



COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION

OFFICE OF OVERSIGHT AND INVESTIGATIONS

MINORITY STAFF

The Unfriendly Skies: Consumer  
Confusion Over Airline Fees

STAFF REPORT FOR RANKING MEMBER NELSON

AUGUST 6, 2015

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## **Introduction**

In recent years, major airlines have increasingly relied on a business model that charges consumers fees – often referred to as “ancillary fees” – for specific services separate from base airfare. The first major shift in this direction was the separation of fees for checked baggage, regardless of weight, from airfare.<sup>1</sup> Checked baggage fees were initiated by ultra-low-cost carrier Spirit Airlines in 2007<sup>2</sup> and were quickly adopted by the transcontinental legacy carriers,<sup>3</sup> starting with American Airlines, which announced in May 2008 that it would begin charging \$15 each way for a consumer’s first checked bag.<sup>4</sup> Today, most major airlines charge fees for a wide variety of services ranging from priority boarding to preferred seating to Wi-Fi. The expansion of these fees has contributed to the growth of reported global airline ancillary revenue, which has increased more than 1400% between 2007 and 2014.<sup>5</sup>

The addition of these ancillary fees has spurred widespread debate over whether these fees really constitute separating paid services from the base airfare – sometimes referred to as “unbundling” – or just a new vehicle for airline profit. In addition, the ancillary fee model has led to calls for more effective ways to promote transparency in airline pricing and ensure that consumers purchasing airfare are not surprised by the ultimate cost of their air travel.

In proceedings, including meetings of the Consumer Advisory Committee, established by the 2012 Federal Aviation Administration Safety and Modernization Act, and recent Department of Transportation (DOT) rulemakings,<sup>6</sup> consumer representatives have pressed airlines to make fee information readily accessible to consumers at all points in the purchase process. Airlines argue that they provide sufficient transparency through the fee schedules posted on their

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<sup>1</sup> *History of Airline Baggage*, Travel and Leisure (Aug. 11, 2010).

<sup>2</sup> *The Frills Are Few. The Fees Are Not*, New York Times (May 31, 2013).

<sup>3</sup> Legacy carriers are airlines that existed prior to the Airline Deregulation Act of 1978. The current transcontinental legacy carriers are American Airlines/US Airways, United Airlines, and Delta Air Lines.

<sup>4</sup> This fee was implemented in June 2008. *American, Cutting Back, Plans \$15 Bag Fee*, New York Times (May 22, 2008). See also *The Logic of Baggage Fees*, The Atlantic (Oct. 15, 2010); *Like American, More Airlines Add Fees for Checking Luggage*, New York Times (June 13, 2008).

<sup>5</sup> IdeaWorksCompany, *2014 Airline Ancillary Revenue Leaps to \$38.1 Billion – Up Nearly 21% in a Year* (July 13, 2015) (online at [www.ideaworkscompany.com/wp-content/uploads/2015/07/Press-Release-99-Ancillary-Revenue-Top-10-for-2014.pdf](http://www.ideaworkscompany.com/wp-content/uploads/2015/07/Press-Release-99-Ancillary-Revenue-Top-10-for-2014.pdf)). The IdeaWorksCompany analysis included data from 23 airlines in 2007 and from 63 airlines in 2014, which partly accounts for this large increase.

<sup>6</sup> On May 23, 2014, DOT issued a Notice of Proposed Rulemaking seeking comment on a number of proposals to enhance protections for air travelers. Among other things, DOT proposed requiring all airlines and ticket agents to disclose fees associated with certain basic ancillary services at the point of sale, or when a consumer would be deciding whether to purchase airfare. See Department of Transportation, *Transparency of Airline Ancillary Fees and Other Consumer Protection Issues*, 79 Fed. Reg. 29969 (May 23, 2014) (proposed rule).

websites<sup>7</sup> and individual arrangements with travel agents and have worked to reverse new regulatory requirements that they include government taxes and fees in the fares they advertise.<sup>8</sup>

To assist the Commerce Committee (Committee) in evaluating the evolving ancillary fee business model and consumer protection issues relating to the airfare purchase process, Committee minority staff sought and obtained information from the top ten revenue-generating U.S. airlines regarding these practices.<sup>9</sup> Committee minority staff also researched public airline communications with investors and reviewed information consumers currently receive when purchasing airfare on the websites of major airlines.

