

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

-----)
In the matter of)
)
ENHANCING AIRLINE PASSENGER) **Docket No. DOT-OST-2010-0140**
PROTECTIONS)
)
)
)
)
-----)

**REPLY COMMENTS OF
CONSUMER TRAVEL ALLIANCE
AND
BUSINESS TRAVEL COALITION TO
REQUEST TO CLARIFY BAGAGE RULES AND TO EXTEND EFFECTIVE DATES**

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

Mr. Kevin Mitchell
Chairman, Business Travel Coalition
214 Grouse Lane
Radnor, PA 19087

www.businesstravelcoalition.com
mitchell@businesstravelcoalition.com

January 6, 2012

The Consumer Travel Alliance (CTA) and Business Travel Coalition (BTC) are writing in response to a request for an extension to the effective date of the Final Rule of Enhancing Airline Passenger Protections (DOT-OST-2010-0140) submitted by the Airlines For America, International Air Transport Association, Regional Airline Association, and the Air Carrier Association of America, on behalf of their members, (Airline Associations) dated November 18, 2011.

Airline Associations claims that their failure to develop computerized systems that will allow clarity of specific baggage fees throughout itineraries will cause “consumer harm and confusion.”

Consumer harm and confusion has been the claim that the CTA and BTC have been making throughout this rulemaking process. Individual consumers are deceived when they cannot compare the full, all-in cost of travel alternatives. Corporate travelers face the same deceptive practices that lead to higher costs that are passed onto the consumers of their products.

Airline Associations claim new rule will lead to consumer confusion

DOT and consumer organizations now confront a phalanx of airline interests that claim regulatory deadlines should be extended because airlines will be “forced to proceed with makeshift, almost certainly manual measures before compliance is technologically feasible.”

While the Airline Associations complain that they, because of their own decisions to make ancillary fees and specifically baggage fees so complex, would have to resort to “makeshift, manual measures” to comply with the latest DOT rule, they have no compunction about requiring passengers to go through the same time-consuming manual methods to determine price comparisons among airlines’ offerings.

The Airline Associations note, “The Department’s new baggage rules modify the worldwide management of baggage information that has developed over the past 50 years.” Unfortunately, the Airline Associations do not recognize that their members are the ones who “modified the worldwide management of baggage information” by fundamentally changing the system that was in place until 2008 with every major airline in the world.

Airline Associations claim “carriers will have to train employees on the baggage rule and fee procedures, a lengthy process.” Of course, this assumes that their employees are not trained, which is surprising in this age of alliances and code-sharing arrangements. It assumes no current baggage fee coordination between and among airlines, which is not true. And it foists the total responsibility on the passenger rather than the airline to determine and be aware of the proper baggage fees. Today, air travelers are forced to adopt “error-prone makeshift procedures” in an effort to divine applicable baggage fees.

Finally, the Airline Associations' comments go on to claim a litany of consumer harms, "delay passenger check-in, create long lines at airports, substantially reduce the availability of automated self-service check-in, increase the likelihood carriers will apply the wrong carrier's baggage fees that will lead to confusion and disenchantment and increase the risk of delayed or lost bags" that all are caused by the airlines' actions of unbundling airfares without regard to their consumers, not any DOT mandate or consumer activity.

If airlines had developed reservation systems to handle their complex fees consumers would not be misled

Page after page of the Airline Associations' request for an extension explains the problems that their own actions have created. Not one of the issues they describe is the fault of passengers. What was once a transparent worldwide airline pricing system, has been complicated by the carriers themselves through the imposition of scores of fees, for services that once were common and included in the airfare. Airlines instituted these fees without regard to how they would affect passengers and their ability to compare prices across airlines.

All of these harms could be eliminated should the airlines suspend their collection of baggage fees until their computer systems and interline communications are capable of handling the new fees the airline are levying on passengers. It should not be the responsibility of the passenger to determine the fees when the Airline Associations admit that their own employees do not know baggage rule and fee procedures.

