

Input on Docket ID: DOT-OST-2014-0056

Submitted By

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1. Clarifying the Definition of “Ticket Agent”

The US Dot is proposing a definition for the term “ticket agent” to include all entities that hold out airfare, schedule, and availability information to consumers i.e. all entities involved in the distribution or sale of air transportation. The department is considering that GDSs, meta-search internet sites that are compensated for advertisement and other compensated intermediaries be subject to the department’s regulations as “ticket agents”.

General Comment: Airlines have the ability to meet DOT requirements on their own website i.e. on channels that they are able to control; however, when it comes to travel agents and GDSs and other intermediaries, airlines have little direct control on how their products and services are displayed and delivered; hence adopting a rule that is mainly focused on airlines to display ancillaries through all channels among which are channels that they have no control over would likely not achieve the goal of the regulator.

Specific Questions/Comments:

1. The Dept. is seeking comments on the differences between traditional ticket agents and entities that provide flight search tools and direct consumers to another site to finalize their purchase. Should there be considerations regarding such entities that are not the final point of sale when applying the regulation?

Flight search tools provide info regarding the flights, the schedules and at best the availability as returned from another source. Parts of the regulation that require disclosure in terms of code share information clearly do apply to these tools and to the providers of these tools. A ticket agent should strictly speaking be an entity that has (and also makes available) the technical capability to issue revenue documents usable for air transportation and related services and also has the commercial agreement with the relevant providers to complete the fulfilment on their behalf.

2. What is the impact on these entities of complying with the Dept’s existing regulation applicable to ticket agents? Are such impacts different than impacts on traditional ticket agents?

3. Should ticket agents be required to disclose information about incentive payments and/or identify the carriers the ticket agent markets or does not market?

Incentives are based on a commercial agreement with a provider and hence the ticket agent may not be required to advertise these. However, it does make sense for the ticket agent to provide explicitly the info about which carriers may be ticketed for the customer's awareness and preference.

4. The Dept seeks comments on the cost and benefits to consumers, airlines, meta-search engines, and other entities if the definition of "ticket agent" is codified as mentioned above.

By adding GDSs into this definition, airlines that only sell ancillary products through their websites will have to file the information additionally to the GDSs and this may be through ATPCo using the OC fee. There will be the additional cost of filing and maintaining this info. Code share disclosures are already incorporated and hence may not generate an additional cost. There may be hidden costs introduced by these agents for display of this data.

5. Should carriers be prohibited from imposing restrictions on ticket agents that prevent ticket agents from including a carrier's schedules, fares, rules, or availability information in an integrated display?

No, carriers shouldn't be prohibited from imposing such restrictions. There are situations where the carrier chooses not to do business with ticket agents because of abusive practices employed by the ticket agent to bypass carrier's booking policies and procedures. For example, some ticket agents might not adhere to the airline booking and ticketing policy & procedures including but not limited to repeated cancel and rebook (churning) to extend the ticket time limit, which results in high cancellation charges to the airlines by the GDSs. Other agents might use scripts on their terminals to hunt for seats and continue hitting the airline system with numerous seat requests, which result in high communication and distribution charges to the airline in addition to abusing the airline inventory.

6. Should carriers be required to allow ticket agents to provide links to the websites of the entities listed in an integrated display, including non-carrier website?

No, this should be based on a commercial agreement between the two entities and not stipulated against the airline.

2. Display of Ancillary Service Fees through All Sales Channels

The Dept is proposing to require that fees for certain ancillary services be disclosed to consumers through all sales channels. Currently traditional and

online travel agents do not have access to the ancillary services fees/ products. Consumer Rule 1 only required disclosure of baggage fees through links and on websites.

1. **Proposal 1:** The Dept proposes to require each carrier to distribute certain ancillary fee information to all ticket agents (including GDSs) that the carrier permits to distribute its fare, schedule, and availability information and requiring both carriers and agents to disclose accurate and up-to-date fee information to consumers.
2. **Proposal 2:** Require carriers to distribute certain ancillary service fees information to all ticket agents that the carrier permits to distribute its fare, schedule, and availability information if the ticket agent sells the carrier's tickets directly to consumers (excludes GDSs and other intermediaries) and requiring both carriers and agents to disclose accurate and up-to-date fee information to consumers.

Market developments since Consumer Rule II when the DOT decided to tackle the area of ancillary services in new future rules have resulted in a market that is working and heading towards meeting the future needs of the consumer through developing a data transmission standard that would make the flow of information between the airlines and the agents more efficient.

The move of DOT is directing the efforts of the industry including airlines, agents and GDSs towards the legacy fare filing method while the industry is moving towards an xml-based environment that would assist airlines in presenting full content on ancillary services through all sales channels.