Based on this review, Committee minority staff made the following findings:

- (1) Ancillary fees are now a key component of major airlines' business models and revenue from these fees could continue to expand in the future;
- (2) Ancillary fees have increased substantially both in amount and variety over the past five years across many major airlines:
  - (a) Baggage fees have proliferated since 2009,
  - (b) Change and cancellation fees have substantially outpaced inflation since 2009, and
  - (c) Airlines are increasingly using preferred seating as a new source of ancillary revenue and these preferred seating fees pose transparency issues; and
- (3) Change and cancellation fees are not always transparent to consumers.

These findings underscore the importance of continuing Committee and regulatory oversight of airline consumer protection practices to ensure consumers have access to transparent information regarding potential travel costs.

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<sup>7</sup> Airline posting of fee schedules is not a voluntary measure. Rather, DOT requires all U.S. and foreign air carriers to disclose to consumers all fees for optional services through a prominent link on their homepage. *See* Department of Transportation, *Enhancing Airline Passenger Protection*, 76 Fed. Reg. 23110 (Apr. 25, 2011) (final rule).

<sup>8</sup> In its comments to DOT's proposed rulemaking concerning the enhancement of airline passenger protections, Airlines for America (A4A) argued that the "proposal would actually provide less transparency than current advertising practices because the cost of providing one price inclusive of taxes and fees with additional information in 'fine print' about taxes and fees, along with carrier concerns over enforcement, will effectively suppress information on government taxes and fees. This will provide the public with less, not more transparency." Comments of the Air Transport Association of America, Inc., In the matter of Notice of Proposed Rulemaking Concerning Enhancing Airline Passenger Protections, 47, DOT-OST-2010-0140.

<sup>9</sup> This investigation was initiated in the 113<sup>th</sup> Congress under then-Chairman John D. Rockefeller IV. *See* Letter from Chairman John D. Rockefeller IV to the major airlines (Aug. 18, 2014). The major airlines include: United, Delta, American, Southwest, US Airways, JetBlue, Alaska, Hawaiian, SkyWest, and Spirit. The letter also requested information on airlines' current practices and policies regarding the handling of consumers' personal information. *See also* Press Release, Senate Commerce Committee, *Rockefeller Opens Inquiry Into Airline Passenger Fees and Consumer Data Privacy Policies* (Aug. 18, 2014). American Airlines responded on behalf of both American Airlines and US Airways. *See* Letter from American Airlines to Chairman John D. Rockefeller IV, 1 (Sept. 19, 2014). Because SkyWest operates under codeshare agreements with other airlines, it did not have information or data responsive to the inquiry. Letter from SkyWest Airlines to Chairman John D. Rockefeller IV, 1 (Sept. 22, 2014).

## **(1) Ancillary Fees Are Now a Key Component of Major Airlines' Business Models and Revenue From These Fees Could Continue to Expand in the Future**

In 2008, major U.S. airlines began shifting from a model in which passengers were charged a single base fare for travel to a model in which they are charged separately for services, such as checked baggage, that previously were included in the base airfare.<sup>10</sup> According to a study by IdeaWorksCompany, between 2007 and 2014, reported global airline ancillary revenue (which includes both revenue from fees charged directly to passengers and other non fare-based revenue, such as affinity credit card programs) increased from \$2.45 billion to \$38.1 billion.<sup>11</sup> The same trend has been true of major U.S. airlines. For example, from 2013 to 2014, American/U.S. Airways' ancillary revenue increased by 46%, Delta's ancillary revenue increased by 27%, Southwest's ancillary revenue increased by 16%, and United's ancillary revenue increased by nearly 3%.<sup>12</sup>

Between 2007 and 2014, annual revenues in the two major categories of fees that U.S. airlines must publicly report, baggage and change/cancellation fees, have also increased substantially, from \$464 million<sup>13</sup> to \$3.53 billion<sup>14</sup> for baggage fees and from \$915 million<sup>15</sup> to \$2.98 billion<sup>16</sup> for change/cancellation fees. In the first quarter (Q1) of 2015, the most recent period for which public data is available, passenger airlines collected approximately \$1.6 billion in baggage and change/cancellation fees – \$865 million in baggage fees and \$764 million in change/cancellation fees<sup>17</sup> – for a combined increase of \$112 million, or 7.4%, from Q1 2014.<sup>18</sup> In Q1 2015, U.S. airlines saw their highest revenue ever from change/cancellation fees.<sup>19</sup>

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<sup>10</sup> General Accountability Office, *Impact of Fuel Price Increases on the Aviation Industry*, 10 (Sept. 2014) (GAO-14-331).

