



Interactive Travel Services Association

Why Airline Fees Must Be
Transparent to the Traveling Public

OMB Meeting on DOT Docket No. 2010-
0140

March 30, 2011

The Setting: Travel Costs have been “Unbundled”

- In the past few years, airlines have dramatically “unbundled” their fares, shifting a large percentage of travel cost to fees for ancillary services that used to be included in base fares: \$9.2 billion in fees collected in 2010.
- Over 50% of consumers rely on the comparative pricing services offered by independent travel agencies to book air travel.
- Price is the key decision factor for consumers. For comparative shopping to work, consumers need to see the total price (fares + fees) on an “apples-to-apples” basis, upfront.

The Problem: Airlines Are Not Disclosing Ancillary Fees

- ITSA has no objection to airline unbundling practices if not used to distort competition and deceive consumers. The problem is not the fees themselves, but the consistent non-disclosure of fees since unbundling has become the norm for most major airlines.
- Specifically, the fees are not adequately disclosed on airline websites (as DOT has recognized), and not made available in a useful way, if at all, to the GDSs/travel agency distribution channel on which more than half of airline consumers rely.

The Market Cannot Solve the Problem with Self-Help

- The GDSs and agencies can't adequately cure the problem with screen-scraping airline websites or tracking airline news releases – this doesn't yield fully reliable or bookable data even if the data were available to be scraped.
- Nor would a static chart showing the fees because the fees change often and vary significantly by market and by the frequent flier status and other attributes of the consumer.

The Airlines Lack a Market Incentive to Solve the Problem

- The few major US airlines that control most traffic apparently prefer that consumers not see the total travel cost until after making a booking decision based only on fares.
- And in an increasingly concentrated airline market, no airline wishes to lead in disclosing fee data because it will appear more expensive than its competitors; a view confirmed by the CEO of Spirit Airlines in testimony last summer before Congress.

The Solution: Transparency

- DOT stated in its NPRM that it was considering “requiring that carriers make all [fee] information that must be made directly available to consumers . . . available to global distribution systems in which they participate.”
- DOT should require that fee information be made available to consumers on airline websites and through the agency channels in which the airline participates, allowing consumers to both see and book fares and fee-based ancillary services through airlines or their appointed agents.

The Final Rule

The rule should require the airlines to:

- Share the fee and price information with the independent sales channels through the same systems and in the same manner through which the airline is already distributing fare and schedule information, so that the fees can be sold as part of the travel transaction.

Fee Disclosure Will Serve the Public Interest

- DOT recognized that requiring that fees be shared with GDSs “would ensure that the [fee] information is readily available to both Internet and ‘brick and mortar’ travel agencies and ticket agents . . .” and therefore to consumers.
- Comparative shopping is only meaningful if consumers can compare total travel prices (Fares + Fees) and act on the information.

Disclosure Serves Economic Interests

- Fee disclosure/true comparative pricing will lead to economic benefits -- reduced travel costs to consumers and enhanced price competition between airlines.
- The benefits far outweigh the costs of disclosure, which is virtually nil. The airlines have already built the transmission system for fees through the airline-owned Airline Tariff Publishing Company (ATPCO). The benefits far outweigh costs.

Disclosure is Consistent with Administration Policy

- The rule we seek comports with the President's January 18, 2011 E.O. favoring "providing information upon which choices can be made by the public" and with the mild form of government regulation championed by Cass R. Sunstein and Richard H. Thaler, in their book Nudge.
- Fee disclosure is a prime example of RECAP: Record, Evaluate, and Compare Alternative Prices. The rule would nudge airlines to disclose fee schedules and formulas in an electronic way that would greatly improve people's ability to make good choices.

Fee Disclosure is Warranted by Existing Law

- Section 41712 of the Aviation Code already prohibits “unfair or deceptive” practices in the sale of air transportation by airlines and by agents.
- Failure to openly disclose fee information or share it with agents is unfair and deceptive, just as DOT found in long-established rules that code-sharing (a marketing airline puts its carrier code on another carrier that operates the flight) must be disclosed to consumers and to GDSs in which airlines participate.
- This is not “re-regulation” as some airlines have claimed, but fundamental consumer protection.

DOT is the Only Agency that Can Fix Problem

As a result of federal preemption, DOT is the sole consumer-protection agency for air travelers.

