total price – and itemized fee – disclosures.** All mandatory fees and charges – except government-imposed taxes – must be included in any advertised price, or clearly and conspicuously disclosed alongside any price displayed to consumers. In addition, prior to checkout, consumers must receive a clear itemization of all fees, including the nature, purpose, amount and recipient of each charge – with particular attention to distinguishing between service fees retained by the platform and amounts directed to delivery workers.
2. **Prohibits misrepresentations about “free delivery.”** Platforms must not advertise free or discounted delivery while charging consumers mandatory fees that effectively negate that representation.
3. **Mandates disclosure of price differentials.** Where platform prices differ from in-store or restaurant prices, that fact must be clearly and conspicuously disclosed to consumers.
4. **Covers personalized pricing.** Where platforms charge different consumers different prices for the same goods or services, that practice must be disclosed.³¹

TINA.org further urges the Commission to ensure that any rule it promulgates applies not only to third-party delivery platforms but also to restaurants and retailers that impose their own deceptive fees for food deliveries, including through their own online ordering and delivery channels.³² In fact, TINA.org has highlighted numerous restaurants engaging in this type of deceptive conduct, including:

- Wendy’s surreptitiously charging more for a meal that is delivered by way of third-party delivery service – on top of any additional fees charged by the delivery platforms themselves. The price differential is disclosed only through easy-to-miss disclaimers buried behind small icons or at the bottom of menu pages, leaving many consumers unaware they are paying inflated menu prices before fees are even added.³³
- Regional restaurant chain Wood-N-Tap concealing a \$7.75 delivery fee from mobile users by requiring them to manually expand a hidden “order review” tab during checkout.³⁴

- Pizza Hut advertising a \$10 large pizza deal but failing to disclose that delivery requires a \$15 order minimum and that a \$5.59 delivery fee would be charged on top of that.³⁵
- Domino’s advertising a \$9.99 “any pizza” deal but failing to disclose that delivery requires an \$18 minimum order and automatically adding a \$4.99 delivery on top.³⁶

TINA.org has also tracked dozens of class-action lawsuits against restaurants and retailers making similar allegations, including:

- Several major restaurant chains – including Buffalo Wild Wings, Chipotle, Chick-fil-A, Panda Express and Panera – systematically hiding delivery fees from consumers by labeling them as “service fees,” secretly marking up menu prices for delivery orders by 12%-30%, or both, despite advertising free or low-cost delivery.³⁷
- Applebee’s failing to disclose multiple fees added to delivery orders – including a service fee, a delivery fee and a California Delivery Surcharge – and misrepresenting a platform-imposed fee as a government-mandated charge.³⁸
- Dig Inn falsely advertising “\$0.00 Delivery fee” while inflating “Taxes and fees” on delivery orders to recoup the cost of delivery without disclosing this to consumers.³⁹
- Safeway and Albertsons charging higher-than-advertised prices at checkout for online grocery delivery orders, and Safeway allegedly misleading online shoppers into believing they would pay the same prices as in-store shoppers when online purchasers in fact paid approximately 10% more.⁴⁰

The principle at the heart of this proposed rulemaking – that consumers deserve to know what they will actually pay before committing to a transaction – applies with equal force whether a consumer is ordering through a third-party delivery app, an online grocery service or a restaurant website.

VI. CONCLUSION

The online food delivery market has grown rapidly, and deceptive fee practices have grown with it. Consumers ordering food online are routinely misled about the true cost of their orders, paying far more than advertised prices and often discovering the full cost only after they have already committed to a transaction. The Commission’s prior enforcement actions, as well as those of other regulators, have demonstrated both the prevalence of these practices and the limits of case-by-case enforcement as a sole remedy.

TINA.org strongly supports the Commission’s decision to pursue a rulemaking and urges

the Commission to adopt a rule in order to deter and rein in the deceptive pricing practices that have become endemic across the online food delivery industry.