<sup>11</sup> IdeaWorksCompany, *2014 Airline Ancillary Revenue Leaps to \$38.1 Billion – Up Nearly 21% in a Year*, 1 (July 13, 2015). IdeaWorksCompany defines ancillary revenue as “Revenue beyond the sale of tickets that is generated by direct sales to passengers, or indirectly as a part of the travel experience.” The definition includes four categories: 1) a la carte features, 2) commission-based products, 3) frequent flier activities, and 4) advertising sold by the airline.

<sup>12</sup> *Id.* at 2.

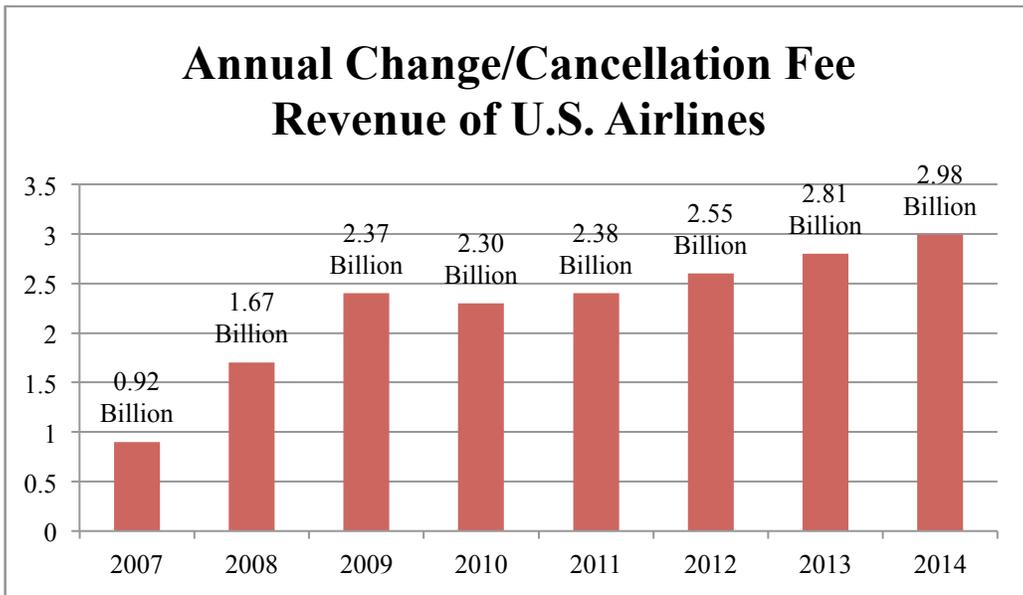
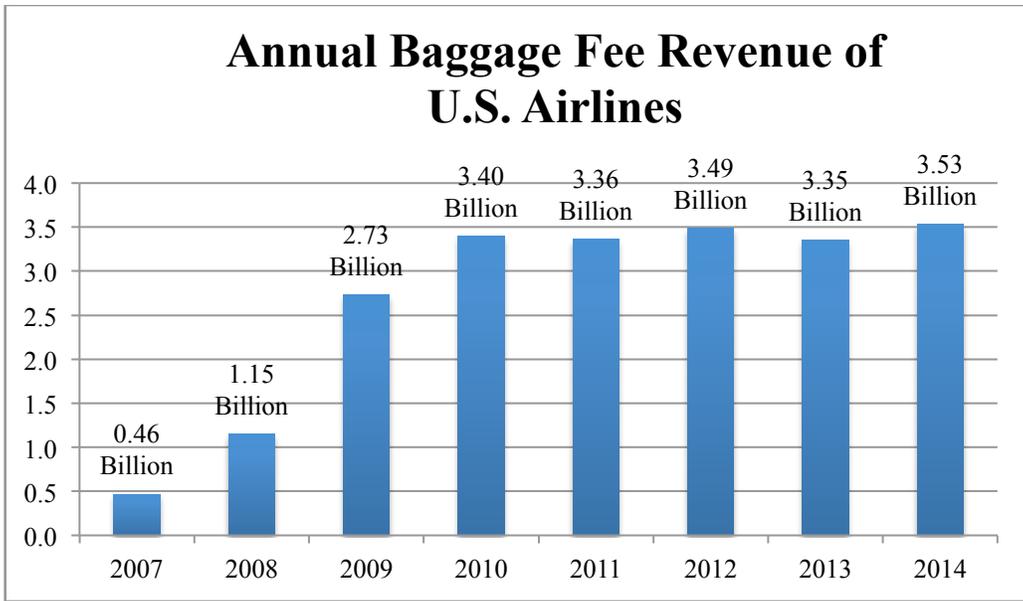
<sup>13</sup> Bureau of Transportation Statistics, *Baggage Fees by Airline 2007* (online at [www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject\\_areas/airline\\_information/baggage\\_fees/html/2007.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/airline_information/baggage_fees/html/2007.html)).

