

**BEFORE THE
OFFICE OF THE SECRETARY
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, DC**

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In the matter of)
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ENHANCING AIRLINE PASSENGER) **Docket No. 2010-0140**
PROTECTIONS)
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**COMMENTS OF
CONSUMER TRAVEL ALLIANCE**

Mr. Charles Leocha
Director
Consumer Travel Alliance, Inc.
PO Box 15286
Washington DC 20003
(202)713-9596
www.consumertravelalliance.org
leocha@consumertravelalliance.org

Sept. 20, 2010

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The Consumer Travel Alliance (CTA) is a nonprofit, nonpartisan organization that works to provide an articulate and reasoned voice in decisions that affect travel consumers across travel’s entire spectrum. CTA’s staff gathers facts, analyzes issues, and disseminates that information to the public, the travel industry, regulators and policy makers. CTA was founded by longtime travel journalists Charles Leocha, former MSNBC travel guru and author of *Travel Rights*, and Christopher Elliott, ombudsman for National Geographic Traveler and author of travel columns for Tribune Syndicates, MSNBC.com and the Washington Post syndicate.

CTA is inspired by the sweeping efforts of the Department of Transportation to enhance consumer protections across the board in the airline transportation world. These proposed actions covered by the June 8, 2010, Notice of Proposed Rulemaking (“NPRM”) issued in this proceeding and published at 75 Fed. Reg. 32318, are the most significant action in terms of passenger rights since airline deregulation.

Though safety has always been the top priority for Department of Transportation (DOT), passenger service has historically been left up to the airlines. Other than minor regulations for lost luggage and denied boarding compensation, the DOT has largely left treatment of passengers up to the airlines. In the old days prior to deregulation, when passenger service was the only way to compete, passengers were served well, but airlines suffered. In this new world of open airline competition, passengers seemed to have slipped into an area where they are treated as no more than a profit center or another form of cargo.

After a decade of continued complaints and a particularly egregious series of tarmac delay incidents, Congress finally took up the banner of airline passenger rights. This congressional interest, months of lobbying by consumer advocates and a frenzy of media focus on these tarmac delays resulted in action by the Department of Transportation in December of last year to regulate tarmac delays and restrict acceptable delays to three hours.

For the first time, the passengers and their wellbeing were being considered first.

The massive proposed fines for tarmac delays created a remarkable shift in the airline state of mind. Finally, human beings began to come first. As noted by the airlines during their decade of failed "Customer Commitments," the tarmac-delay problem was indeed statistically small. However the overarching idea of making the passenger condition the focus of actions was huge.

The statistics from the first three months of operations under the new DOT regulations seem to prove DOT's approach successful. Tarmac delays have been reduced by more than 90 percent. The predictions of the airlines that this was a manageable task have been proven true. They just needed the encouragement to do the right thing provided by the threat of massive DOT fines.

This current NPRM extends those tarmac-delay protections and adds dramatically to consumer protections. Interestingly, most of the actions suggested by DOT in this proposed rulemaking deal with improving communication and information passed between the airlines and their customers. Just as the airline culture developed to treat passengers as a form of cargo, the airlines have, over the past few years, begun to withhold information from their passengers. We see this in poor communications during delays and hidden airline fees among other areas.

As CTA deals with each of the sections of this NPRM, we will reprise this theme of communications and better information. Only with information and communication can passengers make informed decisions in their air travel choices and plans. Plus, airlines have more incentives to offer passengers even more appealing options. And potential calls for reregulation will be quelled.

1. Tarmac Delay Contingency Plans

CTA fully supports the expansion of the tarmac-delay rules to regional airlines, to smaller airports and to foreign carriers.

With the expansion of code-shares and with the antitrust immunity granted to airline alliances, there should be no difference between flights operated by U.S. or foreign carriers. In fact, almost all foreign carrier flights have passengers flying under U.S.-carrier flight numbers due to prevalent airline code sharing. Once

carriers sign onto an airline alliance agreement with antitrust immunity, they must all be treated as one when it comes to DOT regulations.

Our organization strongly supports the NPRM provision that the carriers communicate with their passengers on a regular basis.

