

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

**Transparency of Airline Ancillary Fees
and Other Consumer Protection Issues**

Docket: DOT-OST-2014-0056

**COMMENTS OF
TRAVELERS UNITED, INC.
(FORMERLY CONSUMER TRAVEL ALLIANCE)**

JOINED BY THE NATIONAL CONSUMERS LEAGUE

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**COMMENTS OF TRAVELERS UNITED
(formerly Consumer Travel Alliance)**

Travelers United is a consumer advocacy group organized as a 501(c)3 organization. Travelers United is a nonprofit, nonpartisan organizations that works to provide an articulate and reasoned voice in decisions that affect travel consumers across travel's entire spectrum. Travelers United staff gathers facts, analyzes issues, and disseminates that information to the public, the travel industry, regulators and policy makers.

The National Consumers League (NCL) is America's oldest consumer organization, representing consumers and workers on marketplace and workplace issues since our founding in 1899. NCL is organized as a 501(c)3 organization.

Travelers United and NCL are inspired by the continuing efforts of the Department of Transportation to enhance consumer protections across the board in the airline transportation world. This long-delayed rulemaking, focused on disclosure of ancillary fees, is most welcome, as are the considerations of additional consumer protections.

Our efforts have been steadfast in attempting to allow consumers to know the full price of airline transportation, including mandatory taxes and fees as well as optional ancillary fees being offered by the airlines. Travelers United and NCL consider "shopping" to include "purchasing." These definitions become more important when we examine the planning process for travel. Consumers have a Constitutional right (see page 7) to pricing data and the ability to comparison shop.

Travelers United and NCL are concerned that the airlines have been allowed to dismantle the airfares into component parts, and worse, been allowed to vary these fees based on passenger differences. The airlines then withhold the passenger-specific and flight-specific prices for costs of airline transportation — which used to be included in airfares — from the buying public until after the airfare has been purchased.

The withholding of portions of the cost of airline transportation is deceptive. It initially allows airlines to mask the full cost of travel and, only later, reveal additional costs through a secondary buying process for carry-on and checked baggage, seat reservations, charges to use credit cards, check-in fees and other fees that are required to be paid before being allowed to board an aircraft. (See our discussion of drip pricing in section 9 of this document.)

This publication of what are in effect partial prices for airline transportation is misleading when a matrix of exemptions and exclusions to the ancillary fees are introduced. This, together with opaque ancillary fees, makes comparison shopping all but impossible.

Travelers United and NCL believe that it is only through transparent pricing and the ability to comparison shop that the free market operates. When the airlines frustrate this free market, the government needs to intervene.

Travelers United and NCL also believe that open data, in this case the unlimited and full open pricing data of airline services sold to the public, will spur innovation in the airline marketplace and its supporting information technology (IT) infrastructure.

Open pricing data will help consumers by allowing them to compare prices across airlines and, eventually, through the development of new consumer/airline interfaces. Open data will help corporations as they budget for travel costs and work with everyday mechanics of travel reimbursement for employees. Open data will also create more competition in the travel distribution system, encouraging entrepreneurs and innovators to create new platforms for selling travel through GDSs, travel agents and other channels.

Our comments highlight not only the deceptive and misleading practices of the airlines when it comes to withholding ancillary fee data, but we call attention to the damage that withholding this data does to consumers and the entire aviation industry when comparison shopping, innovation and the free exchange of ideas are stifled.

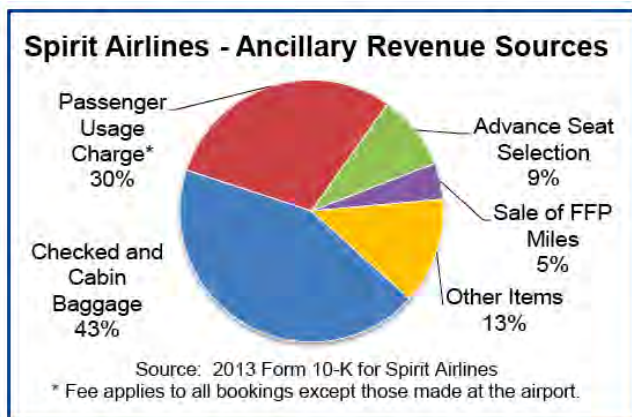
When data is opened to the public, free markets and comparison shopping work properly. And, just as importantly, IT innovation can then flourish and new ways of informing buyers and planners of airline pricing factors can develop.

A consolidated aviation industry focuses on profits — customers left with little choice

As we noted in the previous passenger protection NPRM, airlines have abandoned passenger service. The continued consolidation of the industry has served to make airlines even less inclined to focus on passenger service and to concentrate only on profits. Consolidation has distorted market forces, giving consumers fewer choices and allowing airlines to move in lockstep with ancillary fee prices. Capacity “discipline” is providing airlines a new way to restrain supply and raise prices. And, drip pricing is the norm rather than the exception in the airline industry, with ancillary fees becoming more and more important to the airline industry’s bottom

line than ever before. Today, the Department's intercession for consumers is even more important.¹

After six years of continued consumer complaints about the shrouding of the costs of ancillary fees, Travelers United and NCL believe that it is high time is for the Department to require disclosure of the most important of these fees — baggage fees and seat reservation fees.



However, for the full impact on the aviation economy and to enhance competition between airlines and between companies at the heart of the distribution system, the Department should mandate the unlimited release of all pricing data that make up today's airline transportation cost. Such a bold and courageous action will transform airline pricing, comparison shopping, the buying process and travel planning.

An examination of airline websites reveals that most major airlines do not reveal ancillary fees during the purchasing process.² Most airlines wait to reveal these dynamic, passenger-specific, route-specific fees until after the airfare has been purchased. Airlines engage in partial product sales and drip pricing by design.³ Airlines want to eliminate as much opportunity for price comparison as possible and maintain as much confusion as possible.

When it comes to purchasing through a ticket agent or another planning site, the withholding of pricing data is important to the airlines for another reason — it forces customers to visit the airline site to purchase ancillary fees prior to departure and it eliminates the ability of consumers to comparison shop on OTAs and metasearch platforms.

Ticket agents sell more than 50 percent of airline tickets. These ticket agents are the only platform that offers consumers the ability to easily and effectively compare prices across airlines. (Note: This withholding of ancillary fee data also affects the consumers' right to know full pricing by keeping this dynamic, passenger-specific, flight-specific and airline-specific information away from consumers planning vacations and business travel. By not disclosing this ancillary fee pricing data, airlines harm not only the buying transaction for air transportation, but also distort the planning process.)

¹ See Appendix A —

<http://www.ideaworkscountry.com/wp-content/uploads/2014/07/Press-Release-89-Ancillary-Revenue-Top-10.pdf>

² Appendix D - Airline screenshots

³ Economics at the FTC: Drug and PBM Mergers and Drip Pricing

http://www.ftc.gov/sites/default/files/documents/reports/economics-ftc-drug-and-pbm-mergers-and-drip-pricing/shelanskietal_rio2012.pdf

With airlines known to change airfares multiple times during the day, the necessity for consumers to return repeatedly to airline websites for missing price information (not available through ticket agents or for planning purposes) is arduous and defeats comparison shopping.

When the airlines proffer an airfare and consumers then attempt to discover the costs of ancillary fees through continued research on individual airline sites, the buyers may find after their research that the airfare has changed. In these cases there can be an argument made that airlines are engaging in bait and switch advertising when a lower price is changed to a higher price during the buying process.

The use of the basic ancillary fees carved out by DOT — carry-on baggage, first-checked bag, second-checked bag and seat reservations — should be mandated by the Department to be included in the ticket-buying process as soon as possible. The Department should also mandate the unlimited release of all pricing data.

Open data, in all of its complexity, should be available for consumers to peruse. Whether or not this ancillary-fee data can be integrated into computer systems immediately is not the concern of the Department. Merely the availability of that data (even on a “scrapable” basis) will generate new IT and software innovation that may change the passenger/airline interface and will benefit consumers and the entire airline industry universe.

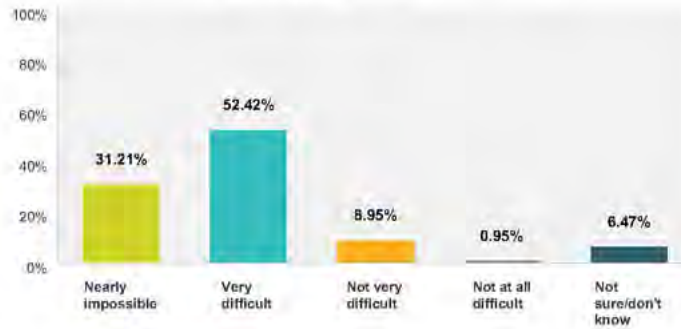
Finally, I end our introduction section, urging the Department to require **transactability** together with any rules regarding disclosure of ancillary fees. From a consumer’s point of view, it is nonsensical for the Department to mandate that the price (including airfare and ancillary fees) be posted, and then to not allow passengers to purchase what they have just selected in its entirety.

The airlines, by bifurcating their sales channels between their own proprietary websites and their ticket agents, are denying those shopping through ticket agents the full cost of travel and full service. Thus, more than half of the consumers in the US lack the ability to compare prices and the free market is undermined. Plus, when purchasing airline travel through travel agents travelers are treated often as second-class citizens by some airlines when faced with problems while traveling.

Other issues included in these comments are the statutory definition of “ticket agent,” increasing the pool of reporting carriers; expanding the pool of “reporting” carriers; requiring enhanced reporting by mainline carriers for their domestic code-share partner operations; requiring large travel agents to adopt minimum customer service standards; codifying the statutory requirement that carriers and ticket agents disclose any airline code-share arrangements on their websites; and prohibiting unfair and deceptive practices such as undisclosed biasing in schedule and fare displays and post-purchase price increases.

Q3 In recent years, airlines have added dozens of new fees for everything from window seats to sitting with your family. How difficult is it for you as a consumer to search and find the lowest cost for air travel across all airlines, including those fees?

