



Testimony of Eben Peck
Executive Vice President, Advocacy
American Society of Travel Advisors (ASTA)
before the
Aviation Consumer Protection Advisory Committee
U.S. Department of Transportation
December 8, 2022

PART I – DISCLOSURE OF BAGGAGE FEES

- Good morning, Chair Nessel and other distinguished members of the committee.
- My name is Eben Peck and I'm Executive Vice President for Advocacy at the American Society of Travel Advisors – ASTA. I appear today on behalf of our 17,000 member companies – travel agencies of all shapes, sizes and business models.
- ASTA has long believed that consumers deserve full transparency in airfares and optional ancillary service fees, as well as the ability to buy those services – “transactability” – regardless of the channel in which they elect to book their travel.
- Viewed through that lens, the NPRM we are discussing today is a step in the right direction in that it requires airlines to provide travel agencies with ancillary fee information that is “usable, accurate and accessible in realtime” and requires transactability for some ancillary services, namely, those that enable family seating.
- That said, we do have concerns about the effect the requirement to disclose fees for multiple services in each and every “offline” transaction – even to repeat customers and frequent fliers – will have on agency operations.
- As such, I will focus my remarks on Question 1(f) in the November 10 Federal Register notice, related to disclosures in offline transactions and “alternative options for providing such fee information on the phone or in person.”
- For a straightforward way to approach this, look no further than the Department's January 2017 proposal on disclosures related to baggage. The proposed regulation stated that “In any oral communication with a prospective consumer...[a] ticket agent must inform a consumer, **upon request**, of the fees for a first checked bag, a second checked bag and one carry-on bag.” Adding those two words – “upon request” – to today's proposal will make all the difference for our members.

- When not specifically requested to disclose fees, they can then use their professional judgement to make sure clients are fully informed as to the total price of their trip. For example, a first time or infrequent flier will probably need a little more hand-holding in this regard than the road warrior well versed in airline fees.
- It's important that we not consider these proposed new disclosures in a vacuum. Today, travel advisors are required by law and regulation to make up to seven consumer disclosures per transaction when selling air tickets – code-sharing, insecticide, the potential for a price increase, airline baggage fees, hazardous materials, ticket expiration date and others. Some of these disclosures must be conveyed in every transaction regardless of whether it is online or over-the-phone or face-to-face, while others can be fulfilled via the Internet or an e-ticket receipt. We estimate annual compliance costs to our industry for the existing disclosure regime at \$8.83 million per year.
- Another alternative approach is more ambitious – a unified disclosure regime for ticket agents in offline transactions. Under this proposal, outlined in a filing we made as part of the Department's 2017 regulatory review and which I'm happy to share with the committee, consumers in offline transactions would be referred to the Department's website as a way to cover disclosures applicable to all airline passengers and to airline websites for disclosures related to airline-specific fees and policies. Time does not permit me to get into the weeds here, but the idea is to create a system that can accommodate existing and new disclosures proposed by DOT or Congress without undermining the Department's consumer protection mandate or making the process of selling tickets offline impossibly burdensome.
- I will close by encouraging the Department to grant our and others' request for an extension of the public comment period on this NPRM, which my former colleague Paul Ruden has called "A Work of Staggering Complexity."
- Thank you, again, for inviting me to speak today.
- I'm happy to take any questions you may have.

PART II – DATA SHARING/IMPLEMENTATION PERIOD

- In this part, I will focus on Question 4 in the Federal Register notice – seeking comment on whether the Department should require that carriers provide fee information about critical ancillary services to Global Distribution Systems – GDSs.
- Our view on this is, unequivocally, yes, the Department should require this, if carriers are currently distributing fares through the GDSs. These are the tools our members use to search, compare and book air tickets and much more for their clients.
- As we said in our filing on the 2014 NPRM, "Travel agencies...have invested heavily to integrate GDS processing into the agencies' back office and mid-office accounting, quality control and security systems. Agency sales shares alone, as substantial as they are,

do not fully measure the reliance of travel agencies on GDS technology. Agency integration investments are estimated to be in the tens of millions of dollars. If travel agencies are excluded from the ancillary fee information flow through the tools upon which they principally rely, much of this investment will have to be duplicated so that agents can continue meeting the needs of their clients. In the best of circumstances this will take many years and much disruption to accomplish.”

- Based on a member survey we conducted on this question in advance of today’s hearing, this statement is as true today as it was in 2014 and our members unanimously agreed that this should be a requirement.
- One member said “As long as the carrier can pass this information to the GDS and the GDS can display it to the travel agent, the travelers should be presented with all ancillary fees. It is essential for travelers to be informed. In writing is better, but the advisor should mention something verbally to infrequent fliers.”
- Moreover, if not via the GDSs, then how would this information be transmitted? Direct connections between hundreds of airlines and tens of thousands of travel agencies? In our view, a tool exists in the marketplace to transmit this information – we should use it.
- On this question, I would point to the 2005 court case of *Sabre v DOT*, where the U.S. Court of Appeals expanded the definition of a ticket agent to include GDSs, and again, to the Department’s 2017 bag fee proposal, where it “require[d] each covered carrier to provide useable, current, and accurate...baggage fee information to all ticket agents that receive and distribute the carrier’s fare and schedule information, **including Global Distribution Systems.**”
- I’m not sure what is to be gained by excluding them in the context of this NPRM. Airlines should transmit ancillary fee data to ticket agents to empower these disclosures, full stop.
- Finally, with permission of DOT staff I will raise here question 5 in the Federal Register notice – whether the NPRM’s proposed implementation period of six months is too lengthy or too short. This is really a question for the airlines, GDSs and others who are more knowledgeable about the implications of the NRPM in terms of systems changes, but it strikes us as a pretty substantial change in the already massively complex airline distribution system. These changes will take more than six months to implement, not to mention training for the users of these tools. The implementation period should be at least a year.
- Thank you, again, for the opportunity to present our views, and I’m happy to take any questions you might have.