Respectfully submitted,



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¹ Rule on Unfair or Deceptive Fees in Online Food Delivery Services, 91 Fed. Reg. 20381 (proposed Apr. 16, 2026), <https://www.federalregister.gov/documents/2026/04/16/2026-07473/rule-on-unfair-or-deceptive-fees-in-online-food-delivery-services>.

In February 2024, TINA.org submitted a comment to the FTC in response to the Commission’s proposed Trade Regulation Rule on Unfair or Deceptive Fees (Project No. R207011), which detailed at length the pervasive harms caused by hidden and misleading fees across the economy. TINA.org’s Comment Re: Unfair or Deceptive Fees NPRM, R207011 (Feb. 6, 2024), https://truthinadvertising.org/wp-content/uploads/2024/02/FTC-Junk-Fees-Comment_Truth-In-Advertising_Feb-2024.pdf.

² *Safeguarding American Consumers: Fighting Fraud and Scams During the Pandemic Before the Subcomm. on Consumer Prot. and Com. of the Comm. on Energy and Com.*, 117th Cong. (Feb. 4, 2021) (testimony of Bonnie Patten, Exec. Dir., Truth In Advertising), <https://truthinadvertising.org/action/house-testimony-2021-summary-action/>; *Curbing COVID Cons: Warning Consumers about Pandemic Frauds, Scams, and Swindles Before the Subcomm. on Consumer Prot., Prod. Safety, and Data Sec. of the Comm. on Com., Sci., & Transp.*, 117th Cong. (Apr. 27, 2021), (testimony of Bonnie Patten, Exec. Dir., Truth In Advertising), <https://truthinadvertising.org/action/senate-testimony-2021-summary-action/>.

³ See, e.g., Brief for Amici Curiae Truth In Advertising, Inc., et al. in Support of Plaintiff-Appellee, *Fed. Trade Comm’n v. Quincy Bioscience Holding Co., Inc.* (2d Cir. July 24, 2025) (No. 25-12), https://truthinadvertising.org/wp-content/uploads/2021/12/7_24_25-TINA-amici-motion-and-brief.pdf; Brief of Amici Curiae Truth In Advertising, Inc., et al. in Support of Respondent, *Intuit, Inc. v. Fed. Trade Comm’n* (5th Cir. June 21, 2024) (No. 24-60040), <https://truthinadvertising.org/wp-content/uploads/2024/06/Intuit-v-FTC-TINA-Amici-Brief.pdf>; Brief for Truth In Advertising, Inc. as Amicus Curiae Supporting Respondent, *AMG Capital Mgmt., LLC v. Fed. Trade Comm’n*, 593 U.S. 67 (2020) (No. 19-508), https://www.supremecourt.gov/DocketPDF/19/19-508/162934/20201207192719389_19-508%20brief.pdf; Brief of Amici Curiae Truth In Advertising, Inc., et al. in Favor of Appellants and in Support of Reversal, *Fed. Trade Comm’n v. Quincy Bioscience Holding Co., Inc.* (2d Cir. Mar. 6, 2019) (No. 17-3745), https://truthinadvertising.org/wp-content/uploads/2018/03/Prevagen_Amici-Curiae-brief.pdf.

⁴ *Online Food Delivery in the United States – Statistics & Facts*, Statista (Apr. 20, 2026), <https://www.statista.com/topics/3294/online-food-delivery-services-in-the-us/>; Steve Koppes, *Consumer Food Insights Report Highlights Increasing Use of Food-Ordering Apps*, Purdue U. Coll. Agric. (Oct. 9, 2024), <https://ag.purdue.edu/news/2024/10/consumer-food-insights-report-highlights-increasing-use-of-food-ordering-apps.html>; Janna Stephens et al., *Food Delivery Apps and the Negative Health Impacts for Americans*, 7 *Frontiers in Nutrition* 1 (Feb. 20, 2020), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7044187/pdf/fnut-07-00014.pdf>.