This problem cannot be resolved by the states or by the Federal Trade Commission, which has no jurisdiction over airline disclosures.

There are no Technological Barriers

- Industry standards for ancillary fee transactions are already in place through airline-owned ATPCO, which filed supporting comments.
- Fee information can be presented for sale by agents in a customized manner just as it can be presented by the airlines themselves.

A Disclosure Rule will Not Dictate Commercial Relations

- Airlines can still market their services as they wish and do business with only GDSs/agents they choose. The rule requires airlines to provide full and fair disclosure through the distribution outlets they use.
- Airline complaints about being forced by a rule to bear the cost of third party distribution are a red herring -- airlines not will only retain ample leverage to limit costs (and have been successful in reducing booking costs), but will retain the ability to avoid the agency channel altogether or do business only with those they choose to do business with.

The Rule We Favor Has Broad Support

- A July 2010 GAO Study was critical of the lack of airline fee disclosure:

“customers using online travel agencies and traditional or corporate travel agents, which together sell 60 percent of all airline tickets, cannot readily obtain and compare information on complete trip prices that include both the fare and selected service fees. This lack of information also makes it impossible for customers using online travel agencies or for travel agents using a GDS to select or make payment for optional services at the time of booking, which for many corporate customers is important for tracking payments.”

The Rule We Favor Has Broad Support

- Over 60,000 consumers who signed a petition asking for it to Secretary LaHood; consumer groups (Consumer Federation of America, Consumers Union, National Consumers League, Consumer Travel Alliance), major corporations and travel management companies, newspaper editorials, elected officials, and several airlines support the proposal. See attached excerpts from supporting comments.
- Transparency is addressed – imperfectly – in S. 223, which would require fee disclosure by airlines and their agents.
- Only a handful of US legacy airlines oppose it.

DOT Should Act

- We urge OMB to ensure that DOT gives the airline industry the necessary regulatory nudge to ensure full and fair disclosure of total prices to consumers, including through the agents they use.
- Any DOT rule that fails to do so should be sent back to the agency.

Examples of Existing DOT Airline Disclosure Requirements

14 CFR § 257.5

DOT Code-Share Notice Requirement

(a) Notice in schedules. In written or electronic schedule information provided by carriers in the United States to the public, the Official Airline Guides and comparable publications, and, where applicable, *computer reservations systems*, carriers involved in code-sharing arrangements or long-term wet leases shall ensure that each flight in scheduled passenger air transportation on which the designator code is not that of the transporting carrier is identified by an asterisk or other easily identifiable mark and that the corporate name of the transporting carrier and any other name under which that service is held out to the public is also disclosed.

14 CFR § 258.5

DOT Change of Gauge Notice Requirement

(a) Notice in schedules. Carriers holding out or operating change-of-gauge services to, from, or within the United States shall ensure that in the written and electronic schedule information they provide to the public, to the Official Airline Guide and comparable publications, and to *computer reservations systems*, these services are shown as requiring a change of aircraft.

DOT 2008 Baggage Fee Disclosure Guidance

“The Department’s long-standing policy has been to require carriers to clearly disclose significant conditions applicable to air fares. Failure to disclose such conditions has been considered an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712 and where warranted the Aviation Enforcement Office has taken enforcement action against carriers who engage in such practices. The Aviation Enforcement Office considers such significant conditions to include limiting passengers to fewer than two free checked bags of the size and weight that have generally been free on

the carrier in the past and to assessing passengers a charge in addition to the air fare for such checked baggage. Therefore, it is important that carriers provide prominent and timely notice of these baggage policies and such charges.”

14 CFR § 399.84

- The Board considers any advertising or solicitation by a direct air carrier, indirect air carrier, or an agent of either, for passenger air transportation, a tour (i.e., a combination of air transportation and ground accommodations), or a tour component (e.g., a hotel stay) that states a price for such air transportation, tour, or tour component to be an unfair or deceptive practice, unless the

price stated is the entire price to be paid by the customer to the air carrier, or agent, for such air transportation, tour, or tour component.

