

Regulatory Compliance Bulletin

November 17, 2023

To: All Credit Unions
Subject: **CA 478 – Consumers Legal Remedies Act: Advertisements**

Effective July 1, 2024, Senate Bill 478 (SB 478) amends California's Consumer Legal Remedies Act (CLRA) [Civil Code §§1750, et seq.] to address a controversial practice known as "drip pricing." Drip pricing is where a person advertises or offers goods or services at a specified price, but fees and charges subsequently added to the transaction result in a much higher cost to the consumer. While for the most part, this new law will not apply to state and federal credit unions offering traditional products and services, it is still important for credit unions to be familiar with the limits of this exemption.

Key Provisions of SB 478

Among other things, SB 478 amends Civil Code §1770 of the CLRA, which provides an extensive list of actions deemed to be "unfair methods of competition and unfair or deceptive acts or practices" in connection with the sale or lease of goods or services to a consumer, and therefore unlawful. Effective July 1, 2024, new subsection (a)(29) will add the following to that list:

"(a)(29) (A) Advertising, displaying, or offering a price for a good or service that does not include all mandatory fees or charges other than either of the following:
(i) Taxes or fees imposed by a government on the transaction.
(ii) Postage or carriage charges that will be reasonably and actually incurred to ship the physical good to the consumer."

Because financial institutions are already subject to extensive disclosure regulations, the League and other financial stakeholders worked to obtain a carve out for "financial entities." For purposes of (a)(29), a "financial entity" is defined as an entity that is exempt from the California Consumer Financial Protection Law pursuant to Financial Code §90002, which includes state and federal credit unions. This carve out, however, is not absolute.

New subsection (a)(29)(C)(ii) provides that a financial entity, as defined, required to provide disclosures in compliance with any of the following federal or state acts or regulations with respect to a financial transaction is exempt from this provision for purposes of that financial transaction:

- (1) The federal Truth in Savings Act, as amended (12 U.S.C. Sec. 4301 et seq.).
- (2) The federal Electronic Fund Transfer Act, as amended (15 U.S.C. Sec. 1693 et seq.).
- (3) Section 19 of the Federal Reserve Act, as amended (12 U.S.C. Sec. 461 et seq.).
- (4) The federal Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.).
- (5) The federal Real Estate Settlement Procedures Act, as amended (12 U.S.C. Sec. 2601 et seq.).
- (6) The federal Home Ownership and Equity Protection Act (15 U.S.C. Sec. 1639).
- (7) Any regulation adopted pursuant to any of the federal acts in subclauses (I) to (VI), inclusive.
- (8) The California Financing Law (Division 9 (commencing with Section 22000) of the Financial Code).
- (9) The California Residential Mortgage Lending Act (Division 20 (commencing with Section 50000) of the Financial Code).

- (10) The Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code).
- (11) Any regulation adopted pursuant to any of the state acts in subclauses (8) to (10), inclusive.

This means that the exemption, while incredibly broad, is also transaction-specific. As long as the credit union is providing products or services covered by one of the listed laws or regulations, those transactions are exempt. This includes consumer and business accounts, loans, overdraft programs, etc.

To the extent that the credit union provides a product or service not subject to one of the listed laws or regulations, those transactions may be subject to this provision. Any questions should be discussed with legal counsel.

If you have any questions regarding this information, contact the Compliance Hotline at 844.731.6072 or CANV@VICLARITYUS.COM.

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