⁵ *CATrends: Hidden Food Delivery Fees*, TINA.org (Dec. 15, 2021), (<https://truthinadvertising.org/articles/catrends-hidden-food-delivery-fees/>; TINA.org’s Class-Action Tracker: Delivery Fees in Grubhub’s App, <https://truthinadvertising.org/class-action/delivery-fees-grubhubs-app/>; TINA.org’s Class-Action Tracker: Grubhub, <https://truthinadvertising.org/class-action/grubhub/>; TINA.org’s Class-Action Tracker: Grubhub’s Food Delivery, <https://truthinadvertising.org/class-action/grubhubs-food-delivery/>; TINA.org’s Class-Action Tracker: Grubhub’s Food Delivery Fees; <https://truthinadvertising.org/class-action/grubhubs-food-delivery-fees/>).

⁶ TINA.org’s Class-Action Tracker: DoorDash’s Delivery Fees, <https://truthinadvertising.org/class-action/doordashes-delivery-fees/>; TINA.org’s Class-Action Tracker: DoorDash’s Food Delivery Services, <https://truthinadvertising.org/class-action/doordashes-food-delivery-services/>; TINA.org’s Class-Action Tracker: DoorDash, <https://truthinadvertising.org/class-action/doordash/>; TINA.org’s Class-Action Tracker: Tips at DoorDash, <https://truthinadvertising.org/class-action/tips-at-doordash/>; TINA.org’s Class-Action Tracker: Tips on the DoorDash App, <https://truthinadvertising.org/class-action/tips-on-the-doordash-app/>; TINA.org’s Class-Action Tracker: Sales Taxes Charged by DoorDash, <https://truthinadvertising.org/class-action/sales-taxes-charged-by-doordash/>.

⁷ TINA.org’s Class-Action Tracker: Postmates, <https://truthinadvertising.org/class-action/postmates/>.

⁸ TINA.org’s Class-Action Tracker: Amazon Prime Grocery Deliveries from Whole Foods, <https://truthinadvertising.org/class-action/amazon-prime-grocery-deliveries-from-whole-foods/>; TINA.org’s Class-Action Tracker: Amazon Fresh, <https://truthinadvertising.org/class-action/amazon-fresh-2/>.

⁹ TINA.org’s Class-Action Tracker: Target’s Shipt Delivery Service, <https://truthinadvertising.org/class-action/targets-shipt-delivery-service/>.

¹⁰ TINA.org’s Class-Action Tracker: Walmart+ Subscriptions, <https://truthinadvertising.org/class-action/walmart-subscriptions/>.

¹¹ *See, e.g.*, Press Release, Fed. Trade Comm’n, FTC, Illinois Attorney General Take Action Against Grubhub for Harming Diners, Workers, and Small Business (Dec. 17, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/12/ftc-illinois-attorney-general-take-action-against-grubhub-harming-diners-workers-small-businesses>; Press Release, Fed. Trade Comm’n, Instacart to Pay \$60 Million in Consumer Refunds to Settle FTC Lawsuit Over Allegations it Engaged in Deceptive Tactics (Dec. 18, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/12/instacart-pay-60-million-consumer-refunds-settle-ftc-lawsuit-over-allegations-it-engaged-deceptive>; Press Release, Fed. Trade Comm’n, Amazon To Pay \$61.7 Million to Settle FTC Charges It Withheld Some Customer Tips from Amazon Flex

Drivers (Feb. 2, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/02/amazon-pay-617-million-settle-ftc-charges-it-withheld-some-customer-tips-amazon-flex-drivers>; Press Release, Fed. Trade Comm’n, Walmart Agrees to \$100 Million Judgment to Settle FTC, States’ Charges Over Deceptive Earnings Claims Related to the Company’s Spark Driver Delivery Service (Feb. 26, 2026), <https://www.ftc.gov/news-events/news/press-releases/2026/02/walmart-agrees-100-million-judgment-settle-ftc-states-charges-over-deceptive-earnings-claims-related>.