Unfortunately, many of the miscommunications to passengers are due to the lack of information passed *within* the airlines themselves. Many times the aircraft crew does not have the updated information to pass along to passengers. Requiring the carriers to inform passengers of the status of delays will necessitate a change of the airline's internal communications systems during crises.

Further, CTA also supports the requirement that carriers inform passengers during delays while the aircraft is at a Jetway with its doors open that they may choose to deplane at any time either to leave the flight to be rebooked on another, to cancel their flight and get a refund or simply to stretch their legs. Prior to closing the door and taxiing onto the runway, airline staff should inform the passengers that there may be further delays on the tarmac and offer passengers an option to deplane.

Rules must be promulgated by CBP and TSA that will allow passengers on international flights forced to land at an airport without facilities to process incoming international passengers to not be stranded. These rules must include the option of passengers to deplane and remain in a secure portion of the terminal with adequate toilet and operating food facilities. Airports of all sizes should designate secure areas that can be created on an emergency basis.

2. Tarmac Delay Data

CTA fully supports the collection of more detailed data concerning the cause of tarmac delays should the airlines continue to claim major problems with the regulation as it now stands. Again, the purpose of this section of the NPRM is a collection of data to provide better information with which to under the tarmac-delay problem.

The methods of collection and analysis of this data is beyond the capabilities of CTA to determine. Hopefully, the data will lead to a discovery of what leads to tarmac delays. However, as the airlines have said repeatedly over the past decade, the problem is statistically insignificant, perhaps the change in emphasis to passenger protections will easily solve the tarmac delay problems.

Evidence of delays over the first three months of operation under the December regulations seems to indicate that airlines were correct about their ability to handle the tarmac-delay problems and that they have been taking effective corrective action. It seems that the threat of massive penalties proved to encourage a change of how passengers were treated during periods of unexpected weather.

Should changes in airline procedures and mindset render the plague of tarmac delays moot, collection of data would no longer be necessary.

3. Customer Service Plans

Again the focus on this section of the NPRM is communication between airlines and passengers. CTA stands firmly with DOT in its current rules and minimum standards already published last December. We also support expanding the minimum standards as proposed in the NPRM.

Again, with the expansion of code-shares and with the antitrust immunity granted to airline alliances, there should be no difference in passenger rights on flights operated by U.S. or foreign carriers. In fact, almost all foreign carrier flights have passengers flying under U.S.-carrier flight numbers due to prevalent airline code sharing. Once carriers sign on to an airline alliance agreement with antitrust immunity, they must all be treated as one when it comes to DOT regulations.

At the very minimum, foreign carriers operating as members of any international airline alliance must be included in these DOT regulations. They have a choice to leave the benefits of the alliance, however when joining together and aggressively marketing code-share arrangements they put themselves under whatever rules are promulgated by the DOT.

CTA notes that these proposed minimum standards for customer service plans are focused on communications between airline and passenger. None of these proposals will force an undue hardship on airlines. In fact many airlines already abide by these practices. None of the airlines already following these rules has been forced into bankruptcy by these rules. Mandating that all airlines follow these rules is justified.

CTA makes special note of

- (4) Allowing reservations to be held at the quoted fare without payment, or cancelled without penalty, for at least twenty-four hours after the reservation is made

This provision, already part of many airline contracts of carriage, should be required in all airline contracts of carriage and should be made clear by the airlines and their ticket agents.

With regards to delivering baggage on time, airlines now have a bigger burden because they are collecting fees for transporting baggage, similar to collections from other package delivery operations. Those organizations such as UPS, FedEx, and the USPS can all track their packages and some guarantee delivery within different timeframes. There is no reason that airlines could not provide similar tracking services.

At the very least, airlines should be required to refund any baggage fees paid when the bag is not delivered within 30 minutes of arrival at the airport gate. Further penalties should be proposed should the baggage not be delivered to the passenger within 12 hours of arrival and in the case of international flights, 24 hours.

Airline should be required to clearly state what their policy is for purchasing replacement clothing and effects and what the limits on reimbursement will be. The airline should be required to notify all passengers, whose luggage is lost or delayed, of these rights, in writing, when they fill out their lost luggage reports. These questions are some areas where airline passengers facing lost luggage issues face maximum confusion, have the least information and rarely are informed by the airlines of their lost luggage policies regarding purchasing replacement items or renting them.