<sup>14</sup> Bureau of Transportation Statistics, *Baggage Fees by Airline 2014* (online at [www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject\\_areas/airline\\_information/baggage\\_fees/html/2014.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/airline_information/baggage_fees/html/2014.html)).

<sup>15</sup> Bureau of Transportation Statistics, *Reservation Cancellation/Change Fees by Airline 2007* (online at [www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject\\_areas/airline\\_information/reservation\\_cancellation\\_change\\_fees/html/2007.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/airline_information/reservation_cancellation_change_fees/html/2007.html)).

<sup>16</sup> Bureau of Transportation Statistics, *Reservation Cancellation/Change Fees by Airline 2014* (online at [www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject\\_areas/airline\\_information/reservation\\_cancellation\\_change\\_fees/html/2014.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/airline_information/reservation_cancellation_change_fees/html/2014.html)).

<sup>17</sup> Bureau of Transportation Statistics, *Baggage Fees by Airline 2015* (online at [www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject\\_areas/airline\\_information/baggage\\_fees/html/2015.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/airline_information/baggage_fees/html/2015.html)); Bureau of Transportation Statistics, *Reservation Cancellation/Change Fees by Airline 2015* (online at [www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject\\_areas/airline\\_information/reservation\\_cancellation\\_change\\_fees/html/2015.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/airline_information/reservation_cancellation_change_fees/html/2015.html)).



Source: Bureau of Transportation Statistics

The diversity of such optional services has also proliferated, and many airlines have implemented a wide variety of for-fee services, from food to Wi-Fi to priority boarding to preferred seating.<sup>20</sup> A number of the major airlines emphasized that “unbundling” has improved

<sup>18</sup> See *Airline Checked Bag, Reservation Change Fees Set IQ Record*, AP (June 23, 2015).

<sup>19</sup> See Bureau of Transportation Statistics, *Reservation Cancellation/Change Fees by Airline 2007-2015* (online at [www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject\\_areas/airline\\_information/reservation\\_cancellation\\_change\\_fees/index.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/airline_information/reservation_cancellation_change_fees/index.html)).

<sup>20</sup> In addition, it appears that some airlines are looking to extend add-on charges to the booking process itself. In June 2015, Lufthansa Group announced that it would charge a 16-euro (or approximately \$17.80) fee for all tickets booked through third-party websites, such as Expedia, Orbitz, and Travelocity, effective September 1, 2015. See

options and helped consumers avoid paying for unused services that previously were embedded in the price of their tickets.<sup>21</sup> Some airlines also noted that ancillary revenues have been important for improving their financial health.<sup>22</sup>

Unfortunately, it is not possible for Committee minority staff to fully assess how the move toward “unbundling” ancillary fees is affecting revenues across major airlines. The three largest airlines – Delta, United, and American – declined to provide the Committee with requested information regarding total revenues from the past three years for preferred seats, priority boarding, Wi-Fi passes, advanced seat selection, and trip insurance. These airlines also declined to separate first checked bag revenue from second checked bag revenue and disaggregated advance schedule change revenue from same-day schedule change revenue, as was requested.<sup>23</sup>