Answers: 3,827 Skipped: 0



Answer Choices	Responses
Nearly impossible	31.21% 820
Very difficult	52.42% 1,377
Not very difficult	8.95% 235
Not at all difficult	0.95% 25
Not sure/don't know	6.47% 170
Total	2,627

Comparison shopping is a basic constitutional right

At the time of deregulation, Congress vested DOT with the regulatory authority to prohibit unfair or deceptive practices by airlines and ticket agents. This DOT authority to regulate unfair or deceptive practices is based on the consumer protection authority of the Federal Trade Commission (FTC). In FTC cases concerning regulation of the sale of such diverse consumer products as cigarettes, eyeglasses (together with optical exams), and pharmaceutical drugs, comparison-shopping rights have regularly prevailed.⁴

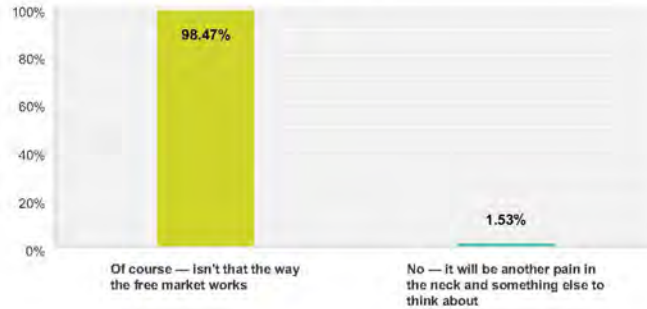
Travelers United and NCL believe that the release and disclosure of ancillary fee data so consumers can effectively comparison shop is a simple basic right. Indeed, the U.S. Supreme Court has recognized that consumers' right to receive price information is protected by the First Amendment.⁵

⁴ Part 456 – Advertising of Ophthalmic Goods and Services, 43 Fed. Reg. 23992 (1978).

⁵ *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council*, 425 U.S. 748 (1976); *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977).

Q9 Would knowing the costs of extra fees during the purchase process make comparing overall prices across airlines easier?

Answered: 2,617 Skipped: 19



Answer Choices	Responses
Of course — isn't that the way the free market works	98.47% 2,577
No — it will be another pain in the neck and something else to think about	1.53% 40
Total	2,617

[In *Virginia State Pharmacy Board v. Virginia Citizens Consumer Council*] The Court held that the citizen's interest in knowing the price of certain prescription drugs at various pharmacies outweighed the desire to maintain "professionalism" among pharmacists; to prevent customers from price-shopping, which necessarily would take them away from the care of one particular pharmacist who could monitor the patient for dangerous drug interactions; and to perpetuate the image of the pharmacist as a "skilled and specialized craftsman," which was crucial for recruiting new pharmacists.

http://en.wikipedia.org/wiki/Bates_v._State_Bar_of_Arizona#The_First_Amendment_Claim

[In *Bates vs. State Bar of Arizona*] ...the Court ruled that Arizona's total ban on lawyer advertising violated the free speech guarantee of the First Amendment. But that did not mean that states were powerless to regulate lawyer advertising at all. The Court reiterated that states were still permitted to ban "false, deceptive, or misleading" advertising by lawyers; to regulate the manner in which lawyers may solicit business in person; to require warnings and disclaimers on lawyer advertising in order to assure that the public is not misled; and impose other reasonable restrictions on the time, place, and manner of lawyer advertising.

http://en.wikipedia.org/wiki/Bates_v._State_Bar_of_Arizona#The_First_Amendment_Claim

1. Clarifying the definition of “ticket agent”

DOT’s proposed definition of “ticket agents” is welcome to the extent it would help to standardize how air travel information is presented to consumers during the buying process. With the emergence of meta-search websites and their association with traditional OTAs and the combination of meta-search sites with advertising platforms, the definitions and delineation of various kinds of air travel distribution companies may be difficult in some cases.

Travelers United and NCL suggest that the Department consider the difference between planning travel (where and when to travel and, in some cases, what airlines serve the destinations) and the specific act of comparison shopping and purchasing air transportation must be considered. However, maintaining consistency in how airline pricing is advertised and disclosed is of paramount importance.

Ticket agent rules are not onerous

DOT rules regarding ticket agents are clearly delineated in “14 CFR 399.80 — Unfair and deceptive practices of ticket agents.” Basically, the only portion of that regulation that would apply to metasearch companies would be those dealing with advertising of flights and prices as part of their metasearch functions. The following sections of the regulations do not appear to apply to metasearch companies as ticket agents — 14 CFR 399.80(d)(e)(k)(l)(m)(n).

Here are the 14 CFR 399.80 rules. None are onerous or would impair Google Flight Search or other travel metasearch websites from providing comparison platforms. All protect consumers.

(a) Misrepresentations which may induce members of the public to believe that the ticket agent is an air carrier.

(b) Using or displaying or permitting or suffering to be used or displayed the name, trade name, slogan or any abbreviation thereof, of the ticket agent, in advertisements, on or in places of business, or on aircraft in connection with the name of an air carrier with whom it does business, in such manner that it may mislead or confuse the traveling public with respect to the agency status of the ticket agent.

(c) Misrepresentations as to the quality or kind of service, type or size of aircraft, time of departure or arrival, points served, route to be flown, stops to be made, or total trip-time from point of departure to destination.

(d) Misrepresentation as to qualifications of pilots or safety record or certification of pilots, aircraft or air carriers.

(e) Misrepresentations that passengers are directly insured when they are not so insured; for example, where the only insurance in force is that protecting the air carrier in event of liability.

(f) Misrepresentations as to fares and charges for air transportation or services in connection therewith.

(g) Misrepresentation that special discounts or reductions are available, when such discounts or reductions are not specific in the lawful tariffs of the air carrier which is to perform the transportation.

(h) Advertising or otherwise offering for sale or selling air transportation or services in connection therewith at less than the rates, fares and charges specified in the currently effective tariffs of the air carrier or air carriers who are engaged to perform such air transportation or services, or offering or giving

rebates or other concessions thereon, or assisting, suffering or permitting persons to obtain such air transportation or services at less than such lawful rates, fares and charges.

(i) Misrepresentations that special priorities for reservations are available when such special considerations are not in fact granted to members of the public generally.

(j) Selling air transportation to persons on a reservation or charter basis for specified space, flight, or time, or representing that such definite reservation or charter is or will be available or has been arranged, without a binding commitment with an air carrier for the furnishing of such definite reservation or charter as represented or sold.

(k) Selling or issuing tickets or other documents to passengers to be exchanged or used for air transportation knowing or having reason to know or believe that such tickets or other documents will not be or cannot be legally honored by air carriers for air transportation.

(l) Failing or refusing to make proper refunds promptly when service cannot be performed as contracted or representing that such refunds are obtainable only at some other point, thus depriving persons of the immediate use of the money to arrange other transportation, or forcing them to suffer unnecessary inconveniences and delays or requiring them to accept transportation at higher cost, or under less desirable circumstances, or on less desirable aircraft than that represented at the time of sale.

(m) Misrepresentations regarding the handling, forwarding or routing of baggage or other property, or the loss or tracing thereof, or failing or refusing to honor proper claims for loss of or damage to baggage or other property.

(n) Misrepresentation as to the requirements that must be met by persons or organizations in order to qualify for charter or group fare flights.

What is a ticket agent in a wired world?

When this NPRM was first published, the question of the definition of “ticket agent” seemed to be almost settled regulation. However, as our organizations discussed this with consumers and with many search engines, online travel agents, online review sites and metasearch sites, questions mushroomed.

The Department in the NPRM seeks to define as a “ticket agent” any entity that arranges for or sells air transportation and “receives compensation in any way related to the sale of air transportation.” This includes cost-per-click, commissions, revenue-sharing or other compensation related to the sale of air transportation. The DOT NPRM does not take into account some forms of compensation whereby airlines may pay only on clicks that result in a purchase and not on clicks that do not result in any buying action.

DOT notes “an entity that provides a flight search tool that allows consumers to select an itinerary that can be purchased on another site and displays air transportation advertisements for which the entity is compensated on a ‘cost-per-click’ basis would fall under the definition of a ticket agent.” The department also states that an “entity that operated a Website that simply displayed airfare advertisements without actual flight search capability under its control would not be covered.”

It seems that if a firewall could be defined that would separate the world of planning travel, filled with description and advertising, from the process of purchasing travel, the role of ticket agent would be clear. However, where one process ends and the other begins is unclear.

These questions about the definition of ticket agent are significantly important. “In their May 2012 “Consumer Barometer” survey, Google, Interactive Advertising Bureau (IAB) Europe and TNS Infratest found that 81% of US internet users who had booked travel in the past 12 months had researched their trips online, while 74% of respondents had booked online.⁶

A printed newspaper or magazine that contains advertising for an airline is not considered a ticket agent; however, that newspaper in an electronic format with links back to an airline or online travel agent website may be considered a ticket agent by DOT. Even billboards now have electronic systems that allow them to interact with smart phones and tablets to send queries directly back to advertisers.

Should TripAdvisor be considered a “ticket agent” or is it merely an air travel and hotel review site that features airline and other air travel advertisements? Or, would DOT mandates regulating Google Flight Search as a ticket agent involved in the buying process be applicable to Google as a search engine and advertising platform? What is Kayak.com?

Travelers United and NCL notes, while consumers need to be protected from dealing with deceptive and misleading advertising, the business of basic web travel publishing, advertising platforms and travel planning need to be separated from services such as booking intermediaries or ticket agents. This firewall will need to be carefully defined.

Metasearch platforms and online travel agencies are the main consumer source of prices for comparison shopping.

Metasearch websites, online travel agents together with GDSs serving brick and mortar and corporate travel agents are the primary ways that consumers can compare the cost of airline travel across airlines. As far as these metasearch websites go, the need to present the same advertised price as ticket agents and airlines, as well as code-share disclosures, is paramount when it comes to the consumer’s right to being able to comparison shop. And, when it comes to interfacing with OTAs and airline websites.

Including the metasearch websites in the rubric of ticket agent is integral to providing a consistent and unambiguous comparison-shopping platform. Comparison shopping was the original intent when these metasearch travel search engines were created. Far from limiting innovation in presenting prices, the DOT rules provide a basic outline of what rules need to be followed in order to protect consumers.

The travel cycle — Dreaming, decision, planning and purchasing

The art of traveling requires several separate activities — dreaming about travel, deciding where to travel, planning the travels and then purchasing travel. Each portion of travel, where pricing is

⁶Slow and Steady Continued Gains for US Digital Travel Sales (May 22, 2013)

<http://www.emarketer.com/Article/Slow-Steady-Continued-Gains-US-Digital-Travel-Sales/1009909#sthash.zkTQ0J>
Cc.dpuf

involved, requires clear definitions and rules to allow consumers to accurately select destinations and, ultimately, purchase air transportation.

In our connected world, virtually every means of transmitting information about transportation and destinations can be linked to the Web and then directly to some kind storefront. Websites that help consumers decide where they might want to travel, and what their transportation options may be to reach those destinations, should rightly be segmented as a planning portion of the travel activity — not placed in the purchasing process.