With regards to refunds to nonrefundable tickets, all passengers should have a path to refunds should the airline not be able to fulfill its obligation. CTA realizes that the norm for airlines has always been a requirement to get a person from Point A to Point B and that the timeframe is not defined. However, in the world of non-refundable ticketing, shorter vacations, business travel and connecting flights this rule must be modified to acknowledge that one size not fit all. We feel a rule based on those time lines may be considered fair. The proposal mentioned by DOT in the rulemaking — 3 hours be considered a significant delay on flights of two hours or less and 4 hours a significant delay on flights of more than two hours — seems reasonable.

Those timelines should trigger the ability of a passenger to get a full refund of their airline ticket or right to reschedule their flight within one year of the incident without change fees or any restrictions. That would protect consumer interests and allow the airlines to retain the revenues. The ability of the passenger to use the ticket as a full fare ticket would serve as a penalty to the airline.

With respect to notifying passengers aboard aircraft about delays, see our remark above in Section 1. This problem is larger than only informing passengers. The airlines need to develop methods of notifying its own personnel in a timely manner. If the airlines can solve the problem of notifying their own personnel about causes for delays and expectations of take-off times, then notifying passengers every 30 minutes or so, seems reasonable.

As stated previously, passengers should be informed that they may deplane anytime an aircraft is parked at a Jetway with its door open. They must be warned to stay within a certain distance of the boarding gate, but must be allowed to use restroom facilities and purchase food if it is available.

Regarding the definition of prompt refund when such refunds are due, all airfare charges, taxes and all optional fees associated with stated flight must be refunded in the event of service cancellation or excessive delay. If the flight is canceled or

delayed beyond a certain time limit (see remarks above regarding nonrefundable tickets) the total ticket cost—airfare, taxes and all optional fees—should become refundable.

Again, with the expansion of code-shares and with the antitrust immunity granted to airline alliances, there should be no difference passenger rights on flights operated by U.S. or foreign carriers. In fact, almost all foreign carrier flights have passengers flying under U.S.-carrier flight numbers due to prevalent airline code sharing. Once carriers sign onto an airline alliance agreement with antitrust immunity, they must all be treated as one when it comes to DOT regulations.

At the very minimum, foreign carriers operating as members of any international airline alliance must be included in these DOT regulations. They have a choice to leave the benefits of the alliance, however when joining together and aggressively marketing code-share arrangements they put themselves under whatever rules are promulgated by the DOT.

CTA is comfortable with the current DOT reporting requirements of flight delay and cancellation data. The private industry can come up with more granularity of these reports and offer it as a differentiating factor on websites or to travel agents. DOT need not add regulations in this area. The market will prevail.

4. Contracts of Carriage

CTA applauds the DOT efforts to force airlines to include contracts of carriage on their websites. CTA does not support the inclusion of contracts of carriage only in the form of a pdf file. This makes it impossible to view on most smartphones and requires an extra step for consumers.

- The full contract of carriage should be displayed as a normal web page.
- The contract of carriage must be identified prominently on the airline website's home page. Only having it listed in the site map or within FAQs is not enough.
- Airlines should be required to develop a CoC logo and display it on every page of the airline website.

A link to the DOT complaint page should be identified on every airline website (foreign and domestic) and online travel agency website so that consumers can access the complaint form with one click. The URL for the DOT complaint page together with the appropriate airline customer service contact information should be printed on every boarding pass for every domestic and international flight. This will insure that passengers know exactly where they turn for help with solving problems encountered during their travel and reporting customer service lapses.

Code-sharing rules and regulations should be clearly spelled out in the contract of carriage. With the advent of airline antitrust immunity agreements and airline alliances, code-share questions are only going to increase. Which airline's contract of carriage prevails, the carrier that sold the ticket and under whose flight number the transportation is provided, or the actual transporting carrier? These questions become more important on international flights where relatively generous U.S. carrier carry-on and checked bag rules and others come into conflict with more stringent rules of European and Asian carriers.