EXCERPTS FROM COMMENTS FILED WITH DOT ON AIRLINE FEE DISCLOSURE ISSUE

In order for this level of disclosure of ancillary fees to occur, it is essential that traditional travel agencies and online travel companies--which together account for the sales of more than half of all airline tickets purchased in the United States--have easy access to fee information. That means requiring timely and full disclosure by airlines of ancillary fees to travel agencies via the global distribution systems (GDSs) that agencies almost universally use as their source of fare information. Indeed, the recognition of the critical role that travel agencies play in air line ticket sales has spurred us to support an adjustment to the Menendez amendment to require airlines to share fee information with the GDSs in which they participate so that travel agencies will have timely access to fee information that can subsequently be shared with the public. The Department states that it "is also considering requiring that carriers make all the information that must be made directly available to consumers via proposed section 299.85 available to global distributions systems (GDS) in which they participate in an up-to-date fashion and useful format." We could not agree more with the adoption of the described disclosure requirement, and thus urge the Department to incorporate such a requirement into its final rule. *Letter from Senators Menendez, Shumer, Lamoigne, Landrieu, Wyden, Begich and Cardin*

"Travel agents and multi-airline websites that are powered by GDSs are important sources of fare information that many consumers use to shop for flights and to compare prices. It is therefore important that ancillary fee information is disclosed through these channels in a manner that is consistent with each carrier's website to avoid consumer confusion.... To protect consumers, DOT should make clear that the full-fare advertising principle applies to surcharges as well as fees, and thus airline-imposed surcharges must be included in the base fare shown in all sales and distribution channels including all GDS displays." *Southwest Airlines, Co. Comments* at 5, 7

"Spirit does not object to the Department's proposal that all ancillary fee information available on the Company's website also be made available to the Global Distribution Systems (GDS)." *Spirit Airlines, Inc. Comments* at 18.

"Air France and KLM would welcome implementation of industry standards in order to display or sell optional services and, in particular, baggage services. Displaying to the end customer the baggage price (of the first piece and then of other pieces) ensures fair competition among competitors." *Air France/KLM Comments* at 45.

We are confident that our baggage policy is transparent to passengers with information freely available and no hidden charges. We file our baggage charges

through the Airline Tariff Publishing Company (ATPCO) so that they are readily available to global distribution systems. *Virgin Atlantic Comments* at 10.

To the extent the Department considers it necessary to mandate inclusion of baggage charges in advertised fares, that requirement should only apply to fares that do not include one "free" checked bag. Moreover, any such requirement for carrier websites should apply equally to Global Distribution Systems and all other airline travel distribution channels. *British Airways Comments* at 14.

"DOT needs is an [sic] entirely new requirement that will allow travelers, both leisure and business, to search for airfares together with airline fees. The only way that this will happen is if DOT mandates that the airlines file all of their ancillary fees at the same time that they file their airfares. These fees should be filed in a data format that can be handled by GDSs and all travel agents... Surely the failure to disclose these scores of fees, now hidden from the public, on airline websites, unless one goes through the booking process; and totally hidden from consumers working through travel agents; should be determined to be a deceptive practice." *Consumer Travel Alliance Comments* at 11, 15.

"DOT should require airlines to fully disclose all fees through global distribution systems (GDSs) so that travel agencies can present apples-to-apples comparisons of air travel options to the 50% of consumers who purchase there, including those who use corporate automated booking tools provided by agencies. It is critically important that consumers understand the all in price of a ticket before a purchase decision is made and before they arrive at the airport... If an airline has decided to agree with a GDS that agents using that system can sell the airline's fares, then partial disclosure of the entire price for the services the travelers need or want by not providing the data on extra charges in an electronic and easily accessible way via that GDS is just not a defensible option. It is deceptive per se." *Business Travel Coalition Comments* at 2, 7

"The key issue is whether the airlines will be required to provide the information to consumers in a form that enables consumers to make "all in" full-price comparisons incorporating the ancillary services that interest them and most importantly to do so before they have committed to a ticket purchase. The only way this can happen is for the Department to adopt a rule requiring the airlines to make available to the GDSs the same ancillary fee content they place on their own websites and to do so in a timely and fully transactable manner... Failure to require airlines to make this information available to retailers such as travel agents through the data systems on which they are almost entirely dependent for air fare and schedule data would undermine one of the most fundamental principles on which the rulemaking, and all prior Department price-disclosure policy, is based: that consumers should have full notice prior to purchase commitment of all key prices and options that they may wish to buy." *American Society of Travel Agents, Inc. Comments* at 5-6.

Without access to this information through the GDSs, which are the main pipe through which we obtain fare information, our capacity to accurately counsel our corporate clients about airline prices and contracts will be destroyed. Travizon currently handles over 366 million dollars in airline purchases each year on behalf of our clients. *Travizon Comments*, at 1.

