



January 23, 2023

The Honorable Pete Buttigieg
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Ave., SE
Washington, DC 20590

**RE: Comments from the Travel Management Coalition
DOT Proposed Rulemaking on Enhancing Transparency of Airline Ancillary Fees
Docket Number OST-2022-0109**

Dear Secretary Buttigieg:

On behalf of the Travel Management Coalition ("Coalition"), we submit comments in response to the Department of Transportation (DOT) Proposed Rulemaking on Enhancing Transparency of Airline Ancillary Fees. As corporate travel management companies (TMCs) that primarily book business travel in the U.S., the Coalition appreciates the opportunity to provide input into this important rulemaking.

The Travel Management Coalition represents six of the largest TMCs in the U.S., including Internova, American Express Global Business Travel, BCD Travel, CWT, CTM North America, and Direct Travel. As ticket agents, TMCs book an average of 26% of airline travel for U.S. corporate customers annually. Due to their size, Coalition members received little to no government financial assistance during the COVID-19 pandemic and are still recovering from the pandemic's impact on business and international travel, which were depressed due to government travel restrictions and testing requirements.

While the Coalition supports the Department's overall goal of strengthening consumer protections and enhancing transparency, our members are concerned that the requirements, as proposed, do not reflect the unique role of corporate travel agents in the marketplace. Corporate travel agents facilitate transactions between airlines and corporate customers, not the general public.

As such, the Coalition is requesting the following changes to the rule and provides responses to the DOT's specific questions posed below. These include:

I. Corporate Travel Agent Exemption

The DOT asks whether corporate travel agents should be exempted from the rule. The Coalition believes they should, and requests that DOT exempt corporate travel agencies from this rule. In doing so, the Coalition recognizes that DOT may seek to define corporate travel agency. **We suggest the definition of a corporate travel agency to be a “travel agency engaged in the provision of travel services primarily to business entities pursuant to a written contract for the business travel of such business entities’ employees.”**

There are several reasons an exemption makes sense in the context of the rulemaking. Corporate travel agents do not market or provide services to the general public, but rather market and contract directly with businesses to provide travel management services to their managers and employees. Any ancillary fee information provided to the business traveler once a flight search is initiated is negotiated with the business traveler’s employer (the “contract holder”), and dependent upon the booking tool the contract holder selects to manage its travel with the corporate agency, or TMC. Any additional and customer-specific itinerary information not displayed can be provided by the TMC at the request of the traveler or client travel manager. While the booking tool content is customizable by the contract holder or traveler, corporate travel agents have no direct control over the display of the booking tool, and display information may differ based on how the user is accessing the tool, i.e., on a website or via mobile app. It would be difficult for corporate travel agents to drive changes to a third-party booking tool display to meet disclosure requirements, if subject to this rule.

As such, requiring corporate travel agents to ensure certain ancillary fee information is presented to a business traveler during an initial search using a contract holder’s booking tool is unnecessary, burdensome, and would expose the corporate travel agency to liability without being able to fully manage that risk. If the contract holder wanted such ancillary fees covered under this rule presented during the initial search, the business has leverage to negotiate such requirements in selecting a corporate travel agent and in choosing a booking tool provider. And often, ancillary fees, including baggage fees, are already provided and clearly visible to the individual booking the travel – who is a paid employee using corporate, not personal funds. There is no harm alleged; it is quite different from a traveler searching a public site with no leverage to affect what he or she may see upon search – the circumstance that DOT is referencing to justify the need for the rulemaking based on consumer complaints to the Department. And while businesses may be cost-conscious when it comes to travel, consumer protection concerns are not the same as those of the general traveling public.

If corporate travel agents are not exempted, but booking tool providers failed to adapt their software and display functions to ensure compliance with the ticket agent’s disclosure requirements under this rule, then the corporate travel agent would face liability without any ability to fully control the booking tool, which is most often managed by a third-party provider.

Subjecting corporate travel agents to this rule does nothing to achieve DOT’s goal of enhancing protections for the occasional leisure traveler in the general public, and could frustrate the frequent business traveler by requiring certain information to be presented in a way that is not contemplated in the corporate travel contract and not applicable, needed or wanted by the customer. The U.S. Congress has recognized the distinction between ticket agents that sell to the general public, and ticket agents that sell to corporate customers, in writing the Federal Aviation Administration (FAA) Reauthorization

Act of 2018.¹ And other governments and regulatory bodies, including the European Commission, Germany and the United Kingdom, recognize the distinction between a business and leisure traveler in the marketplace.² For example, the European Commission states, “business travel agency services meet the needs of companies for business travel of management and employees in accordance with corporate travel budgets and plans,” whereas leisure travel agents “provide services to individuals in connection with their non-business vacation and personal travel needs.”³ And the German Federal Cartel Office considers “the differences between the two types of travel (in terms of target group, type of travel as well as type of booking process and difference service providers) and the emergence of travel agents specializing in business travel justify the separation of the market into relevant submarkets for leisure on one hand and business on the other hand.”⁴

II. Opt-Out

DOT also asks in the rulemaking whether the Department should allow for some type of customer “opt-out” option, whereby a traveler may choose *not* to have the ancillary fee information required under this rulemaking displayed when searching for travel. DOT references a concern raised at a previous Aviation Consumer Protection Advisory Committee (ACPAC) meeting where the traveler may find the information not useful, perhaps if the traveler is a frequent one, or overwhelming and crowding out the information he or she seeks to quickly select a flight.