The fare filing system that is currently used would allow airlines to display the fares of the proposed ancillary fees in a static format whilst on their websites they are able to display these fees in a dynamic way; hence, the requirement to display these fees in the fare filing system would affect the direct channel as well as airlines would have to switch their fares to static on their websites as well to be consistent. This end result could lead to higher charges for ancillary services and less flexibility for the consumer.

Ultimately the DOT giving the option to the airlines to distribute their ancillary services through the GDSs and ticket Agents or only to ticket agents should not be included in this NPRM as the regulator needs to give airlines the ability to decide how best to meet the DOT requirement to display these information through all sales channels and not specify how to do that. Imposing the requirement of distributing through the GDSs as mentioned before would give GDSs the upper hand in negotiating contracts and would affect future innovations that could permit airlines to distribute their services directly through the agents.

Hence we are against any DOT rule that dictates how airlines distribute their products.

Under both proposals, carriers would not be required to distribute ancillary fee information to any GDS or other ticket agent that the carrier did not permit to distribute its fare, schedule, and availability information. Additionally, the Department would not require carriers to allow ticket agents to sell/transact its ancillary services to consumers but rather would require carriers to provide “usable, current and accurate” information on fees for certain ancillary services to all ticket agents so this information can be disclosed to consumers at all points of sale. Each airline would continue to determine where and how its ancillary services may be purchased.

Currently airlines display the ancillary services and their fees on their websites. These in turn are available for travel agents to give the consumer the right and comprehensive information about the service he/she is purchasing. GDSs are working on technology that would support airlines in displaying the information on the airlines’ websites to travel agents; hence, government intervention in a market and process that is working for the benefit of all players and mainly to the benefit of the consumer is not required.

3. What are the costs and benefits of requiring carriers to provide ancillary fee information to all ticket agents, including entities that would fall under the new definition of “ticket agent” as proposed above.

The cost would ultimately depend on the stipulated solution/methodology.

Displaying this fee through the GDS particularly if the GDS is not designated as a ticket agent can potentially result in airlines being charged by the GDS for the display / distribution of these ancillary services. Even if DOT prohibited GDSs from imposing an explicit fee for the display, GDS could still introduce adjustments in other service charges to compensate for this. Also, showing this through the GDS will mean filing through ATPCo which will also introduce an additional cost component for the airline.

4. What are the costs and benefits of requiring carriers to provide ancillary fee information only to ticket agents that act as sales outlets?

If the ticket agent definition excluded GDS in the final analysis, then there is currently no simple way of airline providing this fee directly to the travel agencies or other end entities designated as ticket agents. Airlines may need to set up a direct connection with the ticket agent to supply this info or may require the ticket agent to visit an airline website to pick up this info. Both these can have contractual hurdles. Other possibility is that fee is filed through ATPCo/SITA and GDS are mandated by DoT to pick up the data and make it available to ticket agents subscribing to them. In this case the costs mentioned above in the last point will potentially apply.

5. Should the department require that ancillary fee information be transactable?

Each carrier must retain the right to choose the channel that it wants to transact on. Each carrier should have the right to decide which entities sell its ancillary services and ultimately their products.

6. The Dept also seeks information on the costs and benefits of requiring transactability and how requiring transactability would affect existing contracts between GDSs and the airlines.

The relation between the airlines and the entities that sell their products is a pure commercial relation where the contracting parties negotiate to their best interests. Government intervention in this relation is not required and could affect the negotiating process in giving GDSs the upper hand where they know airlines are eventually obliged to sell these ancillary services through the GDS sales channel.

7. The Dept is proposing to require all carriers and agents to disclose the fees for these basic ancillary services before the passenger purchases the air transportation.

It is not clear why the DOT has decided to define “basic” ancillary services as first and second checked bags, a carry-on bag and advance seat assignment especially that the advance seat assignment has not traditionally been part of the ticket purchase.

8. The Dept is soliciting comments on whether they should require the ancillary service fee information to be disclosed only upon the consumer’s request, or in the first screen that displays the results of a search performed by a consumer. The fee information disclosed to consumers for a carry-on bag, the first and second checked bag, and advance seat assignment would need to be expressed as specific charges.

Same as answer to question 7.