However, in calls with investors, several major airlines underscored the increased revenue provided by these fees and the important role these fees may play in increasing corporate profits going forward. For example, in October 2013, Alaska Airlines’ Chief Financial Officer referred to ancillary fees as “powerful profit drivers,” stating, “The seats, the bag and fee changes, and the modified affinity deal that together, when fully implemented, are worth \$150 million or more per year.”<sup>24</sup> Alaska’s call was not unique. Executives from Delta,<sup>25</sup> United,<sup>26</sup>

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*Lufthansa Makes Booking Sites Add Fee*, BBC News (June 3, 2015). Lufthansa Group was not surveyed as part of the Committee’s investigation.

<sup>21</sup> See, e.g., Letter from American Airlines to Chairman John D. Rockefeller IV, 2 (Sept. 19, 2014) (“Offering new and different options and services to consumers has become an integral part of our business model. While in the past our passengers’ choices were largely limited to which class of service they chose, they now have options to customize their travel experience in ways that did not exist previously.”); Letter from Delta Air Lines to Chairman John D. Rockefeller IV, 2 (Sept. 19, 2014) (“Ancillary products represent the opportunity to provide customers with customizable travel options without burdening all passengers with the cost of providing them.”); Letter from Spirit Airlines to Chairman John D. Rockefeller IV, 1 (Sept. 5, 2014) (“With our target consumer segment in mind, beginning in 2006, Spirit began to ‘unbundle’ its travel product, such that customers could pay for only those specific ancillary products and services they chose to use.”).

<sup>22</sup> See, e.g., Letter from Hawaiian Airlines to Chairman John D. Rockefeller IV, 1 (Sept. 18, 2014) (“[A]ncillary prices have become increasingly important to maintain even marginal profitability.”); Letter from United Airlines to Chairman John D. Rockefeller IV - Response Attachment, 2 (Sept. 19, 2014) (“While it is a portion of our revenues, it has dramatically improved the health of the low-margin airline industry.”).

<sup>23</sup> Southwest and Hawaiian were the only carriers to provide revenue data for each requested category.

<sup>24</sup> Alaska Air Group Inc., Q3 2013 Earnings Conference Call (Oct. 24, 2013).

<sup>25</sup> Delta Air Lines Inc., Q3 2013 Earnings Conference Call (Oct. 22, 2013) (“Our ancillary revenues are top-tier and we believe significant upside exists going forward.”); Delta Air Lines Inc., Q4 2013 Earnings Conference Call (Jan. 21, 2014) (“Our ancillary products, which include first class upsell and Economy Comfort, contributed more than \$635 million to our full year 2013 passenger revenues and were up more than 40% compared to last year.”); Delta Air Lines Inc., Q1 2015 Earnings Call (Apr. 15, 2015) (“We also saw good traction with our ancillary revenues. Merchandising revenues including branded fares, first-class upsell and preferred seating grew by 27% and contributed an incremental \$50 million to our top-line this quarter.”).

<sup>26</sup> United Continental Holdings, Inc., Q4 2013 Earnings Conference Call (Jan. 23, 2014) (“At our Investor Day in November, we outlined a goal of exceeding \$3.5 billion in annual ancillary revenue by 2017. We’re positioned well to achieve this goal, as we generated \$2.8 billion from ancillary revenue in 2013 and expect to grow this by approximately 8% in 2014.”); United Continental Holdings, Inc., Q1 2014 Earnings Conference Call (Apr. 24, 2014)

JetBlue,<sup>27</sup> Spirit,<sup>28</sup> and Southwest<sup>29</sup> each indicated in recent earnings calls that ancillary revenue is a key component of overall revenue both presently and in the future.

