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Duff on Hospitality Law

New Limits Emerge on Refund Fees, Card Surcharges and Personalized Pricing

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Hi there - welcome back to the *Regulatory Check-In*!

This week's roundup covers developments across consumer protection enforcement, credit card surcharges in Australia, surveillance pricing, more on DEI contracting, and key government contracting policies to watch in the second half of 2026.

Hotel Booking Platforms Pay $1.1M Over Deceptive "Refund Protection" Fees: Two hotel booking companies, Lexyl Technologies LLC and Bookonline.com LLC, agreed to pay nearly $1.1 million to resolve claims from Washington State's attorney general that they deceptively added a "refund protection fee" to users' reservations. If you operate or partner with online booking platforms, this is a reminder that state AGs are actively policing add-on fees, especially those pre-selected/pre-check marked or bundled into checkout flows without clear, affirmative consumer consent. Review your platform partnerships and any ancillary fee structures now.

Australia's Card Payment Reform: Australia is banning credit card surcharges effective October 1, 2026. Many banks are responding by gutting the credit card perks that credit card surcharge revenue funded, including free travel insurance. An estimated 39% of Australian travelers rely on their credit card for travel insurance and don't take out separate policies. For travel companies operating in the Australian market, the takeaways are: (i) expect more guests arriving without coverage, and (ii) if you currently surcharge guests paying by credit card, that must stop by October 1.

New Jersey Bans Surveillance Pricing for Groceries: New Jersey's governor signed legislation on July 23 making it illegal to use pricing strategies that determine the cost of groceries and food products based on consumers' personal habits including biometric, genetic, and protected class information. The concern here is that retailers could use data like facial recognition (to infer demographics, mood, or shopping frequency), fingerprint-linked loyalty profiles, or genetic data (potentially gleaned from third-party health or DNA services) to dynamically adjust what individual consumers are charged. New Jersey's law draws a hard line: none of these data points can be used to set individualized grocery prices. This is part of the same surveillance-pricing wave we've been tracking (New York's One Fair Price Act, AHLA's carve-out wins for hotel discount programs). While the New Jersey law is food-focused, the broader trend of banning data-driven individualized pricing continues to build momentum state by state. Hospitality operators should continue to watch for similar restrictions expanding into lodging and travel.

States Challenge DEI Executive Order's Contractor Requirements: Nineteen states and the District of Columbia are urging a Maryland federal judge to vacate federal agencies' implementation of President Trump's executive order requiring government contractors to certify they won't engage in "racially discriminatory" DEI activities. This is the latest escalation in the sequence we've been tracking since EO 14173 revoked the longstanding affirmative action framework in January 2025 - with subsequent orders adding contract-specific language, and the EEOC rescinding its decades-old affirmative action guidance. The compliance landscape remains actively contested and confusing. Hospitality companies should be reviewing their DEI certification language as well as monitoring their DEI training or program for compliance.

Government Contracting Policies to Watch in 2026: On May 7, Department of Defense issued a proposed rule that would, for the first time, extend foreign ownership, control, or influence (FOCI) disclosure and mitigation requirements to unclassified defense contracts and subcontracts exceeding $5 million - at any tier. Until now, FOCI obligations have been limited to contractors holding facility security clearances for classified work. The proposed rule would require covered contractors and subcontractors to disclose beneficial ownership and foreign interest information to maintain "eligible" status before contract award and throughout performance. For hotel companies with foreign parent entities, significant foreign investment, or foreign beneficial owners that hold or bid on DOD lodging contracts at that $5M threshold, this means new pre-award vetting, ongoing reporting obligations, and potential mitigation measures that could delay awards or require structural changes.

Until next time.

Hotel Booking Cos. Ink $1.1M Deal To End Wash. AG's Suit
August 1, 2026 via Law360
Hotel booking companies Lexyl Technologies LLC and Bookonline.com LLC agreed to pay nearly $1.1 million to resolve claims from Washington's attorney general that the platforms deceptively added a "refund protection fee" to users' reservations, according to a settlement announced Friday.

Card Payment Reform Puts Travel Insurance Distribution Under Pressure
July 27, 2026 via Insurance Business Magazine
A structural shift in Australia's card payments system is set to disrupt one of the travel insurance sector's most significant distribution channels, with regulatory changes taking effect October 1, 2026, creating conditions that could …

Sherrill Signs NJ Surveillance Pricing Ban
July 23, 2026 via New Jersey Biz Daily
As part of a law signed July 23 by Gov. Mikie Sherrill, the state made it illegal to use any pricing strategy that determines the cost of groceries and other food products based on consumers' personal habits, including biometric, genetic and protected class information.

States Seek Win Over Trump Admin In DEI Contracts Dispute
July 22, 2026 via Law360
Nineteen states and the District of Columbia are urging a Maryland federal judge to vacate federal agencies' implementation of President Donald Trump's executive order requiring government contractors to agree that they won't engage in "racially discriminatory" diversity, equity and inclusion activities.

Gov't Contracting Policies To Watch In The 2nd Half Of 2026
July 22, 2026 via Law360
The Trump administration's final rule expanding foreign ownership requirements to more than 37,000 defense contractors and subcontractors and the Pentagon's review of the second phase of cybersecurity requirements headline policy initiatives that …

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