Airlines would be required to disclose customer-specific fees for these services to the extent the customer provides identifying information, and if the customer does not provide that information, must disclose itinerary-specific fees. Ticket agents would be required to disclose itinerary-specific fees for these services. Ticket agents may also arrange/ negotiate with the airlines to obtain data that would enable them to give customer-specific fees for basic ancillary services. “Customer-specific” refers to variations in fees that depend on, for example, the passenger type (e.g., military), frequent flyer status, method of payment, geography, travel dates, cabin (e.g., first class, economy), ticketed fare (e.g., full fare ticket -Y class), and, in the case of advance seat assignment, the particular seat on the aircraft if different seats on that flight entail different charges. In other words, the response to a specific flight itinerary search request by a consumer on a carrier’s website would need to display next to

the fare the actual fee to that consumer for his or her carry-on bag, first and second checked bags, and advance seat assignment. Nothing in this proposal would require carriers to compel consumers to provide the passenger-specific details before searching for airfare.

9. Opt-out Option: carriers and agents would be permitted to offer an “opt out” option for consumers who prefer to search for fare information only, without any ancillary fee information, and when this option is selected carriers and agents would not be required to present the fee information.
10. Should the Department only require carriers and agents to provide information on standard baggage fees without taking into account variations based on frequent flyer discounts, loyalty card discounts, geography, ticketed fare, etc. If all of the varieties of baggage fees are displayed, how should the varying fees be arranged?
11. Regarding advance seat assignments, the charges for which also may vary considerably based on, among other things, the location of the seat and how far in advance the seat assignment is purchased, should carriers and agents be required to display all possible advance seat assignment fees, or a range, or the fee for each seat assignment available at the time of the search for a particular city-pair? What is the technological feasibility and cost of providing this information to consumers in a usable fashion, particularly for ticket agents?

Under the proposed disclosure regime, every point of sale for a particular carrier’s fares would also provide access to the carrier’s fee information for first and second checked bag, one carry-on bag, and an advance seat assignment. This requirement would place a legal obligation on carriers to disseminate this information to all of their agents; however, the Department is not stating the method the carriers must use to distribute the information, as long as it is in a form that would allow the fee information to be displayed on the first itinerary-specific results page in a schedule/fare database. Carriers would be free to develop cost-effective methods for distributing this information to their agents. Ticket agents would be prohibited from imposing charges for the distribution of ancillary service fee information that are separate from or in addition to the existing charges for the distribution of fare information as it would be unlawful to provide fare information that does not include the fees for the basic ancillary services.

When Consumer Rule II required airlines to display baggage allowances and fees and baggage notice, and since the time frame provided by DOT for airlines to meet these requirements along with GDS technical limitations effectively required airlines to work with the GDSs to file this baggage information through ATPCO rather than utilizing more advanced Internet based technology. In addition to the fact that this process was very complex

and difficult, it also prevented airlines from dynamically pricing baggage that could have resulted in lower fares for passengers.

Adding to these requirements the requirement of Advanced Seat Selection would have even more adverse results than the baggage fees requirement. It is a way more complex process that would also result in affecting the dynamic method that airlines are pricing this service as they would have to do it through the fare filing system that caters for static charges only.

12. The Dept is seeking comments on whether the list should be expanded to include services such as in-flight wireless Internet access, seating section upgrades, food and beverages, or priority boarding. If the list should be expanded, how should carriers and agents display the information related to these additional services?

At the time being, this could prove to be a very complex process and could affect the dynamic method of pricing these services.

13. If DOT requires disclosure of certain ancillary service fees, but does not require the ability to purchase these services at the time of booking, what would be the preferred way for carriers to collect payment for such services? On the internet through the airline websites prior to check-in, at the airport at the time of check-in, etc.?

14. Should the Department set design standards (e.g., filing of fees for ancillary services through ATPCO, EDIFACT, XML or some other technology) rather than using performance standards for transmission of ancillary fee data from airlines to ticket agents or from airlines and ticket agents to consumers? And, would setting a specific technological/information standard could potentially enhance innovation and improve transparency, and if so, how.

Standards are important; however this should be left to the airline industry to set and work is already being undergone on the New Distribution Capability heading in that direction.

3. Expanding the Definition of “reporting Carrier”

Under the current rules, reporting carrier is an air carrier that accounts for at least one percent of domestic scheduled-passenger revenues. These carriers are required to file certain performance data with the Dept. and provide flight on-time performance information to the public.

1. The Dept seeks to expand the scope of reporting carriers and is proposing that reporting carriers include at least 0.5 or 0.25 or 0.75 or should all carriers that provide domestic scheduled passenger services report to the Dept.
2. Does a carrier’s share of domestic scheduled passenger revenue remains an appropriate benchmark? Should a carrier’s share of domestic scheduled passenger enplanements be used instead? If so, what percentage is a reasonable threshold for triggering the reporting obligation?