As noted by DOT in its rulemaking, the airlines are not publishing their contingency plans and customer service plans in their contracts of carriage. This should be mandated. Experience has shown that the natural inclination of the airline management is to provide the least information possible rather than clearly notify consumers of airline policies and rules.

Consumers are already disadvantaged by having the contract of carriage only available online and difficult to access during the buying transaction. With the loss of paper tickets, even the abbreviated contract of carriage summary and much of the information once available is now lost to consumers.

Since the contract of carriage is the defacto contract between passenger and airline, the airlines who have the benefit of total control of the contract must be required to include every nuance and rule within its contract of carriage. The contract of carriage should be required to be written in clear understandable language and not littered with complex legal wording that requires legal interpretation.

5. Response to Consumer Problems

Since many foreign carriers have effectively closed their offices here in the U.S., American passengers are often frustrated when trying to deal with travel problems encountered when flying foreign carriers.

U.S. airline customer service personnel should be responsible for handling any international alliance partner complaint. There should be a clear formal way to contact every foreign carrier through the Internet or by phone to deal with problems and questions. Those contacts must be clearly noted on the homepage of the airlines in questions and on a customer contact page of every airline alliance partner.

6. Oversales

CTA agrees with DOT that denied boarding compensation (DBC) and oversold rules need to be revisited. The penalties should be increased and then tied to the Consumer Price Index (CPI) as suggested by DOT.

Our members have reported that airlines have evidently been bumping lower-fare passengers in favor of full fare passengers and elite members of frequent flier programs. Sometimes taking a last-minute full-fare passenger is worth far more profitable to the airlines than transporting a deep-discount passenger who has been holding a seat reservation for months. This should not be allowed.

A workable solution to this would be that all flight vouchers offered to passengers who are denied boarding be the equivalent of a full fare ticket with no restrictions. Passengers could choose to accept the \$650/\$1300 cash payment or receive their voucher for a full fare ticket for future use. This would discourage airlines from substituting higher fare passengers for lower fare passengers.

These denied boarding rules must be made available in writing and verbally by the airline agents to all passengers even those volunteering to be “bumped” *prior* to negotiating with them. CTA agrees with DOT that passengers must also be informed of the airline procedures for selecting those to be “bumped.” This will give them an idea of whether they are in danger of being denied boarding or are making a decision to become a volunteer freely. These rules and procedures should also be posted on the airline website for that airline and every airline with which the airline operated under code-share arrangements.

Current DBC rules give airlines an exemption if there is a change of aircraft. If that change is because the airline issues such as maintenance or delayed crews, there should be no exemptions.

Passengers must also be clearly notified on which flights they can be guaranteed a future seat and when it is expected to arrive at the destination. Passengers must be notified of all of their rights, not only those selected by the airlines.

CTA supports extending the denied boarding compensation to “zero fare tickets such as frequent flier tickets and consolidator tickets. The CTA suggestion of having all flight vouchers issued without restrictions applies to passengers holding these kinds of tickets as well.

Simple monetary incentives in this case do always work since the airlines have devised a ticketing structure that involves wildly divergent prices for similar seats.

Another alternative that should be explored would be an auction system to encourage passengers to give up their seat on an aircraft. Such systems have been reported to work and have been used in the past here in the U.S. on airlines.

All flight segments operated under the aegis of a major airline should be included in these DBC rules, regardless of the size of the aircraft.

7. Full fare advertising and
8. Baggage and Other Fees and Related Code-Share issue

CTA chooses to deal with these two sections as one, since there is much overlap between the two. CTA starts by proposing a ban on any opt-out provisions on any airline website. Opt-out provisions should be deemed deceiving practices.

CTA is in full agreement that Full Fare Advertising should be the rule, however, with the proliferation of airline fees and the advent of penny airfares a “full fare advertising” rule that requires/allows an airline with a penny airfare to advertise such a fare only with added taxes and requires government fees is a joke. Such disclosure to consumers is worthless.

Imagine a full page of airfare results from a website such as Kayak.com showing all fares to every destination as 1¢. It would be foolish. Even the shaded, smaller typeface “total price” would only reflect this penny airfare with landing fees and a handful of other required government fees.

