



May 9, 2024

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

VIA OVERNIGHT MAIL AND EMAIL: antitrust@ftc.gov

RE: Anti-Competitive and Anti-Consumer Conduct of American Airlines

Dear Madam Chair Khan:

On behalf of its 8,000 member travel agencies, the 160,000 Americans who work at them across the country, and the millions of consumers who rely on their services, the American Society of Travel Advisors (ASTA) writes to express its serious concerns about recent actions taken by American Airlines (“American” or “AA”) that are both anti-competitive and anti-consumer and therefore warrant the FTC’s immediate attention.

As you may already be aware, in late February American announced a policy imposing new conditions for its customers to earn AAdvantage miles and loyalty rewards that affects travel agencies and their ability to compete with AA as air ticket distributors. Specifically, beginning on July 11, 2024, customers will only earn miles and loyalty rewards if they book their tickets either directly with American, an eligible partner airline or through a “preferred agency.”¹ The inability to earn miles and rewards on AA tickets creates a major disincentive for consumers to book their flights through a non-preferred channel.

To qualify as a preferred agency, the agency must, among other things, satisfy New Distribution Capability (NDC) booking thresholds set by AA, specifically, 30 percent of its American bookings must be via NDC by June 5.² NDC is a technology communication standard developed by the International Air Transport Association more than a decade ago that fundamentally changes how airlines provide fare and ancillary content to travel agencies, travel management

¹ <https://www.exploreamerican.com/globalsales/preferred-agency-program/>. We note that AA originally announced that the implementation date would be May 1, 2024.

² *Id.* AA originally stated that it would determine agency booking thresholds on April 21, 2024, but claims the “new timeline gives additional agencies more time and the opportunity to meet NDC thresholds.” For the reasons stated in this letter, the short delay will have a negligible impact on the number of agencies that will qualify.

companies (TMCs) and other air ticket distributors through a set of application programming interfaces.

However, notwithstanding AA's repeated protestations to the contrary, NDC is in many respects an underdeveloped technology, and many of the key players in the air ticket distribution ecosystem, including the global distribution systems, TMCs and third-party booking technology partners remain unable to facilitate full implementation of American's NDC platform. For this reason, and others, widespread adoption of NDC remains a serious challenge for most agencies.

Leaving aside exactly how the NDC booking rate will be calculated, which American has yet to publicly announce, given the current state of NDC implementation – which is largely outside of travel agencies' control – very few agencies will be able to satisfy the requisite threshold. Indeed, based on discussions with a broad cross-section of its membership, ASTA believes only a small percentage of agencies that currently book AA air tickets expect to qualify for preferred status next month. American states that it will publish a list of preferred agencies on its aa.com website on the June 5 qualification date.

Still worse, the minimum NDC booking percentage increases from an already-unrealistic 30 percent to 50 percent on October 31, 2024, and again to 70 percent on April 30, 2025.³ Under the program rules, agencies that are preferred as of June 5 but fail to qualify under the progressively higher thresholds as of those later dates will lose their preferred status and be unable to requalify until the next threshold date. Setting the bar this high and this soon should be viewed for what it is – a deliberate effort by American to eliminate distribution competition and put small travel agencies out of business.

In addition, ASTA recently learned that AA requires agencies to sign an egregiously one-sided agreement as a condition of participation as a preferred agency. Among other things, it permits American to terminate the agency's preferred status for any reason, or no reason at all, on thirty days' notice. Practically speaking, the inclusion of this clause means that regardless of an agency's achievement of the prescribed NDC booking thresholds on the measurement dates (or any other dates AA may arbitrarily choose to use instead), preferred status can be revoked at will at any time.

Given that fully 40 percent of all U.S. air tickets are booked via the agency distribution channel, it is unsurprising that the reaction to American's decision to deny AAdvantage miles to most travel agency customers was, to put it mildly, extremely negative. Indeed, thousands of travelers and travel advisors have voiced their concerns about AA's move, and through the

³ *Id.*

issue awareness website [SaveMyMiles.com](https://www.savemymiles.com), Congress received more than 8,300 messages from both consumers and travel advisors in the last few weeks.