¹² See, e.g., Press Release, D.C. Att’y Gen., AG Racine Secures \$3.5 Million from Grubhub for Illegally Charging Hidden Fees, Using Deceptive Marketing Tactics to Boost Profits at Expense of Customers (Dec. 30, 2022), <https://oag.dc.gov/release/ag-racine-secures-35-million-grubhub-illegally>; Press Release, Mass. Att’y Gen., Grubhub to Pay Over \$3.5 Million for Overcharging Restaurants During COVID-19 Public Health Emergency (Jan. 12, 2024), <https://www.mass.gov/news/grubhub-to-pay-over-35-million-for-overcharging-restaurants-during-covid-19-public-health-emergency>; Press Release, N.Y. Att’y Gen., Attorney General James Secures \$16.75 Million from DoorDash from Cheating Delivery Workers Out of Tips (Feb. 24, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-secures-1675-million-doordash-cheating-delivery-workers>; Notice to Defend and Complaint, *Penn. v. Grubhub Holdings, Inc.*, No. 221101888 (Pa. Ct. Com. Pl. Nov. 18, 2022), https://www.attorneygeneral.gov/wp-content/uploads/2022/11/2022-11-21-Grubhub-Inc_CIE-filed_2891443.pdf; Press Release, Chi. Mayor’s Press Off., Johnson Administration Reaches \$18 Million Settlement with DoorDash Over Deceptive Business Practices (Nov. 14, 2025), https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2025/november/doordash-practices-settlement.html.

¹³ Rule on Unfair or Deceptive Fees in Online Food Delivery Services, *supra* note 1.

¹⁴ Deanna Nila, *Deception by Delivery Fees: Demanding Consumer Protections and Transparency in the Face of Deceptive Fee Practices*, 30 Ill. Bus. L.J. 92, 96, 99–100 (2025), https://publish.illinois.edu/illinoisblj/files/2025/08/IBLJ-Summer-2025-V.30_Nila-1.pdf.

¹⁵ Matt Schulz, *The Price of Lazy: Nearly 4 in 10 Americans Get Delivery Weekly—and It’s Costing Them Nearly 80% More Than Pickup*, LendingTree (Oct. 28, 2025), <https://www.lendingtree.com/credit-cards/study/delivery-pickup/>.

¹⁶ Alexi Bitter, *You Might Be Paying Twice as Much by Ordering Takeout Food on DoorDash or Postmates, New Study Says*, Bus. Insider (Jan. 2024), <https://www.businessinsider.com/doordash-postmates-food-delivery-costs-twice-as-much-as-pickup-2024-1>. See also Josh Koebert, *Food Delivery App Comparison: How Much Can Pick-Up Save You at Popular Chains?*, FinanceBuzz (Apr. 21, 2026), <https://financebuzz.com/compare-costs-food-delivery-apps>.

¹⁷ A 2020 Consumer Reports investigation documented how platforms deploy “subtle user interface design patterns” that bundle and obscure fees, with the platform itself as “the only entity who maintains full knowledge of what a consumer is paying for.” *Collecting #Receipts: Food Delivery Apps & Fee Transparency*, Consumer Reports (Sept. 29, 2020), https://innovation.consumerreports.org/Food-delivery_Report.pdf.

¹⁸ Nila, *supra* note 14, at 96.

¹⁹ Consumers are susceptible to this sunk-cost fallacy, the irrational “tendency to continue an endeavor once an investment in money, effort, or time has been made,” rooted in the “maladaptive . . . desire [of people] not to appear wasteful.” Hal R. Arkes & Catherine Blumer,

The Psychology of Sunk Cost, 35 *Org. Behav. & Hum. Decision Processes* 124, 124-25 (1985); Nila, *supra* note 14, at 96 (“With additional pressures like search cost coming into play, in which consumers decide to purchase a good or service they have already selected instead of spending additional time and resources in locating a lower-priced alternative, the issue of junk fees has greatly impacted consumers but gone largely unchecked.”). *See also* Dan Pilat et al., *Why Are We Likely to Continue With an Investment Even If It Would Be Rational to Give It Up?*, The Decision Lab, <https://thedecisionlab.com/biases/the-sunk-cost-fallacy>.