However when websites take the next step to comparing prices (for air transportation in this case) they fall under DOT standards. Although most metasearch sites, such as Travelzoo, Kayak, Hipmonk, Google Flight Search and Skyscanner, do not actually sell airline tickets to the public, they serve as some of the most trusted and most used comparison shopping sites.

Many consumers visit online travel agents and metasearch sites to compare prices and then go to airline websites to purchase their tickets after discovering which airline provides the best deal to their destination.

Price comparisons are of enormous importance to consumers. According to IATA's *The Future Of Airline Distribution A Look Ahead To 2017*, 43% of consumers consider budget more important than going to their first choice destination.⁷

When airlines withhold passenger-specific and flight-specific ancillary fee pricing data from the public, they withhold it from both the buying *and* the planning/decision process. Making plans and dreaming about travel are just as important to the decision-making process as they are to the final purchase of an airfare or dynamic package tour where air, rental car and hotel are combined to create further discounts.

Ultimately, when airlines withhold data, they not only make it more difficult to accurately comparison shop, they hurt their own sales. As long as airlines remain in a posture of little competition and strict capacity discipline, restraining distribution of pricing data may serve the status quo. However, when airlines return to competition with each other, nondisclosure of pricing fees will hurt sales overall.

Innovation at metasearch sites, airlines and GDSs

If full pricing data is to be released, even partially (as proposed by DOT — baggage and seat reservations), it will provide an opportunity to develop software that will improve metasearch, making it even better and more compelling for comparison shopping and travel planning. Metasearch engines should embrace new pricing data as representing expanded opportunities. Of course, with this new data come challenges of dealing with more variables. However, it is by

⁷ The Future Of Airline Distribution A Look Ahead To 2017 by Henry Harteveltd pg. 11
<http://www.iata.org/whatwedo/stb/Documents/future-airline-distribution-report.pdf>

providing consumers a way to understand the variables of travel pricing and scheduling that has made metasearch engines and online travel agents so successful.

Google Flight Search and other metasearch sites like Kayak and Skyscanner are some of the most important platforms that allow consumers to compare prices across airlines. The addition of ancillary fee data will make them even more compelling. Plus, as airlines strive to create airline products that are less of a commodity, websites such as metasearch and online travel agencies become even more important to the industry as platforms that can help consumers discern differences in varied airline offerings.

The function that metasearch and online travel agencies play in providing consumers a means to compare prices across airlines is phenomenally important. The requirement that they play by the same DOT pricing, transparency and advertising rules as the rest of the traveler sales universe will become more important than ever as airlines are compelled to release more and more of their pricing data.

Travelers United and NCL believe that when airlines begin to sell their entire product line through the extended airline distribution system, they will see a spike in sales and will clamor to release even more ancillary fees and fee bundles. This has been the experience of other industries when optional fees were better disclosed, according to the Federal Trade Commission (FTC).

When mandatory and optional fees were disclosed before the choice decision, subjects were more likely to buy optional add-ons and had higher repeat purchase intentions.⁸

Allowing metasearch platforms to operate without airline fare and fee rules serves neither consumers nor the industry — innovation helps both

Having two sets of prices — one from airlines and ticket agents controlled by DOT rules and the second from metasearch sites, possibly excluding ancillary fees — in the marketplace would be unworkable. It would work against consumers and make it all but impossible for metasearch websites to interface accurately with OTA and airline sales platforms. When it comes to planning travel and comparison shopping, metasearch websites must be ruled by the same DOT pricing regulations that control travel agents and airlines.

Finding new ways to interface with the public is what metasearch and Google have always been about. That opportunity is what opening the ancillary-fee data spigot from the airlines will allow. The selling proposition and what makes each metasearch engine unique is how they present the data available.

Some ticket agents have complained of “clutter” should DOT mandate disclosure of ancillary fees. Of course, if everything remains static, computer and smartphone screens will be

⁸ Economics at the FTC: Drug and PBM Mergers and Drip Pricing -- Vicki Morwitz (New York University) page 18 http://www.ftc.gov/sites/default/files/documents/reports/economics-ftc-drug-and-pbm-mergers-and-drip-pricing/shelanskietal_rio2012.pdf

cluttered. But, technology development may allow users to choose to filter prices by airfares, or with seat reservations, or with only carry-on baggage, or carry-on with one checked bag, and so on. Screen clutter is not a problem unless users want all data displayed on their small screen. But, Travelers United and NCL are betting that with the introduction of wearable technology and new mobile platforms, ways of reducing clutter will develop as well.

Software engineers that work with metasearch and online agencies will have an opportunity to create new passenger/airlines interfaces. Mainframe-bound airlines and GDSs will also innovate to find new ways to present this new flood of data. Consumers will be the beneficiaries as customizable comparison shopping across multiple airlines using competing IT platforms becomes available.

The Department should refrain from mandating *how* this data is to be displayed. DOT's interest needs to be in the release of this data so that the aviation industry and associated IT entrepreneurs and companies can develop new ways to display and cross-reference this data so that it becomes more useful for consumers.

How to control and standardize airline “prices” in advertising

In the past, “advertising” for travel was initiated either by airlines or travel agents. Later, destinations began tourism advertising, often linking their destination information with tour operators, airlines and others. Monitoring their activities and enforcing advertising rules were relatively simple. Now, advertising ranges from links in articles imbedded in countless websites, advertising links to an individual word that crops up on millions of websites and reviews submitted by third parties, to links at the end of destination and transportation stories.

The Department is left with no other good method to monitor the advertising and display of airline costs by these countless systems other than by creating rules for the most important price- and cost-sharing platforms — all travel agents, GDSs and the newly created metasearch platforms. All of these websites and IT systems provide consumers with airline prices in a format that allows for efficient price comparison by consumers.

Consumers need complete information during the planning, advertising and purchasing processes. These issues should be made a part of the advertising rules and should be in effect whether a ticket agent or other form of advertising is involved.

Airlines should be allowed to organize their purchasing process in any way that they see fit. However, the prices for the parts of the airline transportation costs must be disclosed in their entirety wherever airlines choose to sell their services. The responsibility of complete transparency should be squarely on the shoulders of the airlines. Any kind of partial pricing meted out by airlines should be considered an unfair and deceptive practice.

This pricing disclosure should not be based on *where* the data is being disclosed or on any definition of what is a ticket agent or an advertising platform. The price of the airline ticket and its

components should be clearly spelled out for consumers and available to technology platforms wherever the airlines sell their tickets or advertise their products and wherever consumers go to plan travel.

Large companies with several divisions that might include advertising, destination information and flight search capabilities, must have the opportunity to carve out various divisions that would fall under DOT jurisdiction as “ticket agents” and other divisions that would fall under FTC jurisdiction as advertising agencies or basic online publications. This division between advertising/planning and purchasing will be a fine line in some instances, but will be necessary as boundaries are crossed between transaction-based entities and information-based companies.

Overwhelmingly, consumers indicated in a survey conducted for this NPRM⁹ that they want ancillary fee data available during the planning and purchasing process.



A firewall is needed between researching travel and purchasing travel

Travelers United and NCL support DOT’s NPRM criterion for determining whether an entity is a ticket agent. However, for larger website companies, a regulatory firewall needs to be established between, on one side, editorial content, user-generated content and advertising content and, on the other side, price comparison data and purchasing processes.

⁹ Appendix c —Travelers United Survey

In terms of individual companies, for example, with Google, the Department needs to outline a firewall that separates its Flight Search product from its general Internet search efforts. Google's various entities are an important part of the planning and decision-making process when it comes to travel. However, only Flight Search is used to compare prices, packages and assist in purchasing air transportation.

TripAdvisor.com is primarily a user-generated review site that tacked on booking capabilities. There needs to be a firewall that separates the reviews from the booking engine. As far as I know, this website does not operate a price comparison shopping engine; it is outsourced. If TripAdvisor were to develop such an engine, DOT ticket agent rules would apply. Or, if it were to contract with another company, DOT ticket agent rules would apply to the contracted entity.

Any websites that serve as important airline price or package tour comparison platforms for consumers should be considered ticket agents and be subject to any DOT pricing rules promulgated in order not to confuse consumers and ensure interoperability between their platforms and online travel agents and airlines.

Travelers United and NCL hold that rules applying to ticket agents in 14 CFR 399.80 should apply to all advertising or publication of airline ticket costs at all times, whether a part of the planning or purchasing process. However, consumers should have the ability to compare this information by airfare, baggage fees, seat-reservation fees, WiFi fees, early boarding, cancellation and change fees, and other ancillary fees. This can only happen when the airlines make public all of their pricing data.

Even if all of this data cannot be made public in a usable computer-readable format, it should be aggregated so that innovators can "scrape" the prices for various airline fees and more easily develop new ways to present these fee and fee-package options to consumers. It is only with the availability of this pricing data that fully functioning airline shopping engines can be developed.

2. Display of Ancillary Service Fees through All Sales Channels

This is the section of the NPRM that is one of the most studied and debated issues in the aviation transportation industry.

The Department noted that it has copious amounts of material to make its decision.

...the Department has met with numerous stakeholders with an interest in the distribution of ancillary service fee information and conducted an inquiry regarding current distribution models as well as the contractual and historical relationships between the GDSs and the carriers. Representatives of carriers, GDSs, consumer advocacy organizations, and trade associations, as well as other interested entities, including third-party technology developers, have met with Department staff to explain their views. They have also provided information to the Department's economists.

In the previous rulemaking, airlines were required to present a list of ancillary fees on a Web page that was linked to the homepage by a prominent link. This solution has turned out to be next to worthless.

First, the “link” to the page with the ancillary fees is often hard to find and is labeled with a misleading title like “Changes to Baggage Fees” or some variation thereof. This came about because of poor wording of the rule issued back in 2011.

Second, the ancillary fees are presented as price ranges. The airlines have long used exclusion from these ancillary fees as rewards for their frequent fliers and in some cases for users of their affinity credit cards. Presenting these ancillary services with ranges of costs serves no purpose to consumers other than letting consumers know there are ancillary fees and to meet the requirements of the letter of the rule.

Consumers need dynamic, real-time, passenger-specific, flight-specific ancillary fee data. Better put, the *aviation industry* needs real-time, passenger-specific, flight-specific ancillary fee data.

For individuals, this data will eventually allow them to comparison shop in real-time across airlines. For the industry, the availability of this data will allow software and web-design entrepreneurs to create innovative, new ways of dealing with the massive data and add competition to the distribution side of the aviation marketplace as well as the airside of the industry.

