



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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March 13, 2024

The Honorable Matt Klein
Minnesota Senate
2105 Minnesota Senate Bldg.
St. Paul, MN 55155

RE: SF 3537 – Oppose

Dear Senator Klein,

TechNet must respectfully oppose SF 3537 (Port) which is intended to provide consumers with greater price transparency for consumers, but as drafted would be unworkable for many of our member companies. We appreciate your consideration of our suggested changes, however, we remain opposed since most of our concerns were not addressed in the latest amendment.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

Technology-enabled platforms have transformed the way that goods and services can be accessed, offering consumers the ability to complete transactions online and on-demand. The amendments we suggested would address the unique nature of these platforms and the services they provide, avoiding the problems in the original bill which undermine Minnesota's commitment to the innovation economy. In addition, passing legislation in this area should be delayed until overlapping FTC rulemaking proceedings are complete so as to avoid conflicts and ambiguities between the two. It is prudent to allow that process to unfold, during which the full impacts across all industries will be carefully considered, before the State acts.

With that said, the language we offered would address many of our concerns. However, the bill is problematic for many reasons. There is an important distinction between fixed pricing models, where companies know all of the applicable fees for their goods or services upfront, and dynamic pricing models, which consider a range of factors in their pricing process. Companies in the gig economy are an example of the latter, with many offering online marketplaces that serve as intermediaries between a consumer and a participating seller. In any such transaction, there are more than two parties involved. Unlike traditional business models that consumers may be more accustomed to, gig economy platforms provide prices for more than one "seller." For some platforms, the participating seller offers a good or service and, importantly, is responsible for setting the price of that good or service. The item's listing on the platform is then expected to reflect that price.

Separately, once the consumer selects the goods or services they want to purchase, the platform assesses its own fees. These fees represent a distinct service from a different party in the transaction – those of the platform itself. These may include what are often considered as “service fees,” and they are what make it possible for a platform to be profitable. They cover a range of essential services that promote safety and reliability, including the cost of building and maintaining technology interfaces, insurance, payment facilitation fees, technical assistance, security, onboarding and background checks, marketing, and customer support, among other things.

Many gig economy platforms commonly assess their fees as a percentage of the order subtotal rather than a flat fee. While it makes sense that the existence of these fees should be disclosed upfront, the amount cannot be included in the price until it is ascertainable. Fees may vary between trips, markets, or different product or service offerings. Fees may also vary depending on factors such as a consumer’s preferences, which are in many cases selected later in the purchasing process – delivery type, for instance. With these kinds of platforms, percentage-based fees are often more equitable than charging a single flat fee to all consumers upfront. For example, because larger order sizes typically cost more money to fulfill or deliver, it makes sense that the fee incurred to complete the order should scale with the order size. If not, small-order consumers will pay the same fees as large- order consumers, which is not a fair way of distributing a platform’s costs.

Platforms should retain the ability to calculate their fees according to their pricing models. Requiring them to predetermine those fees upfront risks negatively impacting the level, pricing, and quality of the services provided. Providing those fees upfront would prevent platforms from accounting for any factor that they are unable to ascertain immediately.

TechNet fully supports the goal of SF 3537, which is to prohibit the deceptive price advertising practice of hiding unavoidable fees. We agree – consumers deserve price transparency. For this reason, TechNet stands prepared to work with you to ensure the bill meets its goals, while also taking into consideration the different business models that would be upended should this be enacted. Unfortunately, we must oppose SF 3537.

We look forward to reviewing the amendment and providing additional feedback based on those changes. If you have any questions regarding TechNet’s position on this bill, please me at tdiers@technet.org or 630-400-3439.

Sincerely,

A handwritten signature in black ink, appearing to read 'TDiers', with a stylized flourish at the end.

Tyler Diers
Executive Director, Midwest
TechNet