Fares Quoted v. Actual Cost for an Easter Weekend Flight Washington, DC to Boston, MA with Two Bags and Extra Legroom

travelocity

Home Vacation Packages **Flights** **NO FEES** Hotels Cars/Rail Cruises Travel Deals Activities Experience Finder™

Search Travelocity

Step 1: Select a Departing Flight From Washington, DC to Boston, MA
Fri Apr 22, 2011 - Sun Apr 24, 2011 | 1 Adult | [Change Your Search](#)

Flights Starting at \$128
Total \$149

Alternate Airport from: **\$98**
Total \$119

Flight + Hotel 2-Nights from: **\$254**

Reset Filters

Filter Your Results

- By Number of Stops
- All Flights
- Non-Stops

Important Information
Information about your flight results
• Flights departing close to your preferred time are shown below

Lowest Fare Summary

By Departure Time By Airline

Airline	Fare	Total
AirTran Airways	\$128	Total \$149
Delta Air Lines	\$133	Total \$154
United	\$133	Total \$154
JetBlue Airways	\$138	Total \$159
Continental Airlines	\$148	Total \$159

To Show Original Results: [Reset Filters](#)

Sort the Flights Shown Below by: **Price (Low to High)**

Actual Cost

Cheap Flights!

JetBlue: \$138 + \$90 = \$228

Delta: \$133 + \$120 = \$253

Airtran: \$128 + \$130 = \$258

Continental: \$148 + \$120 = \$268

United: \$133 + \$158 = \$291

Argentina

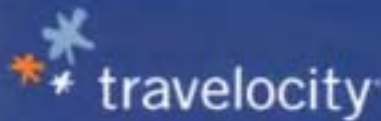
Note: United legroom is an estimate based on a similar length trip, and Continental's legroom fee was not included, as neither airline discloses its fees for that option, and Continental's could not be estimated. Delta does not make that option available to fliers.

Your Flight to Los Angeles International (LAX)

Departing: Mon, Dec 8 - Returning: | 1 Adult
[Change Your Search](#)

Advanced Search Options

- Anytime Itinerary changes
- Seat selection
- Premium seat selection
- First checked baggage
- Second checked baggage
- Lounge access



Your Search
 Depart Mon, Dec 8

	Alaska Airlines	United Airlines	Delta Airlines	US Airways	American Airlines	Northwest Airlines	Continental Airlines
Nonstops Only 184 flights	\$389 <u>Fare \$389</u> 48 nonstops	\$287 <u>Fare \$287</u> 19 nonstops	\$285 <u>Fare \$245</u> 22 nonstops	\$319 <u>Fare \$319</u> 28 nonstops	\$288 <u>Fare \$233</u> 29 nonstops	0 nonstops	0 nonstops
All 239 Flights displayed below	\$389 <u>Fare \$389</u>	\$287 <u>Fare \$287</u>	\$350 <u>Fare \$190</u>	\$289 <u>Fare \$249</u>	\$288 <u>Fare \$233</u>	\$241 <u>Fare \$241</u>	\$648 <u>Fare \$64</u>

Select Departing Flight for Mon, Dec 8 239 flight options: 1 - 25 | 26 - 50 | 51 - 75 | 76 - 100 | 101 - 125 | 126 - 150 | 151 - 175 | 176 - 200 | 201 - 225 | 226 - 239

Airline	Departure Time	Arrival Time	Total Travel Time	Roundtrip Price	Fees that apply:
American Airlines Flight 34	08:45am Los Angeles International (LAX)	05:00pm John F Kennedy International (JFK)	5Hrs 15mins - Nonstop	\$288 per person Fare \$233 Select	Seat selection: \$15 1st Baggage: \$15 2nd Baggage: \$25
Delta Airlines Flight 84	06:30am Los Angeles International (LAX)	03:04pm John F Kennedy International (JFK)	5Hrs 34mins - Nonstop	\$289 per person Fare \$249 Select	Seat selection: \$20 1st Baggage: \$15 2nd Baggage: \$25
V-Bird Airlines Flight 507	07:30am Los Angeles International (LAX)	03:59pm John F Kennedy International (JFK)	5Hrs 29mins - Nonstop	\$344 per person	Seat selection: \$20