New distribution technologies

About four years ago, during the analysis of ancillary fees and transparency, the Airline Tariff Publishing Company (“ATPCO”) issued a press release entitled “Infrastructure in place to display ancillary services in an estimated 90 percent of travel sales channels.” They announced that the data could be distributed through the current system. That press release said:

ATPCO is pleased to announce that the infrastructure is now in place to display airlines' Optional Services data in an estimated 90 percent of all sales channels worldwide. This development will enable airlines to clearly communicate their service offerings to potential customers, generating interest in their services and stimulating sales. Passengers will also be able to quickly and efficiently determine their total travel costs, including any value-added services they may wish to purchase, through almost all points of sale.

"ATPCO's Optional Services, as an industry-standard solution, makes it possible for airlines to present customized and branded ancillary offerings in all channels, including the GDS-driven portals through which about 53 percent of global travelers are booking," said Rolf Purzer, ATPCO's Chief Marketing Officer.

"With the infrastructure advancements by ATPCO's system partners, the industry moves a step closer to full implementation of an end-to-end solution that will allow travelers to both shop for and purchase ancillary services in every sales location."

The state-of-the-art pricing capabilities of GDSs (using Sabre Red) and American Airlines (together with Jim Davidson of FareLogix), including the display of passenger-specific and flight-specific ancillary fees alongside the applicable, passenger-specific base fares if the needed data is provided by airlines, were demonstrated live for DOT and others at an open hearing before Advisory Committee on Aviation Consumer Protection (ACACP) on August 7, 2012).

Though the current systems seem to have the capabilities of distributing basic ancillary fee (baggage and seat reservations) data via current partners, airlines have chosen not to do so. Airlines have decided to limit their customers' ability to compare prices while they have been working to consolidate the industry. Their actions indicate an attempt to keep ancillary fee information away from consumers so that customers cannot engage in real-time, passenger-specific, route-specific price comparison shopping.

The airline restriction of data is even more pernicious when airlines require those with whom they share data to withhold data provided by other entities. This heavy-handed practice thwarts the exercise of effective comparison shopping. The airline oligopolistic power allows them to shut out other data sources.

Release of data will increase competition across airlines and among the distribution community

For the aviation industry, availability of this ancillary fee pricing data will open a new arena of competition to create the best and most consumer-friendly airline-passenger interface. Providing all ancillary fee data in real time will dramatically add to the competition in the aviation ticket marketplace and innovations in the distribution system.

According to the NPRM and numerous hearings and pleadings, the airlines believe that disclosure of ancillary fee data will empower the GDS system of airline ticket distribution through

ticket agents. Hence, the GDS and others will not have “sufficient financial incentive to invest in new distribution technologies which might ultimately provide more useful and responsive information to consumers by allowing carriers to differentiate their services from competitors.”

Even if airlines were justified in their wish for more leverage vis-a-vis GDSs — even if — that would not justify the tactic of misleading consumers by disclosing only a part of the price of travel. In short, consumers should not under any circumstances be held hostage to enhance the bargaining power of airlines, several of which have indeed demonstrated their dominance by their disregard of the wishes of their customers, both leisure and corporate.

Innovation unleashed

Travel wallet — The release of dynamic, real-time, passenger-specific, airline-specific ancillary fee data may create one of the biggest booms in online travel technology. Competing software designers will be free, for instance, to create various “travel wallets” that collect individual data to be used during the booking process. Consumers could load their frequent flier and credit card information into such a system that would efficiently be used by different online travel software firms to automatically create matrixes of the costs of travel based on the new airline reality of ancillary fee combined with frequent flier membership and credit card usage exemptions.

New entrants will more than likely come into the distribution system to take advantage of this new data stream. Mobile platforms such as smartphones and iPads have changed the IT universe. These new entrants will create new mobile data delivery platform interfaces that can provide real-time, passenger-specific information about flights across airlines. Individuals can decide how they want their data delivered — with only airfares, maybe with airfares and seat reservations, or with airfares, bags and seat reservations.

Service-specific search — Even without any DOT mandates, these software entrepreneurs can find ways to slice and dice this rich data if it is available in the marketplace. Mobile apps that find flights with WiFi, pillow and blanket fees, food options, early boarding and much more can be envisioned. Plus, these new mobile platforms will allow one-step purchase of ancillary fare products.

Wearable technology — The possibilities for interfaces with wearable technology, such as the new Apple Watch, will be exciting to see unfold if data is available to feed innovation. Every IT expert with whom Travelers United researchers have discussed these possibilities can guarantee that without the free use of pricing data with all of its permutations, there will be no such innovations in the foreseeable future if only baggage fees and seat-reservation fees are disclosed.

Shopping system development — There are very few systems that can deliver multiple recommendations that compare offers. This kind of system is different from pricing. Various shopping systems such as ITA QPX, Amadeus Master Pricer, Vayant, Sabre Bargain Finder etc. currently exist, however, none (we are told) can offer acceptable response rates with the

complexity of ancillaries airlines have created. Having the data to allow innovation may provide a pathway to a software breakthrough.

New Distribution Capability (NDC) — Even IATA recognizes that new software development is needed. The Resolution 787 developments, now moving forward with GDSs, airlines and other stakeholders, is creating new standards that can be used to build inter-travel-industry standards that will make innovation across all partners. However, pricing data is still the basic component that will allow innovation.

For all of their huffing and puffing, the airlines must realize that they do not have the software and IT prowess of the GDSs or other up-and-coming airline distribution efforts, such as the efforts of the Google Flight Search team. The main job of an airline is to run a complex flight operations system, manage logistics of fuel and materials, oversee scheduling of pilots and flight attendants, maintenance, marketing, future planning and financial strategies; not specialized software development.

New technology providers with fewer legacy equipment limitations and software development capabilities that rival those of the GDSs will be free to enter the marketplace and develop a new (and, perhaps, not yet envisioned) passenger/airline interface.

The short-sighted airline point of view that values withholding pricing data from the market is foolish. Just as the Luddites burned factories to protest technological progress, the airlines are limiting innovation because of their fear of releasing data. This close-fisted approach to marketplace data foils the airlines' own attempts at introducing more competition into the aviation distribution system and it only serves to help maintain the current distribution system that the airlines claim they abhor.

Just as Expedia, ITA Software and Priceline changed the airline/passenger interface by disintermediation, new changes in technology will open the airline ticket planning and purchasing process to new ways to transact the sale of airline transportation.

From the consumer point of view, redress of the current misleading and deceptive system of presenting partial airline flight costs is fundamental. Also, this NPRM section begs the question about **transactability** of these selected ancillary services at every point of sale where airlines choose to sell their tickets and products. Any legitimate transaction restriction is foolish since it limits innovation and the possibility of selling across millions of mobile, desktop, laptop and wearable technologies.

Q10 When buying tickets from travel agents should the full cost of travel be available to purchase at one time? Or, should consumers have to purchase airfares from online travel site like Expedia, Orbitz or Priceline; then go to the airline site to pay the extra fees?

Answers: 2,618 Skipped: 0



Answer Choices	Responses
Consumers should be able to buy airfares and pay extra fees at the same time if they choose to do so.	98.59% 2,581
I'm fine with paying for half of my airline ticket in one place and then buying the extra fees at another website.	1.41% 37
Total	2,618

Consumers are confused

The Department puts it well in the NPRM,

...as carriers continue to unbundle services that used to be included in the price of air transportation, passengers need to be protected from hidden and deceptive fees and allowed to price shop for air transportation in an effective manner.

DOT also notes, “There is no doubt about the fact that consumers find themselves confused by the litany of fees that the airlines have concocted as they ‘unbundled’ airfares.”

During the last DOT NPRM (Passenger Protections II), the Business Travel Coalition, the American Society of Travel Agents and Travelers United (then, Consumer Travel Alliance) collected more than 64,000 signatures on a petition and submitted them to the comment record. That petition asked for efficient, basic ancillary fee information in order to allow comparison of prices across airlines.

More recently, in response to the deceptively-named Transparent Airfares Act of 2014, which seeks to eliminate even the inclusion of mandatory taxes and fees in airfare advertisements, consumers protested again in record numbers through a poll launched by Travelers United through Change.org. More than 128,700 signatures have been gathered objecting to the

advertisement of misleading airfares.¹⁰ These are the same consumers who are being penalized every day while the airlines refuse to disclose prices for ancillary fees.

In a series of hearings conducted by the Advisory Committee for Aviation Consumer Protections, the consumer voice was clear — they are surprised by fees and do not feel that they are getting the full price of flying from the airlines that will allow them to comparison shop across airlines.

In another recent survey conducted by Travelers United together with Open Allies for Airfare Transparency, consumers clearly demonstrated that the current system is misleading. (Appendix B)

- More than half of air travelers (55%) said they had been surprised by additional fees after their ticket purchases had been completed.
- Two-thirds of travelers (63 percent) said that it is “very” or “extremely” inconvenient to have to take multiple steps to buy the ancillary services they need.
- Roughly half (47 percent) said it has become “very difficult” or “nearly impossible” for them to search and find the lowest fare for air travel across airlines, including fees.
- Four out of five (81 percent) said that current airline practices on fees are “unfair and deceptive.”
- The overwhelming majority (88 percent) said the DOT’s proposed rule to require airlines to share baggage and seat assignment fees is “very” or “extremely” important for travelers.
- More than 80 percent said DOT should expand the rule to cover at least one other type of ancillary fee, including cancellation fees (68 percent), change fees (64 percent), and priority boarding fees (49 percent).
- By nearly a 6-1 margin (71 percent to 13 percent), travelers said airlines should be required to sell their fees wherever they sell their tickets.