²⁰ Rule on Unfair or Deceptive Fees in Online Food Delivery Services, *supra* note 1; Shelle Santana et al., *Consumer Reactions to Drip Pricing*, 39 *Mktg. Sci.* 188, 207 (2020), <https://doi.org/10.1287/mksc.2019.1207>.

²¹ Justine Fisher, *Food Delivery Fees Are Rising, and Everyone’s Feeling the Pinch*, CNBC (July 27, 2024), <https://www.cnbc.com/2024/07/27/food-delivery-fees-are-rising.html>.

²² Alicia Kelso, *Over 50% of Diners Would Switch Delivery Providers if Fees Rose, Study Shows*, Restaurant Dive (Mar. 4, 2022), <https://www.restaurantdive.com/news/over-50-of-diners-would-switch-delivery-providers-if-fees-rose-study-show/619806/>.

²³ TINA.org’s Comment to FTC Re: Trade Regulation Rule on Unfair or Deceptive Fees, *supra* note 1; Nila, *supra* note 14, at 99 (“By causing distrust and impairing consumer purchasing decision, deceptive fee practices can also significantly harm restaurants and other businesses that use food delivery platforms. While businesses engaging in bait-and-switch pricing reap the advantages of locking in customers at a deceptively ‘lower’ price, businesses who do not engage in these practices are disadvantaged and out-competed. This is attributable to the fact that businesses who hide their fees can attract customers by advertising a price that initially seems lower, even if their final price ends up being higher than that of their competitors. Therefore, businesses are pressured, and even incentivized, into advertising a lower price and then adding on additional fees.”)

²⁴ Nila, *supra* note 14, at 99–100.

²⁵ Consumer Reports, *supra* note 17, at 5.

²⁶ *Id.*

²⁷ *Online Food Delivery in the United States – Statistics & Facts*, Statista (Apr. 20, 2026), https://www.statista.com/topics/3294/online-food-delivery-services-in-the-us/?srsltid=AfmBOopdttdMr15XgXG0ElvU_Ms0YRcf0lvxLqj9hSJIZ3JQGSmZ9QS01; *Online Food Delivery Apps: Market Share, Revenue, and Usage*, AppsRhino (Feb. 24, 2026), <https://www.appsrhino.com/blogs/food-delivery-app-revenue-and-usage-statistics>; *The State of the Food Delivery Industry in the U.S. 2024*, Deliverect (Aug. 26, 2024), <https://www.deliverect.com/en-us/blog/online-food-delivery/state-of-the-food-delivery-industry-us-2024>.

²⁸ *AMG Cap Mgmt. v. Fed. Trade Comm’n*, 593 U.S. 67 (2021).

²⁹ *See* Cal. Civ. Code 1770(a)(29) (2026); Colo. Rev. Stat. 6-1-737 (2026); 940 Mass. Code Regs. 38.00 *et seq.* (2025); Minn. Stat. 325D.44 *et seq.* (2025); Va. Code Ann. 59.1-607 *et seq.* (2025).

³⁰ Ryan King, *Food Delivery Apps Would Be Barred from Hiding Fees, Surveillance Pricing Under New Federal Bill*, N.Y. Post (May 3, 2026), <https://nypost.com/2026/05/03/us-news/food-delivery-apps-would-be-barred-from-hiding-fees-surveillance-pricing-under-new-bill/>.

³¹ In February 2026, TINA.org joined a coalition of consumer law advocates and consumer groups in submitting a comment to the FTC in support of a citizen petition for rulemaking calling for disclosures when AI has been used for personalized algorithmic pricing. Comment of TINA.org et al. Re: Petition for Rulemaking on Disclosure of Artificial Intelligence Systems for Commercial Profiling and Price Manipulation (Feb. 23, 2026), https://truthinadvertising.org/wp-content/uploads/2026/02/2_23_26-comment-supporting-personalized-algorithmic-pricing-rule.pdf.