Airline transparency regarding ancillary fee revenues is particularly important to enable Committee minority staff's evaluation of the present and potential future impact of "unbundling" on the revenue stream for the Airport and Airway Trust Fund (AATF), which supports Federal Aviation Administration (FAA) programs such as FAA operations and maintenance, facilities and equipment, research, engineering, and development.<sup>30</sup> Currently, the AATF is supported by a 7.5% excise tax on airfare tickets, as well as certain other revenue sources.<sup>31</sup> Many of the "optional" services – such as checked baggage, seat selection, priority boarding, and upgrades to a plane's "economy-plus" section – are not considered part of the "cost of transportation" and are thus not subject to the tax that supports the AATF.<sup>32</sup> The current tax treatment of ancillary fees results in a substantial loss of potential tax revenue. If the reported baggage fee revenue and change/cancellation fee revenue of U.S. airlines in 2014 were subject to the 7.5% excise tax, an additional \$488 million would have been generated for the AATF.<sup>33</sup>

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("We expect to generate \$3 billion of ancillary revenue in 2014, which represents 8% growth year-over-year."); United Continental Holdings, Inc., Q1 2015 Earnings Call (Apr. 23, 2015) ("Ancillary revenue continued to grow in the first quarter, averaging more than \$23 per passenger an 8.6% increase year-over-year."). *See Also Checked Bag Fees are Here to Stay: United Airlines CEO*, Reuters (July 30, 2015) (At a July 30, 2015, airline industry lunch, United CEO Jeff Smisek was quoted as saying that some travelers are "having difficulty recognizing that we're now a business" and suggested that ancillary fees are here to stay in the airline industry).

<sup>27</sup> JetBlue Airways Corp., Q4 2013 Earnings Conference Call (Jan. 29, 2014) ("[W]e believe new product enhancements... and ancillary revenue initiatives... together with a maturing network, will drive improved revenue performance."); JetBlue Airways Corp., Q1 2014 Earnings Call (Apr. 24, 2014) ("Also contributing to year-over-year revenue growth was record quarterly ancillary revenue per customer of \$24. This is up 9.9% year-over-year, and we see continued opportunity, moving forward, to generate high margin ancillary revenues.").

<sup>28</sup> Spirit Airlines Inc., Q2 2014 Earnings Call (July 29, 2014) ("We've also talked about ancillary revenues at some point maybe asymptotically approaching 50% of total revenues.").

<sup>29</sup> Southwest Airlines Co., Q1 2015 Earnings Call (Apr. 23, 2015) ("Our first quarter, our ancillary revenues that really came in strong... I think that that [sic] we would expect those trends to continue to firm.").

<sup>30</sup> Congressional Research Service, *Financing Airport Improvements*, 3 (Dec. 4, 2013).

<sup>31</sup> *Id.*

<sup>32</sup> "Treasury regulations, the last iteration of which were promulgated in the 1960s, set general parameters for which airline-imposed fees are subject to the 7.5 percent excise tax. As a general rule, all amounts paid to the airline to procure domestic air transportation are part of the tax base unless exempted by regulation or IRS guidance. Generally, all mandatory charges necessary to transport passengers are included in the tax base, but fees for optional services are not." General Accounting Office, *Consumers Could Benefit from Better Information about Airline-Imposed Fees and Refundability of Government-Imposed Taxes and Fees*, 21 (July 2010) (GAO-10-785).

<sup>33</sup> In 2014, the annual baggage fee revenue of U.S. airlines was \$3.53 billion and the annual change/cancellation fee revenue of U.S. airlines was \$2.98 billion. *See* Bureau of Transportation Statistics, Reservation Cancellation/Change Fees by Airline 2014; Bureau of Transportation Statistics, Baggage Fees by Airline 2014.

## **(2) Ancillary Fees Have Increased Substantially Both in Amount and Variety Over the Past Six Years Across Many Major Carriers**

Between 2009 and 2015, the fees charged by most major airlines for checked baggage and ticket change/cancellation increased substantially.<sup>34</sup> Airlines that made these changes generally did so infrequently, with large jumps in price rather than gradual increases over time. In addition, most surveyed airlines have instituted a number of new services for which they charge fees. For example, based on their responses, at least four surveyed airlines did not offer priority boarding in 2009 but now charge between \$9 and \$59 for this convenience, depending on the flight itinerary. Similarly, at least four surveyed airlines that did not offer Wi-Fi in 2009 now allow passengers the option to pay for this service. Major airlines are also increasingly using preferred seating as a new source of ancillary revenue, and these fees pose transparency issues.