Moreover, the effects of this business decision will not be limited to consumers and travel agencies in the United States. Recently, three international travel organizations, the World Travel Agents Associations Alliance (WTAAA), the Association of Canadian Travel Agencies and Travel Advisors (ACTA), and Foro Latinoamericano de Turismo (FOLATUR), representing hundreds of thousands of travel advisors in more than 75 countries, have also voiced alarm about AA's action.⁴

Despite its unpopularity and the clear detriment to consumers, American has chosen to forge ahead with its forced NDC implementation because it makes economic sense for it to do so. NDC not only compromises the ability to meaningfully comparison shop airfares among carriers but also gives AA direct access to buyers' personal information, allowing it to exploit consumer data to maximize profits by extracting the greatest price from each traveler. These effects alone warrant serious review of American by the Commission given its stated mission to prevent business practices that are anticompetitive or deceptive or unfair to consumers.

Unfortunately, the AAdvantage program update is just the latest in a series of anticompetitive actions taken by American with the purpose and effect of disadvantaging air ticket distribution intermediaries and, by extension, the millions of consumers who prefer to work with a trusted travel advisor rather than book directly with AA. Just over a year ago, American took an even more egregious step to force NDC on the public by removing fully 40 percent of its fare inventory from the traditional (EDIFACT) distribution channel, leading to consumers booking through an agency paying more – in some cases, substantially more – than those who booked directly with AA. This action resulted in ASTA filing a formal unfair practices complaint against American with the Department of Transportation (DOT), which to date remains pending.⁵

That AA believes it can take such extreme actions with impunity is a testament to its market power and its willingness to abuse it to gain an unfair advantage over its competitors at the expense of consumers. While it is well-known just four carriers represent more than two-thirds of the domestic air travel market,⁶ a truer picture of the state of competition in the industry is revealed by an examination of flights out of specific cities and airports. For example, in hubs

⁴ Letters from these organizations expressing concern about the changes to the AAdvantage program can be accessed at <https://savemymiles.com/>.

⁵ *Complaint of the American Society of Travel Advisors, Inc. against American Airlines Alleging Unfair Practices and Request for Relief Pursuant to 49 U.S.C. § 41712*. [DOT-OST-2023-0147](https://www.transportation.gov/air-transportation/airline-industry-statistics) (filed September 22, 2023).

⁶ <https://www.zippia.com/advice/airline-industry-statistics/> (accessed March 23, 2023).

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such as Dallas/Fort Worth (DFW) and Charlotte (CLT), AA operates close to 90 percent of all flights into and out of these airports.⁷

In the interest of keeping this letter brief, we have not provided an exhaustive history of the state of competition among domestic airlines and, separately, air ticket distributors, nor have we discussed in detail the other actions AA has taken which harm both consumers and American's ticket distribution competitors. However, we believe that a thorough understanding in this regard is essential to place American's latest conduct into the proper context, and for that reason we are enclosing a copy of the above-referenced DOT complaint which contains a detailed discussion that we believe you will find both helpful and compelling.

We thank you for your anticipated thoughtful attention to this critically important issue. Should you require additional information concerning the impact of American's actions on consumers or its anticompetitive effects on air ticket distribution, please do not hesitate to contact me at (703) 739-6804 or zkerby@asta.org.

Sincerely,



Zane Kerby
President & Chief Executive Officer
American Society of Travel Advisors, Inc. (ASTA)

Enclosure

cc: Hon. Pete Buttigieg, Secretary of Transportation
Hon. Rohit Chopra, Director, Consumer Financial Protection Bureau

⁷ OAG Megahubs 2022. OAG Aviation Worldwide Limited. www.oag.com (accessed March 22, 2023).