What airlines once claimed was widely available is now confusing and complex

When the second Enhancing Airline Passenger Protections NPRM was released, airlines' biggest stated concern for their customers was that the mandatory release of baggage fees would "confuse" them.

Delta Air Lines in its comments claimed that, "Ancillary fee data already are widely available to consumers." Their comments went on to blithely note, "Delta displays all such services and fees in one easy to access format on Delta.com." Delta further noted that other providers such as CompareAirlineFees.com (that evidently no longer exists) "made consumer access to these services and fees on a comparative basis convenient and easy."

Other airlines have echoed this Delta mantra that these fees "are already widely available to consumers."

Now, when push comes to shove, Airlines For America, International Air Transport Association, Regional Airline Association, and the Air Carrier Association of America, on behalf of their members, admit, "Simply put, our member carriers cannot develop complex new systems, test, populate and update them by the current deadline."

The airlines admit that their baggage rules and fees (not even taking into account the dozens of other fees airlines are now assessing passengers) are too complex for their world-class computer systems to handle and for their legions of software developers to program into simple, passenger-specific charges that take in to account exceptions and rules that the airlines themselves have promulgated.

The same data that were “widely available” to consumers more than a year ago have now somehow become too “confusing” to be presented on an airline airfare itinerary at the end of this month.

At no time in their creation of massive fee complexity, did airlines apparently ever consider that passengers might find themselves confused by the complex structure that determines which passengers pay what fees when based on frequent flier status, code-share arrangements, alliance networks or credit card used to purchase the airfare, among other considerations.

In fact, the airlines have used the very confusion that their hidden fees created to extract billions of dollars from passengers who have no free-market choice because the airlines did not allow full air transportation price comparisons. Because there is no effective comparison-shopping possible, consumers are faced with supra premium fee levels.

A simple extension, without conditions, allows airlines to continue misleading the flying public

There is another, even more important truth — as long as the airlines keep their ancillary fees hidden from the public and out of the hands of their main distribution networks, the longer technological change will take. Without the fee data and wide distribution of those data no entrepreneur can develop, and no organizations other than airlines - that are hoarding the data - can work to develop solutions.

Assuming that claims by Airlines For America, International Air Transport Association, Regional Airline Association, and the Air Carrier Association of America, on behalf of their members, have merit, DOT must not simply provide an extension without conditions to the effective date of the rule.

Since the airlines have failed to find a way to comply with the current rules, even after requesting and being granted an extension, DOT must determine that the airlines are not capable of developing solutions.

The insistence of the Airlines Associations to “protect” their pricing by not releasing it to their distribution partners to the detriment of the consumers has led to many of the problems they have listed. Their insistence on the creation of international alliances and code-sharing have all led to bottom-line benefits for the airlines, but significant additional confusion to air travelers.

Further development of a series of opaque reservation systems where airlines do not share their data with each other or with consumers bodes poorly for air travelers. Hiding fees in this way has always been a deceptive practice as far as consumers are concerned and now even the Airline Associations admit that it is counterproductive to their ability to share baggage charges and other ancillary fees across alliances and code-share partners.

DOT should mandate that fees and pricing immediately be made public

A simple mandate that all airline fees be immediately published by ATPCO and be made accessible to software developers and GDSs should be issued.

CTA in particular believes that once those data are available outside of airline channels, myriad software developers will find a way to provide fee data to passengers. The Airline Associations will find themselves with competing solutions to this problem they do not seem capable of solving themselves.

By allowing airlines to control and hide these data and withhold them from the world's largest transportation computer systems, as well as being the only organizations that are permitted through their control of the prices to develop new software to facilitate use of the pricing data by the public, guarantees that transformational technological change will never arrive.

As long as DOT allows airlines to withhold significant portions of their pricing from air travelers, the public is harmed by what amounts to price deception — a license to mislead. Any extension of this rulemaking should only be granted on the basis that the airlines release their fee pricing data in all of its complexity so that the free market can develop effective solutions that will allow air travelers to know the full cost of travel including their flight and fee options.