3. The Dept is also seeking to expand the scope of “reportable flights” in relation to airports to include all airports instead of large hub airports.

4. Carriers to Report Data for Certain Flights Operated by Their Code-Share Partners

The Dept is proposing that reporting US carriers also report data on code-share services operated by regional-carrier partners of the larger US airlines.

5. Minimum Customer Service Standards for Ticket Agents

The Dept is proposing that ticket agents that sell air transportation to adopt minimum customer service standards in selected areas. This would not apply to ticket agents that do not sell air transportation but rather for agents with annual revenue of 100\$ million or more that market to the general public in the United States. Customer service plans proposed to be required by these ticket agents are identical to those that carriers are already required to do with respect to ticket purchases and information dissemination.

The Dept is seeking comments from carriers if they see any cost in sharing the information with the agents that the agents would be required to provide to consumers.

Currently information regarding the carrier policies and procedures involving booking and ticket purchases is already disseminated to the travel agents through the Direct Information System available in most GDSs.

On the other hand, with regards to travel agents providing an option to hold a reservation at the quoted fare without payment, or to cancel without penalty, for at least 24 hours; we are totally against such a provision as it would put pressure on airlines’ inventories and could open a door for abusive practices by some travel agents and consumers.

6. Codifying 49 U.S.C. § 41712(c) Regarding Website Disclosure of Code-Share Service and Other Amendments to 14 CFR Part 257

The Dept is codifying the definition of a ticket agent that does business in the United States to be: any ticket agent that markets and is compensated for the sale of tickets to consumers in the United States either from a brick-and-mortar office located in the United States or via an Internet website that is marketed towards consumers in the United States.

The Dept’s proposal codifies the requirement that the code-share disclosure must appear on the first display of the website following an itinerary search and that the disclosure on a website must be “in a format that is easily visible to a viewer”. In that regard the Dept is proposing (for the easily visible format requirement):

- 1- That the disclosure must appear in text format immediately adjacent to each code-share flight displayed in response to an itinerary request by a consumer.

- 2- Whether the Dept. should specify minimum standards on the text size of the disclosure in relation to the text size of the schedule itself.
- 3- Whether a code-share disclosure appearing immediately adjacent to the entire itinerary as opposed to appearing immediately adjacent to each code-share flight would be a sufficient way to meet the “easily visible” standard.

The disclosure info is already being supplied by the airlines. Fixing display formats and font sizes is something that will be governed by the display unit in use by the agent and software set up. Changes may lead to additional cost for accommodating the modifications.

With regard to flight schedules provided to the public:

- 4- The Dept proposes that the code-share disclosure be provided by an asterisk or other identifiable mark that clearly indicates the existence of a code-sharing arrangement and directs the readers’ attention to another prominent location on the same page where the identity of the operating carrier is fully disclosed.
- 5- Seek public comments on whether we should impose the same standard for flight schedules as for flight itineraries provided on the Internet in response to an itinerary search, i.e., requiring that the disclosure be provided immediately adjacent to each applicable flight.

With regards to Code-share issues:

- 6- The Dept is proposing to make it clear that written code-share disclosure must be provided at the time of purchase.
- 7- Disclosure in city-pair specific advertisements: The Dept is proposing that disclosure requirements regarding advertisements published on the internet would apply to advertisements for service in, to or from the United States that are marketed to consumers in the United States. This proposed standard will cover all advertisements appearing on a carrier’s or a ticket agent’s own website, as well as advertisements that are presented to U.S. consumers through other paid advertising venues on the Internet (such as a news media website or a travel blog website) and social media websites (such as Facebook or Twitter). The Dept. is seeking comments with regard to whether imposing the same standard to advertisements on all of these websites is reasonable and technically practical.

7. Disclosure that Not All Carriers are Marketed and Identification of Carriers Marketed on Ticket Agent Websites:

The Department is considering requiring large travel agents to disclose in online displays the fact that not all carriers that serve a particular market are marketed by the travel agent if that is the case.

We support the DOT’s proposal to require large travel agents to disclose in online displays the fact that not all carriers that serve a particular market are marketed by the travel agent if that is the case.

8. Prohibition on Undisclosed Airfare Display Bias by Ticket Agents and Carriers

In connection with electronic displays of multiple carriers' airfares and schedules, the Department is proposing to prohibit any undisclosed bias in any presentation of carrier schedules, fares, rules or availability. This follows some allegations presented to the Enforcement Office that certain ticket agents, including GDSs, have biased their displays to disadvantage certain airlines in the course of hard-fought contract negotiations.

We support the department in prohibiting any undisclosed bias in any presentation of carriers' schedules, fares, rules or availability.