Sadly, airlines are moving toward this “penny” or “zero” airfare model. The airlines are then using airline fees to build out their revenues. It is no secret that the airlines of the world, according to IATA, last fiscal quarter billed \$3.9 billions of dollars in profits. The U.S. airlines reported that \$750 million of those profits came from baggage fees alone. Overall according to BTS U.S. airlines collected \$7.8 billion in ancillary fees in 2009. And as you know from your own statistics, these fees are growing quickly, at almost an 18 percent annual rate.

This is a portion of the NPRM that also deals with communication and information. Just as in tarmac-delay conditions when information is useful to passengers so that they know what is going on, fee information from the airlines is needed so that consumers can knowledgeably purchase airline tickets and compare prices.

Your suggestion that these fees be displayed on the airline websites will not do. The House Transportation Committee hearing memorandum showed about 100 different types of fees, which vary greatly by airline. If these fees were to be displayed on a single web page, they would be overwhelming and hence, useless to consumers. It would be a case of too much variable information to be absorbed by any normal consumer. Note: Those 100 fees were only for one airline. To do a price

comparison between two, three or four airlines, the difficulty of comparisons would become exponentially greater and totally unmanageable.

Even the airlines are facing manageability problems with their fees. That is why only baggage fees are currently displayed with any ease of discovery. They are relatively static. Other fees that vary with distance flown, level of frequent flier participation and credit card used for payment, mean that even those who have created the fees are swamped by their own creation.

The GAO study prepared for the July 14th House Transportation hearing noted fees have multiplied dramatically and that fees for new services not even envisioned as little as two years ago are already published.

CTA recognized that for the time being, airline fees are here to stay. DOT must devise a system that will allow the free market and consumers to be able to determine the true cost of travel. The solution proposed by DOT must be able to deal with fees that have not even been conceived and that may be imposed in the future.

Consumers feel nickel-and-dimed. Why? Because they are constantly surprised. Costs that are expected by the public can be anticipated and handled, but those that are unknown cause surprise and irritation. The airlines do not share their fee information in an actionable data form with travel agents for fear of being competitively disadvantaged.

A CTA survey conducted during the last two weeks of August 2010 found that 66 percent of passengers were surprised by airline fees at the airport and 65 percent said these fees caused unexpected financial strain.¹

Corporate travel managers face similar uncertainty. Corporations cannot determine the true cost of travel and accurately track these ancillary fees during travel.

Neither consumers nor corporations can engage in comparison-shopping between and among airlines when the fees are hidden.

A new approach to airfares and fees is needed.

DOT needs is an 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.

¹ Consumer Travel Alliance survey conducted among 1,396 air travelers from August 20-31, 2010

CTA proposes a solution with wording along these lines:

A U.S. or foreign carrier shall send complete and updated information on its fees for optional services for distribution through its ticket agents at the same time and in the same manner as the carrier transmits information on its fare.

The DOT mandate should not allow airlines to control any portion of their fees. The airlines have made the decision to sell their air transportation in pieces. They must tell the flying public what the cost for these pieces of travel may be. After that, how the fees and airfares are presented to the public will be out of the airlines' hands.

Once airline fees are freed from imprisonment by the airlines, online travel agencies, GDSs and thousands of software developers across the world can begin to create new and exciting passenger/airline interfaces. CTA has no idea of what form these solutions of comparing the total cost of airline travel may take.

Some entrepreneurs, like the developers of www.truprice.net, are creating new ways to present airline fees, however, they are limited by the need to scrape thousands of pages of airline sites and still they do not have transactional capabilities because useable data are withheld by the airlines. Sabre, a major GDS, has introduced a solution that once again is limited by the denial of access to the airline fees and the lack of transactions.

These airline fees must also be transactional by travel agents and corporate travel managers. There is no reason that almost 60 percent of consumers who choose to purchase airline tickets through travel agents should have to go somewhere else, the airline website, to purchase their ancillary products. A family that knows it will be traveling together and wants reserved seats and will be carrying three carry-ons and checking two bags should be able to compare prices for that service across multiple airlines and then pay for the airfare and fees at one time.

Should the airlines complain that they can't afford such a mandate be assured that their own wholly-owned ATPCO system through which they distribute airfares as often as five times a day has developed and tested an "OC" (other charges) system. It is affordable and will allow the dissemination of airline fees in a usable data format that will allow consumers to make price comparisons available on an apples-to-apples basis. Other software solutions for distribution of this data have been developed.