In a survey conducted to answer questions posed by the Department as part of this NPRM, overwhelmingly shows that consumers hunger for full ancillary fee disclosure and want these extra fees disclosed during travel planning and ticket purchasing.¹¹

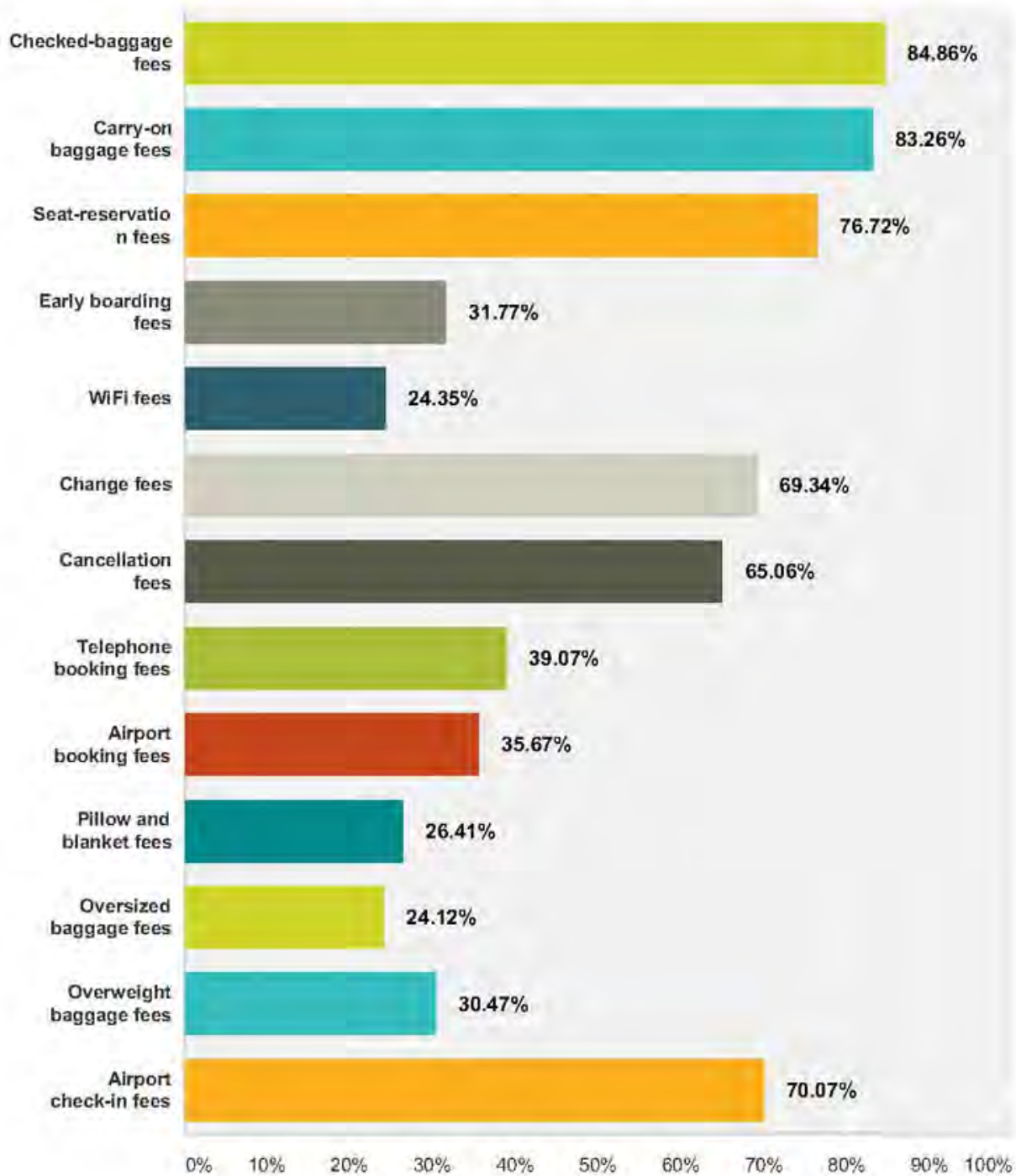
¹⁰ Change.org petition --

<https://www.change.org/petitions/us-senate-commerce-committee-majority-congress-don-t-let-airlines-advertise-deceptive-prices>

¹¹ Appendix C: Travelers United consumer survey, Sept. 28, 2014, in response to questions raised by DOT in this NPRM

Q5 What airline fees are most important to you? (Please check the most important to you — multiple answers allowed.)

Answered: 2,616 Skipped: 20



Open pricing data is needed for computing full airline pricing

Travelers United and NCL note that the hassles and harms associated with the airlines withholding pricing data are significant. And the system that the airlines have created requires computer power to calculate the best prices and alternatives. Without data, this cannot be done.

- Ancillary fees for comparison shopping are not accessible when buying airfare.

According to the DOT's own data, more than 50 percent of airline travel is sold through ticket agents. The inability of these ticket agents to inform consumers of fees for, and sell or facilitate the sale of, ancillary services makes price comparisons very difficult and compromises competition. This is a significant impediment to what, with full ancillary fee disclosure, could be an available means of comparison shopping.

Airlines do not disclose even baggage fees during the buying process, but hide them behind a link and then do not provide dynamic, passenger-specific fees.¹²

The basic costs of baggage charges and seat reservations are not available to consumers online in a manner that they can compare across airlines. This harm is exacerbated when the exemptions for frequent fliers and holders of certain credit cards are added to the mix and further exacerbated when ticketing rules that allow various numbers of passengers to share in the baggage-fee and seat-reservation fee exemptions.

- Basic fees may seem simple, however, exemptions add complexity.

Under the current system, consumers are challenged to figure out, often requiring extensive research, the costs for checked baggage and seat reservations. This is a clear consumer injury.

These fees in themselves may be relatively simple, however the airline practice of shrouding these fees from consumers during the buying process is unscrupulous behavior. And, when exemptions and various ticketing rules are added into the pricing mix, any reasonable person can see that the consumers' ability to comparison shop is compromised dramatically.

- The mix of fees for small groups of travelers is overwhelming.

Despite airline protestations, that they are providing consumers all the information they need to understand and collect the full price of air transportation, the permutations of baggage fees and seat-reservation fees become astronomical when a family or group of four or more are traveling.

A simple matrix of four travelers purchasing airline travel together with two variations of baggage-fees, two variations of seat-reservation fees, and variations of ticketing rules based on passenger name records (PNR) would produce 256 different prices of fees based on four persons sharing a single PNR and 16,384 fee variations if eight persons were traveling together on different PNRs. (Some credit card agreements allow up to eight travelers sharing a PNR to

¹² Appendix D: Airline Screenshots

be exempted from baggage fees and some seat reservation fees.) Clearly, this kind of pricing decision is beyond the ability of any consumer to calculate.

- Individual travelers suffer as well. They face an impossible-to-easily-calculate matrix of baggage and seat reservation fees.

- These fees vary based on frequent flier membership levels.
- Fees vary based on what credit card is used to pay for the airline ticket purchase.
- Fees vary based on whether or not the passenger is merely carrying a certain credit card.
- Fees vary based on whether passengers are traveling on the same PNR.

The complex world of airline pricing

A single passenger traveling between New York City and Los Angeles already faces a complex price-comparison decision-making process when “nearby airports” (3 in the case of NYC and 5 in the case of Los Angeles) and the number of airlines flying that route (12) are taken into account. There are 180 various combinations not taking into account departure times, mixing airlines or flying into Philadelphia or Trenton, considered “nearby NYC airports” by some airlines. However, computer programs and software developed over the past two decades by third parties and online travel agencies have made this kind of comparison shopping easy. So easy, that most consumers take it for granted.

Simply putting destination and departure cities into an online travel program or a metasearch site will sort out these options and allow for easy comparison across airlines, departure times, and based on specific airports if desired. This kind of software power has been developed because of the availability of data that can be used to solve these complex scheduling option issues for consumers.

However that same passenger who may be a member of four frequent flier programs, traveling with two checked-bags and carrying four major airline credit cards when faced with calculating the full cost of travel would be dealing with a total of 5,780 flight options using one airline for the round-trip travel.

Those exemption options when multiplied by the flight options should a passenger look at flying in one direction on one airline and returning on another, means that a passenger would be expected to figure 69,360 various cost permutations to absolutely determine the most economical full cost of travel. And, the consumer still has not added into his cost comparison the various change and cancellation fees and airline ticket rules that can factor into the overall price calculation.

The current airline shrouding of ancillary fee disclosure causes consumer harm

This complex pricing universe created by airlines as they deconstructed airfares, results in consumer harm, confusion and deception, engenders increased search and transaction costs for consumers, causes lost buying opportunities for consumers, and ultimately leads to generally higher prices as competition diminishes with the elimination of efficient and effective comparison shopping.

a. Consumers are misled

Without transparent disclosure of the varied fees and their exemptions, many consumers are misled about what the total cost of their air travel will be, which services can be purchased in connection with the flights they buy, and what services can be purchased from what source.

b. Calculating prices is complex

Even if consumers are aware of the existence of add-on services and fees, the complexity of fees and their exemptions combined with the complexities of selecting flights across airlines makes comparison shopping without computer assistance impossible for an individual consumer.

These computer programs that allow price comparisons are all run by ticket agents and they provide the only workable method to sift through complex pricing options. These programs that could help consumers comparison shop are crippled when airlines refuse to disclose data related to ancillary fees and the various exemptions and rules involved with them. Furthermore, innovation in this software field of creating a better passenger/airline interface is hobbled and new entrants into the field discouraged when the data necessary is withheld by the airlines.

c. Consumers spend additional time overcoming withheld data from airlines

Consumers have to search elsewhere for this information, substantially increasing the time and effort to discover the best prices for airline transportation. Even with the extra time and effort, the airlines have created such a complex, dynamic system of pricing data that no consumer can be expected to find the best costs for air transportation without the help of computers with respect to both ancillary fees and all-in prices.

d. Airfares are regularly changing

As the Department knows, airlines change airfares based on yield management programs as many as five times a day.

e. Consumers are deprived of comparison shopping

Consumers are also harmed because they are deprived of efficient and effective comparison shopping that serves to enhance competition and increase value for consumers.

f. Consumers are forced to make purchasing decisions without full prices

As a result, consumers make less-than-optimal purchasing decisions because they are unable to determine the true cost of their travel.

Travelers United and NCL support the release of all pricing data and ancillary fees. Otherwise, our organizations support Option A.

DOT has proposed two options for requiring airlines to distribute certain ancillary service fee information. Option A would require airlines to provide such fee information to all ticket agents, including GDSs, that the airlines allow to distribute their fare, schedule, and availability information. The Option B would allow airlines to not provide ancillary service fee information to GDSs, but rather only to ticket agents that actually sell the airlines' services directly to consumers.

Option B is simply not feasible because it assumes either that the existing GDSs may be excluded from the distribution process or that a new system of GDSs can be created. While a new distribution paradigm may not be a realistic prospect in the short term, the release of ancillary service fee pricing data to all stakeholders will serve as a stimulus for software development that could change the airline transportation distribution model of the future.

Option B also mitigates the Department's contention that GDSs who run the IT infrastructure for the airline industry's distribution network are influential players in the purchase and sale of airline transportation. It opens up the questions about roles of metasearch sites who provide some of today's main comparison shopping guidance. And, it seems to suggest that only those who are in the buying or selling process should have access to unfettered passenger-specific, airline-line specific and route-specific airfares and ancillary fees.