### **(A) Baggage Fees Have Proliferated Since 2009**

Baggage fees are one of the main categories in which consumers have experienced significant increases in costs. Seven of the eight surveyed airlines presently charge a fee of \$20, \$25, or \$30<sup>35</sup> for the first checked bag.<sup>36</sup> Southwest is the only airline that does not currently charge for the first checked bag after JetBlue, which previously had allowed consumers to check one bag for free, implemented new baggage fees on July 1, 2015.<sup>37</sup> Of the seven carriers that currently charge for the first checked bag, two carriers did not charge consumers for this service in 2009, three increased baggage prices by 67% between 2009 and 2014, and two failed to provide the Committee with pricing data from 2009. With respect to a second checked bag, seven of the eight airlines impose a fee of \$25, \$35, or \$40.<sup>38</sup> Two of these airlines raised fees for a second checked bag by 40% between 2009 and 2014, one saw an increase of over 100%,

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<sup>34</sup> In the August 2014 letter to the major airlines, the Committee requested historic pricing data on ancillary fees from 2009 to the present. Five of the eight airlines surveyed complied with this request. United provided historic pricing data from October 2010, Delta claimed that historic pricing dating back to January 1, 2009 was not readily available for some fees, and Spirit, citing confidentiality concerns, declined to provide the historic pricing data.

<sup>35</sup> Spirit charges \$30 for the first checked bag when a consumer pays the fee during booking; however, the fee increases if the consumer pays before online check-in (\$35), during online check-in (\$40), at the airport (\$50), or at the gate (\$100). See Spirit Airlines, Options and Extras (online at [www.spirit.com/OptionalServices](http://www.spirit.com/OptionalServices)) (accessed June 29, 2015).

<sup>36</sup> Many airlines waive these fees for customers with status in their loyalty programs. Committee minority staff focused on fees charged to non-loyalty program members.

<sup>37</sup> JetBlue breaks fares into three categories – Blue, Blue Plus, and Blue Flex – and charges different fees depending on the category of ticket. For Blue fares, the first checked bag fee is \$20 when purchased online or at a kiosk, or \$25 at the ticket counter. For Blue Plus fares, one checked bag is included. For Blue Flex fares, two checked bags are included. See JetBlue, Checked Baggage Requirements ([www.jetblue.com/travel/baggage/](http://www.jetblue.com/travel/baggage/)) (accessed July 1, 2015).

<sup>38</sup> Spirit's second checked bag fee again varies depending on when it is paid. The fee is \$40 if paid during booking; \$45 if paid before online check-in; \$50 if paid during online check-in; \$60 if paid at the airport reservation center; and \$100 if paid at the gate. See Spirit Airlines, Options and Extras (online at [www.spirit.com/OptionalServices](http://www.spirit.com/OptionalServices)) (accessed June 29, 2015).

one did not change the price, and the other three did not provide the Committee pricing data from 2009.

In addition to checked baggage fees, one surveyed airline also charges for carry-on baggage. Spirit charges consumers for any carry-on baggage larger than “something like a small backpack or purse that fits entirely in the smaller sized box (16’x14’x12’)”<sup>39</sup> as seen below:



Source: Spirit Airlines<sup>40</sup>

All other carry-on items are subject to a fee that ranges from \$35 per item if paid during booking to as much as \$100 per item if paid at the gate (see image below).<sup>41</sup> Advance carry-on baggage fees are generally non-refundable, even if the passenger later decides not to travel with carry-on baggage.<sup>42</sup>

<sup>39</sup> See Spirit Airlines, Options and Extras (online at [www.spirit.com/OptionalServices](http://www.spirit.com/OptionalServices)) (accessed June 29, 2015). Spirit claims a business model that differs from other airlines. “Spirit seeks to provide safe, reliable air transportation to a severely underserved segment of U.S. consumers – highly price-conscious, discretionary travelers who pay for their own tickets. Our total prices (base fare plus extras) are almost always the lowest in the markets we serve, often by 40-50% or more. These low prices allow Spirit to stimulate incremental traffic from individuals who otherwise cannot afford to fly, or fly as often, whether to visit relatives, take family on vacation, or make a personal call on a valued customer.” Letter from Spirit Airlines to Chairman John D. Rockefeller IV, 1 (Sept. 5, 2014).