9. Prohibition on post-purchase price increases for baggage fees

In the second Enhancing Airline Passenger Protections rule, the Department prohibited an air carrier or agent from increasing the price of air transportation after the passenger purchases a ticket. The Department is now proposing to modify 14 CFR 399.88 to prohibit a price increase after the purchase of air transportation for any mandatory charge the consumer must pay (such as the air fare or an applicable fuel surcharge), and the price for the carriage of any passenger baggage. Sellers of air transportation would also continue to be prohibited from increasing the price of any ancillary service after it is purchased; however, under the proposed rule, the price for the transportation of passenger baggage that applies when a passenger buys a ticket is the price that they will pay, even if they do not pay for the transportation of baggage at the time they purchase the ticket.

No. The airlines should only be obliged not to change the price of the purchased product and not its ancillaries as well if the ancillaries were not purchased.

8- The Department is also considering the alternative of keeping the original interpretation of the rule. Under this interpretation, the price of ancillary services and products for a given consumer is capped at the time that he or she purchases the air transportation whether or not these items are purchased along with the air transportation.

If there is no guarantee or commitment from the passenger, airline should be free to change prices.

9- The Department invites comments on the costs and benefits of retaining the rule as originally interpreted and on the new proposal to prohibit only an increase in the price of the carriage of baggage if not purchased with the fare.

If there is no guarantee or commitment from the passenger, airline should be free to change prices.

10-The Department is also contemplating revising the post-purchase price provision to better address the issue of “mistaken fares.” The Dept. is soliciting comment on how best to address the problem of individual bad actors while still ensuring that airlines and other sellers of air transportation are required to honor mistaken fares that were reasonably relied upon by consumers.

We welcome the DOT’s initiative to revise the post-purchase price provision to better address the issue of “mistaken-fares” that we encourage would highlight that if consumers buying the mistaken fare know or should have known that the fare was mistaken then there is no contract valid between the consumer and the airline. And in this case, it should be the commercial decision of the airline on how to handle the situation taking into account the cost and the impact on the image and reputation of the airline.

11-The Dept is also proposing to define the phrase “air transportation within, to, or from the United States” for the purposes of this section to mean any transportation that begins or ends in the United States or involves a connection or stopover in the United States that is 24 hours or longer.

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

a) Baggage Disclosure Requirements

The Dept is proposing to apply the rules that refer to websites to the websites that are “marketed to” U.S. consumers instead of the previous term “accessible” from the United States.

Applicability of Baggage fees: A change will take place on how to display to the consumer that baggage fees may apply. The options are that this would change to reflect the proposal of “display of ancillary service fees through all sales channels” if the proposal is adopted, or it would state: “the first screen on which the carrier offers a fare quotation after a passenger initiates a search for flight itineraries must include notification that baggage fees may apply”.

b) Standard Applicable to Reportable Tarmac Delays

The Dept. is proposing to change the definition of “lengthy” tarmac delay to “more than three hours” in all relevant requirements under the tarmac delay rules as the Dept has acknowledged that there were some discrepancies in between rules with regards to this definition which is mentioned “three hours or more” in other requirements.

c) Civil penalty for tarmac delay violations

The Dept. is proposing to impose the civil penalty not complying with tarmac delay rules “on a per passenger basis”.

We strongly oppose this proposal and we refer to IATA’s comments on this issue that refer to legal issues that would not give the right to DOT to do this change in the tarmac delay violations.

Required Oral Disclosure of Material Restrictions on Travel Vouchers Offered to Potential Volunteers In Oversale Situations

The Dept is proposing that when carriers orally solicit volunteers and offer travel vouchers as incentives, they would also be required to orally describe any material restrictions applicable to the travel vouchers. Before, this requirement only applied to non-volunteers.

d) Limitation of Flight Status Notification Requirement

- The current rule requires that covered carriers must notify passengers and other interested persons of flight status changes within 30 minutes after the carrier becomes aware of such changes. The Enforcement Office has interpreted this that the rule applies to any flight status changes that occur within seven calendar days of the scheduled date of the operation. The Dept. is proposing to codify this “seven-calendar-day” timeframe.
- The Dept. is also proposing some editorial changes to clarify that flight status change notifications required in this section should be provided not only to passengers, but also to any member of the public who may be affected by the changes, including persons meeting passengers at airports or escorting them to or from airports.

It is not clear how this information can be provided to person/s that the airline has no knowledge of or no contact details. In case of flight status change, the carrier usually notifies the passenger(s) whose mobile number is included in the PNR. We wonder how can the carrier reach the other persons meeting the passengers at airports or escorting them to/from airports?

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