The Coalition believes DOT should provide this option. Frequent travelers are more familiar with the types of ancillary fees airlines charge to change or cancel flights, check baggage, or ensure family seating. Requiring such information – which is often static – to be displayed during the initial search may make it more frustrating for the frequent traveler, not less. Therefore, an opt-out option, would provide needed flexibility to this type of traveler.

Nevertheless, we would strongly caution DOT against including an opt-out option in lieu of an exemption for corporate travel agents. If corporate travel agents are not exempted from this rule, but rather DOT allows corporate customers to opt-out from receiving the ancillary fee information through the booking tool they have selected, then corporate travel agencies would still need to go back to each corporate customer and amend contracts to allow for such an opt-out. This would create additional and unnecessary red-tape burdens, costing time and resources. And the booking tool providers, who are not subject to this rule, would still need to adapt software to comply, which creates more costs for all.

¹ Federal Aviation Administration Reauthorization Act of 2018, PUBLIC LAW 115–254—OCT. 5, 2018

² Case COMP/M.7238 *American Express Company/Qatar Holding/GBT*, Commission Decision of 20 June 2014, para. 23; Case COMP/M.4234 *Carlson/One Equity Partners/Carlson Wagonlit*, Commission Decision of 3 July 2006, paras. 12-13; Case COMP/M.2627 *Otto Versand/Sabre/Travelocity/JV*, Commission Decision of 19 February 2001, para. 12; Case M.2197 *Hilton/Accor/Forte/Travel Services/JV*, Commission Decision of 16 February 2001, para. 14; Case IV/M.988 *Maersk DFDS Travel*, Commission Decision of 4 November 1997, para. 9; Case IV/M.867 *Wagons-Lits/Carlson*, Commission Decision of 7 March 1997, para.10; Case IV/M.229 *Thomas Cook/LTU/West LB*, Commission Decision of 14 July 1992, para. 12. Case *Thomas Cook/Co-operative Group/Midlands Co-operative*, Competition Commission Decision of 16 August 2011; Case B 9 - 173/99 *REWE-Gruppe/Deutsches Reisebüro GmbH*, Federal Cartel Office Decision of 25 February 2000, para. 18; Case B9 - 7/02 *TUI Deutschland GmbH/Herr Betriebswirt Klaus D. Scheyer*, Federal Cartel Office Decision of 19 April 2002, para. 7; Case B9 – 214/02 *TUI Deutschland GmbH/Raiffeisen-Volksbank im Landkreis Altötting eG*, Federal Cartel Office Decision of 28 March 2003, para. 8; Case B9 - 55/06 *Amadeus IT Group SA / TravelTainment AG*, Federal Cartel Office Decision of 7 September 2006.

³ Case COMP/M.7238 *American Express Company/Qatar Holding/GBT*, Commission Decision of 20 June 2014, para. 23; Case COMP/M.2197 *Hilton/Accor/Forte/Travel Services JV*, Commission Decision of 16 February 2001, para.14; Case COMP/M.2627 *Otto Versand/Sabre/Travelocity/JV*, Commission Decision of 19 February 2001, para. 12. See also Case COMP/M.2794 *Amadeus/GGL/JV*, Commission Decision of 21 May 2002, para. 10 and Case IV/M.867 *Wagons-Lits/Carlson*, Commission Decision of 7 March 1997, para.10.

⁴ Convenience translation. See Case B9 - 173/99 *REWE-Gruppe/Deutsches Reisebüro GmbH*, Federal Cartel Office Decision of 25 February 2000, para. 18.

III. Bookings Over the Phone

In the proposed rulemaking, DOT asks whether, in lieu of fully disclosing all the ancillary fees over the phone at the time of booking, ticket agents can advise travelers to consult with the airline's website for any ancillary fee information they desire. The Coalition believes, that yes, ticket agents should have the flexibility to refer a customer to an airline's website, a corporate travel booking tool, or other available reference, rather than verbally disclosing all of the potential fees associated with booking – fees that may not even affect the traveler. Not permitting such flexibility would increase costs for the travel agency by requiring agents to keep customers on a call longer, providing information they may not even desire or be asking for, and potentially frustrate the customer in the process.

IV. Requirement for Airlines to Provide Ancillary Fee Information to Ticket Agents

Even if DOT exempts corporate travel agents, as the Coalition believes the Department should, it would still be helpful to our agents for airlines to provide all ancillary fee information associated with a fare to corporate travel agencies. Currently, ancillary fee information that airlines provide through the Global Distribution System (GDS) is often not consistent, and having consistent fee information through the GDS, as well as other entities to which airlines provide fee and fare information, would help agents provide better customer service when such information is requested by the corporate traveler.

Thank you again for the opportunity to comment on this rulemaking and raising questions related to how corporate travel specifically could be impacted. We stand ready to answer any additional questions.

Sincerely,

A handwritten signature in black ink that reads "Kimberly Ellis". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Kimberly Ellis
Executive Director
Travel Management Coalition