The current system of hunt-and-peck for fees is akin to a supermarket that has shelves full of goods with a sign that says all prices are available at the cash register. You can imagine how difficult comparison-shopping would be under circumstances such as those.

Knowing these fees is becoming more and more important when searching for the total cost of travel. Consumers armed with only airfares can find themselves facing significant additional surprise expenses. In fact, a CTA study showed that fees could add on average more than 50 percent for a typical traveler with two checked bags and extra legroom.

The Consumer Travel Alliance, a non-profit organization promoting consumer interests on travel policy issues, today released an analysis showing that hidden fees charged by airlines on popular routes can increase the base cost of an airline ticket by an average of 54 percent for a typical traveler with two checked bags and extra legroom, or by an average of 26 percent for a comparable one-bag traveler.

“Our analysis showed that the hidden fees charged by airlines now rival the cost of the tickets themselves, often without any disclosure to the consumer at the time of purchase,” said Charlie Leocha, director of the Consumer Travel Alliance. “For a family traveling in these tight fiscal times, those fees can be an unexpected shock totaling hundreds of dollars in unanticipated expenses. If airlines want to charge additional fees for their services, they should be required to disclose all of those fees through every ticketing channel, so consumers can compare complete travel costs.”

The analysis was conducted by examining the base fares and extra charges for nine major airlines for a typical October flight itinerary on four popular routes – New York–Los Angeles, Boston–Washington, Chicago–Miami, and Washington–Orlando. The analysis included just two of the many common fees now charged by the airlines: checked baggage and extra legroom.

The analysis showed:

- A typical traveler requesting extra legroom and checking two bags would have to pay an average of 54 percent more than the base price of the ticket shown on a popular online travel site at time of purchase.
- A traveler checking two bags would have to pay more than one-quarter (26 percent) of the price of the ticket in fees that were hidden at the time of the transaction.
- The amount of hidden fees charged to a typical traveler with a single bag ranged from 10 percent to 82 percent of the price of the base fare on flights examined in the analysis.
- The amount of hidden fees charged to a typical traveler with two bags ranged from 21 percent to 153 percent of the price of the base fare on flights in the analysis.

Route-Specific Findings:

New York – Los Angeles

- A traveler requesting extra legroom and checking a single bag would have to pay an average of 18 percent in hidden fees over the base price of the ticket.
- The same traveler checking two bags would have to pay an average of 36 percent in hidden fees over the base price of the ticket.

Boston – Washington

- A traveler requesting extra legroom and checking a single bag would have to pay an average of 42 percent in hidden fees over the base price of the ticket.
- The same traveler checking two bags would have to pay an average of 101 percent in hidden fees over the base price of the ticket.

Chicago – Miami

- A traveler requesting extra legroom and checking a single bag would have to pay an average of 26 percent in hidden fees over the base price of the ticket.
- The same traveler checking two bags would have to pay an average of 48 percent in hidden fees over the base price of the ticket.

Washington – Orlando

- A traveler requesting extra legroom and checking a single bag would have to pay an average of 32 percent in hidden fees over the base price of the ticket.
- The same traveler checking two bags would have to pay an average of 66 percent in hidden fees over the base price of the ticket.

Methodology:

The analysis was conducted in early July 2010 on four popular travel itineraries: New York (JFK) – Los Angeles, Boston (BOS) - Washington (WAS), Chicago (ORD) – Miami (MIA), and Washington (WAS) – Orlando (MCO). Dates used for the analysis were October 21 -25, 2010.

The analysis used the lowest publicly-available prices for a roundtrip, non-stop ticket on any of the nine major U.S. airlines that offered a non-stop route for the travel itineraries in the study: AirTran, Alaska, American, Continental, Delta, JetBlue, United, US Airways, and Virgin America. (Not every airline offered non-stop service on every route.) Data were gathered via a major online travel website and calculations were based on the base fare offered by the airline, not the additional taxes and airport fees.

Information on ancillary fees was gathered via the airline websites, SmarterTravel.com, and individual traveler or media accounts when the airlines did not make the information publicly available. Only ancillary fees associated with checked baggage and additional legroom were included in the analysis. Not all airlines currently offer additional legroom options.