³² The FTC’s ANPRM uses the term “online food delivery platforms” to describe “online services that enable consumers to order food and beverage items from restaurants, grocery stores, and other retailers to be delivered to consumers’ homes, businesses, or other designated locations.” Rule on Unfair or Deceptive Fees in Online Food Delivery Services, *supra* note 1. From this definition, it is unclear whether the term is also meant to encompass restaurants’ and retailers’ own use of deceptive fees for online delivery services.

³³ *Wendy’s Menu Prices on Food-Ordering Apps Ad Alert*, TINA.org (Sept. 22, 2025), <https://truthinadvertising.org/articles/wendys-menu-prices-on-food-ordering-apps/>.

³⁴ *Wood-N-Tap Ad Alert*, TINA.org (Apr. 21, 2025), <https://truthinadvertising.org/articles/wood-n-tap/>.

³⁵ *Pizza Hut’s \$10 Large Pizza Ad Alert*, TINA.org (Mar. 31, 2026), <https://truthinadvertising.org/articles/pizza-huts-10-large-pizza/>.

³⁶ *Domino’s ‘Any Pizza’ for \$9.99 Deal Ad Alert*, TINA.org (Mar. 23, 2026), <https://truthinadvertising.org/articles/dominos-any-pizza-for-9-99-deal/>.

³⁷ *CATrends: Hidden Food Delivery Fees*, TINA.org (Dec. 15, 2021), <https://truthinadvertising.org/articles/catrends-hidden-food-delivery-fees/>; TINA.org’s Class-Action Tracker: Buffalo Wild Wings Food Delivery, <https://truthinadvertising.org/class-action/buffalo-wild-wings-food-delivery/>; TINA.org’s Class-Action Tracker: Chipotle’s Food Delivery Services, <https://truthinadvertising.org/class-action/chipotles-food-delivery-services/>; TINA.org’s Class-Action Tracker: Chick-Fil-A Deliveries, <https://truthinadvertising.org/class-action/chick-fil-a-deliveries/>; TINA.org’s Class-Action Tracker: Chick-Fil-A Food Deliveries, <https://truthinadvertising.org/class-action/chick-fil-a-food-deliveries/>; TINA.org’s Class-Action Tracker: Panda Express Food Delivery, <https://truthinadvertising.org/class-action/panda-express-food-delivery/>; TINA.org’s Class-Action Tracker: Panera’s Food Delivery, <https://truthinadvertising.org/class-action/paneras-food-delivery/>; TINA.org’s Class-Action Tracker: Panera’s Delivery Fee, <https://truthinadvertising.org/class-action/paneras-delivery-fee/>; TINA.org’s Class-Action Tracker: Delivery Fees in Grubhub’s App, <https://truthinadvertising.org/class-action/delivery-fees-grubhubs-app/>; TINA.org’s Class-Action Tracker: Grubhub, <https://truthinadvertising.org/class-action/grubhub/>; TINA.org’s Class-Action Tracker: Grubhub’s Food Delivery, <https://truthinadvertising.org/class-action/grubhubs-food-delivery/>; TINA.org’s Class-Action Tracker: Grubhub’s Food Delivery Fees, <https://truthinadvertising.org/class-action/grubhubs-food-delivery-fees/>.

³⁸ TINA.org's Class-Action Tracker: Applebee's Food Delivery Orders in California, <https://truthinadvertising.org/class-action/applebees-food-delivery-orders-in-california/>;
TINA.org's Class-Action Tracker: Applebee's Delivery Orders, <https://truthinadvertising.org/class-action/applebees-delivery-orders/>.

³⁹ TINA.org's Class-Action Tracker: Dig Inn, <https://truthinadvertising.org/class-action/dig-inn/>.

⁴⁰ TINA.org's Class-Action Tracker: Safeway's Online Grocery Delivery Services, <https://truthinadvertising.org/class-action/safeways-online-grocery-delivery-services/>;
TINA.org's Class-Action Tracker: Safeway's Pricing, <https://truthinadvertising.org/class-action/safeways-pricing/>.