

July 29, 2014

Dear Members of the Senate Commerce Committee,

The consumer groups appended to this letter write to inform you that H.R. 4156, the Transparent Airfares Act of 2104, was passed in the House yesterday by voice vote in response to airlines' objections to a 2011 U.S. Department of Transportation (DOT) rule that requires airlines to prominently display total ticket prices in advertising and in Internet displays, including government taxes and fees. We are attaching a previous letter to you outlining overall concerns with this legislation.

H.R. 4156 would effectively reverse that DOT rule and undermine DOT consumer protections by resurrecting a misleading and deceptive advertising practice that consumers have only recently been protected from. The bill would allow lower base ticket prices to be highlighted first and foremost, thus diminishing transparency by permitting total ticket prices and government taxes and fees to be disclosed merely in a manner that "clearly presents the information to the consumer," according to the proposed legislation.

The most pernicious consumer consequences of H.R. 4156, however, are with regard to its Internet advertising and solicitation provisions. Airlines would be free to conspicuously display "come-on" lower base ticket prices on initial screens and then dribble out information about the real, higher total ticket prices, including government taxes and fees, on other parts of their websites through a "link or pop up...that displays the information in a manner that is easily 'accessible and viewable' by the consumer." Consequently, consumers would not have the ability to compare full fares including mandatory taxes and fees.

This represents an open invitation for a return to unfair and deceptive marketing practices that were widespread before DOT took action in 2011 to protect consumers. It is an advertising trick often called "drip pricing." Consumers do not object to airlines also disclosing government taxes and fees (which enable essential airline infrastructure, safety and security), but they want first to be told the all-in price of air travel so they know the real best options they should consider.

We trust that you will stand with consumers and reject any request that a companion bill be considered in the Senate.

Sincerely,

Association for Airline Passenger Rights
Business Travel Coalition
Consumer Federation of America
Consumers Union
Ed Perkins, Consumer Advocate
FlyersRights.org
National Consumers League
Travelers United (formerly Consumer Travel Alliance)
U.S. PIRG

(See an attached side-by-side comparison of the DOT rule and H.R. 4156.)

Attachment

21 April 2014

Committee on Commerce, Science and Transportation
United States Senate
Washington, DC 20510

Dear Member, Senate Committee on Commerce, Science and Transportation,

As organizations committed to protecting consumers' rights in the marketplace, we write to you regarding H.R. 4156, "The Transparent Airfares Act of 2014." We urge you to oppose any effort to replicate legislation similar to H.R. 4156 in the Senate. This legislation is blatantly anti-consumer and serves no purpose, in our view, other than to mislead consumers about the real price of airfare. H.R. 4156 would essentially reverse the 2012 Department of Transportation (DOT) Full Fare Advertising Rule, a consumer protection law that mandated airlines to advertise tickets at the price that the consumer will pay.

After suffering multiple defeats in the courts, the airlines have now turned to Congress to pursue legislation that obscures - rather than makes transparent - true airfares. This is also an instance when both business traveler groups and consumer organizations agree that this is a bad bill. H.R. 4156 was rushed through the House Transportation and Infrastructure Committee on April 9, 2014. There were no public submissions or debate. There was no hearing.

H.R. 4156 would result in the classic "bait and switch" for consumers who believe they are purchasing a ticket at one price, only to find out at the last moment that the price is much higher. The airlines have claimed that current advertising regulations hide government fees and taxes from consumers, however under the current DOT Full-Fare Advertising Rule, airlines can already disclose what portion of the ticket price goes to government taxes and fees. H.R. 4156 would allow the airlines to conceal their own extra fees and charges until the last moment before consumers purchase their ticket. This would be especially problematic on the Internet, where it might require extra clicks to obtain full price information.

The airlines also claim that consumers are clamoring for these revisions to the current advertising model. That seems unlikely, since we know of no consumer groups who are advocating for this law. The airlines also claim that no other products are advertised on a full price basis. Actually, federal excise taxes are commonly included in advertised prices for gasoline, tobacco and alcohol.

If consumers cannot easily find the full-fare price of a ticket, they cannot shop for the best deal. We strongly suggest a bill that would require all airline fees and surcharges to be revealed, whether consumers choose to book online or offline, and directly through airlines or via third-party ticket sellers. This legislation would undo years of hard work by advocates to ensure that consumers are not duped when purchasing airfare. Transparency cannot be achieved through confusion. We urge you to oppose this anti-consumer legislation.

Sincerely,

Linda Sherry, Consumer Action
Rachel Weintraub, Consumer Federation of America
Ellen Bloom, Consumers Union
Ira Rheingold, National Association of Consumer Advocates
Sally Greenberg, National Consumers League
Robert Weissman, Public Citizen
Edmund Mierzwinski, U.S. PIR

U.S. Online Airfare Presentation Comparison

Under 2011 U.S. DOT Airfare Disclosure Rule

Required⁽¹⁾

Total Airfare: \$125 (one-way)

Optional⁽²⁾

Government taxes: \$8
Government fees: \$17
Base airfare⁽³⁾: \$100

(1) Total airfare must be displayed prominently.

(2) Government taxes and fees permitted to be listed so long as they are less prominently displayed than total airfare.

(3) No requirement preventing airlines from including base airfare if displayed less prominently than total airfare.

Under H.R. 4156

Allowed⁽⁴⁾

Base Airfare: \$100 (one-way)

Required⁽⁵⁾

Government taxes (pop up or [link to another page](#))
Government fees (pop up or [link](#))
Total airfare (pop up or [link](#))

(4) Base airfare conspicuously displayed on initial screen.

(5) Total airfare, including government taxes and fees, must be displayed, although this can be done through a link or pop-up...in a manner that is easily 'accessible and viewable' by the consumer."