Other ancillary fees currently offered by the airlines, including seat reservations, pillows/blankets, drinks, unaccompanied minors, lounge access, pets, priority boarding, upgrades, and additional loyalty program miles, were not included in the analysis.

Full fee disclosure will eliminate these kinds of surprises. And will allow consumers to once again compare the full cost of airline travel just as they used to do before the airlines began this flurry of “unbundling” only a few years ago.

CTA notes that even the solutions proposed in the NPRM only last June have now been superseded by new and even more complicated fees added during the past few months by the airlines. The newest wrinkle is that fees are now bundled and variable according to distance and market, just like airfares. These kinds of complicated fee structures make it virtually impossible for a normal consumer to compare airfares and fees between airlines.

DOT discussions of two tiers of airfares will not work. As fees become more and more mainstream, DOT needs to empower a solution that can grow with the fees and keep up with the complexity and fare confusion being created by the airlines.

CTA believes that a deceptive practice is one that will tend to deceive a significant number of consumers. 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.

Again these changes focus on sharing of information with consumers. The airlines have no right to hide their prices for airline travel from consumers.

9. Post-Purchase Price Increases

CFA strongly support this ban on post-purchase price increases. CTA supports the DOT efforts to find a way to fairly allow providers to vary prices in the case of extreme price changes. However, as noted in the NPRM such possible price changes must be very clearly explained to consumers and controlled.

10. Flight Status Changes

This is another information/communication section. It is a shame that the airlines must be directed to speak to their passengers, however, experience has shown that the airlines often fail to let confused passengers know what changes are being made and why.

Again, this lack of communications results from a poor internal airline communication protocol. CTA has reports from some travelers that often passengers with cell phone alerts learn about changes to scheduling prior to the gate agents at airports. If the airlines can pull their act together to communicate as required in sections 1 and 3, Section 10 would be easy to solve.

CTA strongly urges DOT to institute a test program of timely notifications on flight status changes for large airlines and airports. However, CTA also believes that this is a change that is working its way through the airline community even without any government mandate because of consumer demand. Once it is perfected for the larger airlines, it will be adopted by smaller airlines at minimal cost.

11. Choice-of-forum Provisions

CFA strongly endorses this action by DOT. Anything that levels the playing field when it comes to adjudicating customer service and purchased air transportation issues is a massive improvement. Consumers should be allowed to seek legal redress in any court. Federal or state, of competent jurisdiction, including a court within the jurisdiction of the passenger's residence, provided that the carrier does business within that jurisdiction. Cases should be allowed to be presented in small claims court and passenger/airline issues should not be subject to federal preemption.

12. Peanut Allergies (excluded)

13. Effective Date

CTA urges the DOT to move quickly with these changes. If the regulations are published early in 2011 or late in 2010, having them come into effect within 120-150 days will mean that they will be in place for the summer travel season.

Additional comments

These comments may be outside of the purview of this NPRM, however they are within the context of the theme of information and communication between the airlines and their passengers. And they fall somewhere under the aegis of "Contracts of Carriage." However, with the continued expansion of code-sharing arrangements and the fact that today 85 percent of international traffic is funneled through airline alliances, CTA feels that DOT should look carefully at both airline ticketing and the information provided to consumers in a world where airline ticketing is becoming more complex every day.

CTA supports an examination by DOT of the definition of an airline ticket in the new world of electronic ticketing. Much of the information needed for changes, refunds, and possible bankruptcies often no longer available to consumers.

Additionally, much of the information once included on airline tickets has simply disappeared as far as airline passengers go, though it is maintained by the airlines in a data format called a "Virtual Coupon Record (VCR)." Airlines should be required to provide passengers the complete VCR upon request. This record contains issue date, notification of stopover allowances, fare basis for each segment, breakdown of taxes and fees (needed to get refunds from various government agencies should the trip not take place), baggage allowed for each segment.

Airlines should also be required to provide full tariff information and rules on their websites without the need to go through the airline booking process. Often finding the lowest airfares requires consumers to work backwards from the rules to find flights that meet all of the ticketing rules.