Option B, severely limits the ability of the marketplace that serves both the planning phases of travel and the purchase and ticketing parts of the aviation industry (and hotels and rental car industries). Those who provide information for planning would be left out of the data flow and innovation in that sector would be limited by lack of open data.

There is no sensible reason to differentiate between ticket agents. The impact will be to make fee dissemination more difficult and IT and software innovation more complex. Limitations of the distribution network will limit the availability of data and hence, limit creativity and discovery of possible new interfaces for all aspects of the travel industry.

DOT should adopt a broad ancillary fee disclosure rule

Other than technological limitations, there is no reason to limit disclosure of data. DOT in its rulemaking can state minimum disclosure standards as far as creating a passenger/travel agent/airline interface based on what currently is possible. However, all pricing data should be released so that new distribution services can be created, current services can be improved and new airline services can be envisioned.

Airlines are already offering packages or ancillary fees for their customers. Those packages must also be disclosed and made transactable at each point where the airlines choose to sell their airline tickets. This packaged-fee data is as important to innovation as individual fee data.

Neither Travelers United and NCL nor anyone at the Department can predict what new ancillary fees might or might not be created by airlines in the future and whether or not they may be deemed “basic.” Unless the Department expects consumers to wait another four years and go through a new rulemaking for new disclosure when “unbundling” continues in the future, the only solution is to mandate that all fees be released to the public.

There should be no ambiguity that all pricing data must be disclosed by the airlines to the open market. Consumers have a right to know the prices that they will be asked to pay. Arguments about lack of technology are misplaced, since the lack of detailed data — passenger-specific and flight-specific data — hurts technology development, innovation in the market and locks in the current competitive landscape.

Once technology firms with access to data get into the act, it’s only a matter of time before disruption comes to incumbents and change comes for consumers.

Carriers should be prohibited from imposing restrictions that prevent ticket agents from including a carrier’s schedules, fares, rules, or availability information in an integrated display

Airline restrictions on use of data are another way that airlines act to deceive consumers. Pricing data should be released with no restrictions.

Travel stakeholders can purchase data on fares from ATPCO and schedule information from Official Airline Guide (“OAG”), Innovata, or other providers. This data should not be subject to distribution restrictions from airlines. Other than thwarting competition, no plausible basis exists for airlines to restrict access to this information.

Innovation is stunted, comparison shopping possibilities are limited and consumers are deceived when use of airline data is restricted and not permitted to be aggregated with other available data.

Travelers United and NCL endorse the banning of such restrictions as outlined on pages 9-11 in the comments of TripAdvisor LLC submitted for this NPRM.

3. Expanding the definition of “reporting carriers” under 14 CFR Part 234

Travelers United and NCL strongly support this proposal. DOT is proposing to expand the pool of carriers required to report service quality data. DOT currently requires such reporting only by carriers that account for at least one percent of domestic scheduled passenger revenue, but is now proposing to expand that requirement to apply to all carriers that account for at least 0.5% of domestic scheduled passenger service revenue. This would be beneficial for consumers: expanding this reporting pool to include airlines such as Spirit Airlines and Allegiant Airlines in the DOT monthly statistics would enhance transparency and accountability of airline performance for consumers.

4. Carriers to report data for certain flights operated by their code-share partners.

DOT is also proposing to require reporting carriers to include data for their domestic scheduled flights operated by their codeshare partners.

Travelers United and NCL strongly support this proposal.

Regional codeshare partners of the largest legacy carriers, including American, Delta, and United, operate flights that are fully integrated into those carriers' networks. These regional airlines, or code-share partners now make up more than 50 percent of domestic operations for the legacy carriers. In fact, for most flights to non-hub destinations, code-share arrangements are becoming more and more important as legacy carriers focus on hub-to-hub operations and routes connecting larger American cities.

These code-share partners have their planes painted to look similar to the mainline planes, the magazines in the seatback pockets are from the mainline carrier, the boarding passes carry mainline designators and flight codes and often the servicing is done by mainline carriers for their code-share partners with napkins, cups and snacks all bearing the mainline carrier logos and advertising messages.

Larger airlines enthusiastically advertise their network reach as though their airline is providing that service, when, in fact, more than half of the domestic coverage is provided by code-share partners, which are totally separate airlines. Legacy carriers claiming the additional destinations served only by regional partners operating with code-share arrangements under current rules that treat regional carriers (code-share partners) as separate airlines with their own set of statistics, separate out performance statistics. For example, while a legacy carrier such as American Airlines might be reported as having a relatively good on-time and lost baggage record, its American Eagle partner reports separately and is regularly rated as one of the worst performing airlines with regards to on-time flights and lost luggage.

Even more confusing for consumers, many regional airlines fly routes for several different mainline carriers. Airline-specific statistics become meaningless when an airline like Republic or SkyWest Airlines fly for Delta, American, USAir and United or some combination thereof. Their on-time and baggage handling report cards are inexorably linked with the mainline carrier.

Furthermore, as noted in the NPRM:

...some operating carriers of code-share flights marketed by larger carriers do not meet the current reporting threshold of Part 234, and a certain number of operating carriers of code-share flights marketed by larger carriers would not meet the proposed lower reporting threshold of 0.5 percent of annual domestic scheduled passenger revenue. Therefore, the on-time performance, mishandled baggage, and oversales data for those flights are not currently reported to the Department at all and, even under a revised reporting threshold, not all of those operating carriers of code-share flights marketed by larger carriers would necessarily be required to report performance data.

Allowing the network carriers to report separately from their regional partners does not serve consumers. For example, for a flight between New York and Des Moines or between Jackson, Mississippi, and Phoenix, operated by a regional carrier under the brand of American, Delta or United, consumers need to know the overall reliability of flights, baggage handling and other services. Bifurcating these reports between mainline and regional carriers only serves to mislead consumers.

Travelers United and NCL strongly urge the Department to include in their reporting mandate international flight provided by code-share partners.

These flights are now joint ventures between many of the carriers associated with airline alliances that enjoy immunity from antitrust actions. These alliances should not also enjoy immunity from clear, understandable on-time, baggage and oversales reporting requirements.

Once again, this complex code-sharing system has been created by the airlines with the express purpose of appearing to be a larger carrier for marketing purposes. Any expense necessary in order to comply with this rule should be negligible and should be the responsibility of the airlines. Travelers United and NCL understand that these costs are invariably passed on to consumers, however, in this case, mitigating the deceptive and misleading practice of code-sharing is worth the minor expense.

Code-share existence is deceptive and misleading. It is akin to selling someone a Ford with a Dodge name plate slapped on the hood. Or to packaging Frosted Flakes inside a Bran Flakes box. It serves no positive consumer purpose. The identical system could be operated using interlining and flight coordination with each airline carrying its own corporate identity. Frequent flier programs can be organized with multiple partners and do not require code-sharing.

Travelers United and NCL strongly support the proposed change to section 234.6 regarding reporting of mishandled baggage and assistive devices such as wheelchairs and scooters

Airlines should compute mishandled baggage rates based on the number of checked bags and not on mishandled baggage reports per 1,000 enplanements. The current reporting rules are an anachronism from the days when baggage was included in the ticket price.

Our organization also strongly supports the Department's proposed rules for mishandled wheelchairs and scooters used by passengers with disabilities.

5. Minimum customer service standards for ticket agents

Travelers United and NCL are not interested in fixing the portion of the airline travel industry that is not broken. Where airlines competition has been reduced to three network carriers plus Southwest and a collection of smaller entities, the travel agency/ticket agent sector of the travel world is full of competition. According to Wikipedia.com, there are 48 online ticket agents. Their very survival depends on treating their customers as well as they can.

The annual *American Customer Satisfaction Index* found that the three network airlines scored, on average, 65.75 on a 100-point scale, compared with 77 for Internet travel agencies.¹³

Plus, ticket agents operate under both the jurisdiction of DOT and the Federal Trade Commission (FTC). Their activity is not only the selling of airline tickets. They also sell other travel products and have to comply with the local laws of states, cities and municipalities. Airlines are exempted from those requirements and have only DOT as their means of enforcement.

As noted in the NPRM, this proposed rule is designed to “close the gap that exists in 14CFR 259.5(b)(11) and 259.7, which require carriers to respond to consumer complaints but do not provide for complaints related to a ticket agent’s service.” However, this “service” protection is not necessary and many times “service” from travel agents falls outside of the jurisdiction of the Department.

When travel agent customers have complaints, they can go to the local better business bureau, take the agents to small claims court and sue them as a last resort. When it comes to the airlines, the only effective and affordable recourse is the Department of Transportation. Airlines are exempt from state and local justice as well as from state and local taxation.

Travelers United and NCL, however, do believe that the protections afforded passengers by DOT rules in place for airlines such as the full-fare advertising rule and the 24-hour rule should be guaranteed for customers of ticket agents. This is a jurisdiction that DOT clearly has.

¹³ <http://www.theacsi.org/news-and-resources/customer-satisfaction-reports/reports-2014/acsi-travel-report-2014/>

Travelers Unites strongly supports the requirement that both airlines and ticket agents inform passengers about the 24-hour rule that allows changes or cancellation without penalty within 24-hours of purchase when the ticket is purchased one week in advance of travel. Many passengers still are not aware of this rule.

As Travelers United has argued before DOT in the past, simply making a rule is not enough — passengers must also be educated. As far as our organization is concerned, information about this rule should be part of the ticketing process, either verbally or prominently stated in writing.

The other requirements noted in this section would be welcome by consumers and travel agents for that matter — clear ticket refund rules and explanations about the process, cancellation policies, change fees, cancellation fees, seating configurations, and lavatory availability; as well as, the airline panoply of ancillary fees.

However, it is important to note that problems reported to DOT and to independent ombudsmen/help desks about travel agents can almost in every case be traced back to the airline rules and airlines not providing service and information. Travel agents are the most visible point of contact between airlines and the public.

Though travel agents are ostensibly agents of the airlines, the airlines withhold information from their own agents and do not allow travel agents to provide services or to sell the complete package of airline transportation, including ancillary fees and seat reservations. Travel agents are faced with uncooperative airlines, which enforce strict ticketing rules and, in many cases, make good customer service impossible.

Travelers United and NCL do not see a need for intervention by DOT in this matter other than requiring that the airlines provide travel agents the information listed in this NPRM and follow the DOT rules and their own airline-specific and industry rules for refunds. Travel agents should not be held to a requirement where they can be fined for not providing information that they cannot obtain from the airlines.

Plus, all travel agents would be pleased to have airlines provide this consumer-friendly information about cancellation policies, change fees, cancellation fees, seating configurations and lavatory availability. It only adds to their ability to provide service to their consumers.

This is also an area where innovation, specifically, SeatGuru.com, has entered the arena and is providing detailed seating charts to assist consumers in selecting the best seat available on planes.

The major roadblock to allowing consumers to utilize these seating charts is the airlines' misleading and deceptive practice of blocking off "free" seats that might be available in an attempt to make consumers believe that they only have the option to purchase a paid seat

reservation should families want to sit together. It should be noted that these seats that are assigned without reservation charges are sometimes withheld in order to save them for elite levels of frequent fliers. There is no way for consumers to know whether or not seats are already booked or whether the airline has simply marked them as reserved when they are in fact being withheld by the airlines for marketing purposes.

The Department's best course of action in order to "put all airline passengers on an equal footing" would be to require that airlines provide complete information to travel agents and to require airlines to treat all their ticketed customers with complete assistance whether those passengers purchase tickets directly from the airlines or through travel agencies. By focusing on airlines' responsibility to provide complete data and follow regulations in place to protect consumers, most travel agent complaints would dissolve.

6. Codifying the statutory requirement that carriers and ticket agents disclose any airline code-share arrangements on their websites

Travelers United and NCL fully support the Department's proposals. However, the responsibility for sharing code-share arrangements with the public and with travel agents must be the responsibility of the airlines.

Airlines are the only source for this code-share information. In enforcement actions, travel agents and websites should not be held accountable should airlines not provide such data in a useable format. Should ticket agents mislead the public by not informing their clients about code-sharing after they have received usable data from airlines disclosing such code-shares, then they can be held culpable.

Travelers United and NCL also support the DOT proposal that make this code-share disclosure "applicable to both carriers and ticket agents doing business in the United States with respects to flights in, to, or from the United States." Again, the Department should note that the responsibility for providing this data in a usable IT format by the aviation distribution community is the responsibility of the airlines. Ticket agents must not be held accountable for information withheld by the airlines.

Regarding the Department's question about the method of disclosure of code-share arrangements, Travelers United and NCL support having some accepted code or symbol that can be shown, on screens or in printed form, immediately adjacent to each code-share flight. Plus all code-share arrangements must be displayed on ticket itineraries provided by airlines and travel agents. This is already done in the great majority of cases.

In addition, Travelers United and NCL urge the Department to extend these code-share notifications to the issuance of boarding passes (both paper and electronic) as well as advertisements, websites and ticket itineraries. There is no reason for this information to not be clearly visible on boarding passes, especially computer-generated boarding passes. In many

cases, boarding gates for code-share flights are not co-located with the mainline carriers and may be in separate terminals. By not disclosing code sharing information on boarding passes, passengers who may have not been involved directly with the booking of airline travel, may find themselves attempting to check in or await boarding information in the wrong area of airports.

Travelers United and NCL urge the Department to require all ticket agents, whether they are primarily engaged in planning phases of travel or in the ticketing and purchasing of travel, to clearly disclose code-share arrangements. If airlines choose to use these code-share arrangements, the differences between marketing carrier and the operating airlines should be noted. Also, during the buying process, the airlines should alert prospective passengers that a different Contract of Carriage will apply, if that is the case. Passengers should be allowed to access the different Contracts of Carriage via a web link or pop-up. However, marketing airlines should be required to inform passengers should their contract of carriage not apply. This is especially necessary in cases of foreign code-share partners where levels of service often vary dramatically.

This discussion raises another concern for Travelers United and NCL — for international joint ventures (JV), is there a separate, joint contract of carriage for the JV? The JV is technically a separate corporate entity from the carriers that make up the JV. Which airline's contract of carriage applies? Consumers need a clear rule.

Travelers Unites also supports the Department's proposal to enforce this code-sharing disclosure rule against all airlines and ticket agents doing business with the US public whether or not the airline or agent is domiciled in the US or in a foreign location.

Travelers United and NCL also support the Department's proposal that code-share disclosure in advertisements include "advertisements for service in, to or from the United States that are marketed to consumers in the United States."

Finally, Travelers United and NCL repeat their stance noted above in the section regarding reporting of domestic code-share statistics.

Code-share existence is deceptive and misleading. It is akin to selling someone a Ford with a Dodge name plate slapped on the hood; or, to packaging Frosted Flakes inside a Bran Flakes box. It serves no consumer purpose. The identical system could be operated using interlining and flight coordination with each airline carrying its own corporate identity and flight number. Frequent flier programs can be organized with multiple partners and do not require code-sharing.

This misdirected permission for airlines to code-share is at its root deceptive and misleading. Travelers United and NCL urge DOT to study abolishing this anti-consumer practice.

7. Disclosure that not all carriers are marketed and identification of carriers marketed on ticket agent websites.

Though Travelers United and NCL support this proposal in principle, putting it into practice is problematic. Journalists associated with Travelers United have long advocated that consumers search at least three websites prior to purchasing airline tickets. Some studies conducted for airline associations claim that consumers visit more than 20 websites when planning a vacation.

Travelers United and NCL believe that there is no need for this rule and that there may be some consumer harm that would come from its implementation.

It seems that consumers have a fair understanding that all airlines are not listed on all websites and that they search multiple websites prior to purchasing airfares. This rule does not provide a net consumer benefit by Travelers United's and NCL's reckoning. Here are several of the problems our organization has identified.

- Having websites note at the top of each page, something along the line that, "All airlines, all flights and all flight combinations may not be available on this website," might be helpful, but will probably have the same effect as cigarette warnings — virtually none.
- The question comes up as to where the "missing" airlines must be displayed. For instance, airlines that do not engage in major discounting may not appear on websites based on a search by price until many pages after the first listing. Studies have shown regularly that airline listings at the bottom of the page or on subsequent pages are often not seen and result in no sales. Could websites meet the letter of the law, but list non-participating airlines at the bottom of fare listings? Should they?
- Travelers United has contacted online travel agents about whether they would allow Southwest Airlines to advertise within the flight display that is generated by a user's search. The OTAs indicated that they would have no problem and that they already sell advertising that slots into their available flight displays on the first page of that display. So, airlines that want a presence on Expedia, Orbitz or other OTAs can purchase that type of advertising. (See example next page)
- Having websites state what airlines are not included on their websites and which are, will create clutter that is not particularly useful to consumers. Plus, it would amount to a hypothetical law that would require Macy's and Neiman Marcus to list each brand of clothing that they do not carry next to those they are displaying
- All airlines are not listed at all times based on service parameters. Would this rule envision listing all airlines not included, based on the day that a consumer chooses for their flight search?
 - Consumers often use "opaque sites" such as Hotwire and Priceline. These sites purposely do not disclose which airlines are available in order to provide deeply discounted airfares.

Revealing which airlines participate and the airlines not participating would destroy the sales platform and a source of extra-low airfares.

- Where to find airfares is already advertised heavily by many airlines who choose not to participate in online travel agencies. Southwest Airlines is the largest that comes to mind, but Allegiant and Frontier in the future may choose not to participate. And, most recently, American Airlines decided to remove themselves from Orbitz for a week and decided after further negotiations to resume their sales.
- These situations, in the case of Southwest and other low-cost airlines which choose not to use online travel agencies, would amount to free advertising. And, in the American Airlines case, would involve programming and reprogramming the website — and not only the Orbitz website, but the universe of websites that serve Orbitz in a peripheral role such as Kayak, Hipmonk, Skyscanner, etc. Additionally, any rule with fines would be hard pressed to set appropriate time limits on how soon changes should appear on websites. And, enforcement would be next to impossible.
- Would a disclosure that a certain airline is not available on a particular website cause a consumer to leave that website and thereby miss a far better airfare between the same points of travel? The rule may create unintended consumer harm.

8. Prohibiting unfair and deceptive practices such as undisclosed biasing in schedule and fare displays and disclosure of incentives

Travelers United and NCL support the DOT rules about screen bias. In light of the corporate battles between GDSs and airlines, Travelers United and NCL agree that it is important to avoid concealed or deceptive biasing and protect consumers.

However, all screen biasing is not bad. In some cases it may provide consumers with new options and new ways to view the airline marketplace. Displays should not be limited to those based on only airfare; there are many other factors.

Hipmunk sorts its displays based on the “agony factor.” Other websites sort their screens based on length of layovers. Yet, others have ways that consumers can sort their own results on a screen by selecting a filter such as time of arrival or departure, class of service, availability of upgrades and filters not yet developed. When transparently disclosed to consumers -- indeed, chosen by consumers -- these practices do not raise concerns.

The screen bias elephants in the room — the airlines

The airlines, by not disclosing ancillary fees, bias screen displays far more than any GDS in recent memory. Display of only the base airfare in a world of ancillary fees is deceptive and misleading. The world of GDS biasing can be handled by the Department under current rules.

The misleading bias of displays by airlines purposefully withholding pricing data of all sorts can only be solved by Department intervention and a mandate that all pricing data, dynamic and static, be released in a computer-readable format.

Ticket agent incentives are not important to consumers

The question about what incentives travel agents receive from airlines and GDSs does not seem to have a real consumer benefit as long as the rules about biasing are in place. Just as consumers are focused on the final price, including taxes and fees, when purchasing air transportation, they are interested in the final price when purchasing from an online travel agent. With the number of choices when it comes to working with 48 different online travel agents and thousands of brick-and-mortar agencies or corporate travel travel agents, these incentives are of no importance to consumers. The final price is what counts.

Unlike the airline industry where many routes, often, are limited to only one, two or three airlines, the travel agent world always offers multiple suppliers and the ease of migrating from one to another makes their competition sharper. Where airlines may need regulation in order to provide protection for travelers, ticket agents of all sorts can rely on the market and competition.

9. Post-purchase price increases for baggage fees

If the Department mandates that all ancillary fees must be disclosed and provides a system of transactability, this question will become moot. If the current drip pricing system of withholding ancillary fee data is allowed to continue, the Department will need to establish protections against post-purchase increases of airline fees.

When drip pricing as practiced by the airlines is permitted consumers are harmed.

Drip pricing involves the incremental disclosure of fees and charges over an online booking process. It causes both competition and consumer detriment. Consumers see a 'headline' price advertised at the beginning of the booking process but when they progress to the payment phase, additional fees and charges have been added. Consumers purchasing airfares or sporting event tickets are all too familiar with this practice. Drip pricing involves a lack of transparency which may mislead consumers, and it can also make it difficult for businesses to compete on a level playing field. *Rod Sims, Chairman of the Australian Competition and Consumer Commission*¹⁴

Drip pricing is a pricing technique in which firms advertise only part of a product's price and reveal other charges later as the customer goes through the buying process. The additional charges can be mandatory surcharges or fees for optional add-ons. Examples include hotels that quote a low room rate and then add a resort fee, airlines that set a price for basic air fare and charge extra for meals and checked baggage, banks with free checking and high fees for using international ATMs, and rental cars with tourism fees that are added by local governments. While drip pricing is not new to the FTC, its use is increasing and has been the subject of regulatory action by the U.S. Department of Transportation and the Office of Fair Trading (OFT) in the UK.¹⁵

¹⁴ <http://www.lifehacker.com.au/2014/02/why-drip-pricing-sucks-and-whats-happening-to-stop-it/>

¹⁵ See U.S. Department of Transportation, Enhancing Airline Passenger Protections, Docket DOT-OST-2010-0140, Federal Register, Vol. 76, No. 79, April 25, 2011 and the Office of Fair Trading's report, Advertising of Prices: <http://www.oft.gov.uk/OFTwork/markets-work/advertising-prices/>

To hear airlines complain that the “logistical and financial burdens” of their own system placed on them related to “ancillary fees other than baggage that are not purchased with the ticket are too great,” is nothing short of amusing. All passenger-specific, airline-specific pricing data, not only that regarding baggage and seat reservations, should be released. DOT’s action that apparently enables the airlines’ drip pricing scheme for many of its fees is disturbing.

To see DOT assist the airlines in this nefarious, anti-consumer practice and to even allow the prices of ancillary fees to increase post purchase of airfares is disappointing. It is not DOT’s responsibility to assist the airlines in implementing their drip pricing schemes. It is the Department’s role to protect consumers from drip pricing.

Firms use drip pricing for different reasons, and a variety of factors influence its effect on consumers and firms. One motivation for using drip pricing is to deceive consumers about a product’s price by advertising only part of the price. This is what concerns regulators such as the FTC [and DOT].¹⁶

...

Drip pricing bridges consumer protection and antitrust economics. Since the practice can be deceptive, it is in the bailiwick of consumer protection. However, an understanding of its effect on consumers requires models of competition and markets, which are in the domain of antitrust economics.¹⁷

...

Consumer behavior studies have shown that partitioned pricing causes consumers systematically to underestimate the total price of the product, even when all of the components are disclosed up-front. Empirically, the effects of deceptive drip pricing and partitioned pricing are the same: For a given total price, both practices increase the demand for a product. However, partitioned pricing need not rely on deception to make consumers believe that the total price is lower than it is.¹⁸

When DOT coddles those engaged in anti-consumer actions because the burden of compliance with honest pricing regulations is “too great,” the enforcers of consumer protections become enablers of bait-and-switch actions like drip pricing.

The most relevant aftermarket theories to evaluate lack of transparency are those that involve consumer lock-in, in which the firm increases the aftermarket price to consumers who have high switching costs. [Such as exorbitant change and cancellation fees]¹⁹

Worse, this drip pricing falls most heavily on those who can afford it the least. A Sabre study, I heard about anecdotally, indicated that 70 percent of their customers purchase airline tickets

¹⁶ Economics at the FTC: Drug and PBM Mergers and Drip Pricing, pg. 12

¹⁷ *ibid.*

¹⁸ *ibid.*

¹⁹ *ibid.* pg. 16

only once a year. That means the great majority of consumers purchasing airline transportation is not sophisticated and educated in the ways of the airlines.

Sara Ellison said that the use of add-on pricing on the Internet provides a way for firms to escape the extremely high price elasticities that have accompanied the large reductions in the cost of search on the Internet. However, David Laibson, while not objecting to price discrimination generally, argued that consumers with low financial literacy, low education, and low income tend to be disproportionately harmed by drip pricing.²⁰

Travelers United and NCL recommend that the new 14 CFR 399.88 forbids airlines from increasing ancillary fees of any kind that are not made public at the time of airfare purchase or which cannot be purchased at the same time as the airfare. If consumers choose not to purchase at that time, they know that just as airfares change based on many yield management factors, their ancillary fees may also change.

IT development has already bypassed airline objections

The complete release of dynamic, passenger-specific, flight-specific pricing data in a usable computer format would allow software developers to create programs that would allow every flight attendant with a tablet computer to know exactly what price to charge passengers based on when they purchased their tickets. The airlines' claim that, "ensuring that in-flight crew have the information and tools to impose varying service fees depending on when a passenger purchased a ticket would likely lead to unreasonable costs for carriers, significant confusion, and ultimately consumer harm by incentivizing carriers to set prices for ancillary services artificially high," is simply not true. Airlines are already equipping their air crews with iPads and tablets that could perform this function for virtually no cost other than programming.

The issue of "mistaken fares."

Travelers United and NCL have little sympathy for airlines, which, prior to DOT intervention would charge passengers \$150 change fees for correcting errors made in destination or name spelling on airline tickets; even when these mistakes were discovered within seconds of pushing the "buy button."

Airlines are in complete control of the buying process and they are in control of setting their airfares and varying them regularly. Recently, a friend alerted me to a business class airfare from LAX to MAD for only \$1,920. The "normal" business class ticket cost \$3,400 or so. He was certain it was a mistake. However, this "mistake" seems to be a legitimate fare. When I tell this anecdote to friends in the airline industry, they protest that a pricing change from \$3,400 to \$1,920 is a normal pricing change. How is a consumer to know what prices are suspect, other than when something like a \$5 round-trip from New York to Barcelona is advertised?

²⁰ *ibid.* pg. 23

Airlines have social media experts working 24/7 and should be able to shut down mistaken airfares relatively quickly. Recently, I heard about a “mistaken airfare” that took airlines 48 hours to correct. Another reoccurred three times over a period of several months. How sympathetic should DOT be to an airline that disregarded advance notices, let this happen, let it happen again, and then let it happen a third time? It's their system and their responsibility. That is a result of an airline's own lack of attention to detail.

Travelers United and NCL see no reason to change the current DOT rule under section 399.88. Travelers United and NCL support the definition of “air transportation within, to, or from the United States” as it is proposed in the NPRM.

10. Amendments/corrections to second Enhancing Airline Passenger Protections rule and certain other provisions.

Travelers United and NCL agree with the Department's proposed changes.

Travelers United and NCL applaud the Department for its stance on oral disclosure of any material restrictions on travel vouchers offered to any passenger a carrier solicits to voluntarily give up his or her confirmed reservation on an oversold flight.

However, Travelers United and NCL urge the Department to go further and require airline gate agents to inform passengers that those who are involuntarily denied boarding are eligible to receive \$650 for a one-to-two-hour delay and \$1,300 in cash for any delays more than two hours. A similar announcement for international flights should also be required.

Having gate agents make oral disclosure of the DOT rules regarding overbooking and denied boarding and passing out written information prior to bargaining with passengers regarding denied boarding compensation on a voluntary basis would change the dynamic greatly and prevent consumers from dealing from a uneducated position.

I heard from a passenger that when he was told that he would be denied boarding and provided a \$300 voucher for a future flight, he protested and told the gate agent that he was eligible to receive \$1,300 in cash. The gate agent went aboard the aircraft and found another passenger willing to take a voucher (I assume for much less than \$1,300 cash) and this passenger was allowed to board.

When airlines prey on uneducated customers and argue vehemently (as they did during Advisory Committee for Aviation Consumer Protections hearings on providing posters to educate passengers about DOT passenger protection rules) to keep passengers in the dark about these rules, their gate agents should make sure that those being denied boarding understand their rights.

Basic consumer rights involving compensation should be explained in writing by airlines on ticket itineraries and computer-generated boarding passes.

With all of the rules and regulations regarding passenger protections, only three issues will result in compensation to passengers — lost luggage, denied boarding and flight delays from Europe to the USA and within Europe.

A short synopsis of these rules should be mandated on every ticket, itinerary and boarding pass. These notifications need not be long and detailed, but will serve to notify consumers of protections that have been put into place by DOT or treaties.

Her, for example, are short notices that DOT should require:

- Lost luggage compensation is capped at \$3,400.
- Denied boarding compensation between 1 and 2hrs is \$650; more than 2hrs is \$1,300.
- The Montreal Treaty provides compensation for delays when traveling within Europe and on flights from Europe to the USA.

11. Regulatory Analysis and Notices

Travelers United and NCL agree with Open Allies for Airfare Transparency (Open Allies) that the Regulatory Impact Analysis (RIA) grossly understates the benefits of transparency and transactability and significantly overstates the costs. Our organization fully endorses the discussion of this subject in Section IX of comments filed by Open Allies.

CONCLUSIONS

For the reasons discussed above, Travelers United and NCL urge the Department to issue promptly a final rule in this proceeding that requires airlines to disclose to all ticket agents through which they choose to distribute their fare, schedule and availability information, including GDSs, OTAs, metasearch websites, corporate and brick-and-mortar travel agencies, dynamic and transactable information on all ancillary services.

The Department should issue a rule that at a minimum, carry-on baggage, first-checked baggage, second-checked baggage and seat reservation fees, be included in pricing displays. The Department should also mandate that all other passenger-specific, itinerary-specific ancillary fees be made available by the airlines to all ticket agents in an IT language format that can be used to create and publish booking/comparison-shopping/information platforms. This pricing data must include all ancillary fees and airline-created fee packages.

Travelers United and NCL also urge the Department to adopt its proposed rule to codify its broad interpretation of “ticket agent” to embrace intermediaries, including metasearch companies especially as it affects advertising of airline costs. However, Travelers United and NCL recommend the creation of a “firewall” between activities of large entities that involve other functions such as search, advertising, user reviews and information publication from the airline purchasing and comparison shopping process.

Travelers United and NCL does not find a need for a ticket agent customer standards other than requiring that ticket agents insure that current requirements for airline ticket refunds, 24-hour holds of prices and itineraries, as well as others mandated by DOT, be guaranteed by ticket agents to customers as they are required for airline travelers.

Travelers United and NCL does not feel that there is a workable and effective way to disclose carriers marketed on websites. This is a matter for education and any DOT mandate may create consumer harm as it seeks to notify consumers of the marketed-carrier limitations of search on various ticket agent web platforms.

Travelers United and NCL support both the disclosure of all ancillary fee pricing data and the removal of any restrictions on this data and our organization fully supports transactability of all prices and fees associated with the purchase of airline transportation. If transactability is mandated as a part of this rulemaking, requirements forbidding post-purchase price increases for fees will become moot.

Travelers United and NCL strongly support DOT proposals regarding code-share reporting on partner airlines and changes proposed on tracking mishandled baggage; website disclosure of code-share services; amendments to CFR Part 257; and, prohibition of undisclosed bias.