<sup>40</sup> See Spirit Airlines, What are the Size and Weight Limits for Bags? (online at [customersupport.spirit.com/hc/en-us/articles/202096476-What-are-the-size-and-weight-limits-for-bags](http://customersupport.spirit.com/hc/en-us/articles/202096476-What-are-the-size-and-weight-limits-for-bags)) (accessed Aug. 3, 2015).

<sup>41</sup> See Spirit Airlines, Options and Extras (online at [www.spirit.com/OptionalServices](http://www.spirit.com/OptionalServices)) (accessed June 29, 2015). Similarly, Frontier Airlines allows one free personal item, but charges for a carry-on bag – between \$30 per item if paid at the time of booking and \$60 per item if paid at the gate. See Frontier Airlines, Baggage Requirements (online at [content.flyfrontier.com/travel-information/baggage](http://content.flyfrontier.com/travel-information/baggage)) (accessed June 29, 2015). Allegiant Air also allows one free personal item and charges for a carry-on bag. Depending on departure and arrival airports, the baggage fee for a carry-on is \$15-\$20 if purchased at booking, \$23-\$45 if purchased pre-departure, and \$50 if paid at the airport. See Allegiant Air, Optional Services & Fees (online at [www.allegiantair.com/popup/optional-services-fees](http://www.allegiantair.com/popup/optional-services-fees)) (accessed July 29, 2015). Frontier Airlines and Allegiant Air were not surveyed as part of the Committee’s investigation.

<sup>42</sup> See, e.g., Spirit Airlines, Contract of Carriage, 13 (July 27, 2015) (online at [www.spirit.com/Content/Documents/en-US/Contract\\_of\\_Carriage.pdf](http://www.spirit.com/Content/Documents/en-US/Contract_of_Carriage.pdf)) (“All baggage charges are non-refundable and may be paid in advance or at the airport.”).



Source: Brilliantly Easy<sup>43</sup>

### **(B) Change and Cancellation Fees Have Substantially Outpaced Inflation Since 2009**

In recent years, change and cancellation fees have also increased substantially across most major airlines. With the exception of Southwest, which does not charge this type of fee, change/cancellation fees for domestic flights currently run between \$60 and \$200.<sup>44</sup> For international flights, change/cancellation fees run between \$50 and \$1,000, depending on the route and airline. With respect to the six carriers that provided historic pricing data, four increased domestic cancellation fees from \$150 to \$200, or by 33%, between 2009 and 2014, one increased the fee by 50%, and one increased the fee by 66%. By contrast, the cumulative rate of inflation from 2009 to 2014 was approximately 10.3%.<sup>45</sup> As discussed below, the change/cancellation fees charged by most airlines bear little to no relation to the actual cost incurred by the airline when a ticket is changed or cancelled.

### **(C) Airlines Are Increasingly Using Preferred Seating as a New Source of Ancillary Revenue and These Preferred Seating Fees Pose Transparency Issues**

Another major category of ancillary fees involves seat selection. None of the eight surveyed airlines currently charge passengers for a random seat assignment in the coach/economy section. However, seven of the eight surveyed airlines now charge additional fees for seats within the coach/economy section that have been designated as “preferred,” “economy-plus,” or otherwise distinctive based on features such as additional legroom, or a location near the front of the plane, next to a desirable window, or in an exit row. In addition,

<sup>43</sup> See *Spirit Airlines Avoid Carry On Bag Fee, Beating Spirit Airlines*, Brilliantly Easy (online at [brilliantlyeasy.com/spirit-airlines-free-bag-16x14x12/](http://brilliantlyeasy.com/spirit-airlines-free-bag-16x14x12/)).

<sup>44</sup> These are the change and cancellation fees that apply to basic, non-refundable economy fares. Some airlines discount or waive completely fees for certain classes of loyalty members.

<sup>45</sup> See US Inflation Calculator (online at [www.usinflationcalculator.com](http://www.usinflationcalculator.com)).

Southwest, which does not offer reserved seating, allows passengers to pay a fee to ensure they will be among the first to board the plane.<sup>46</sup>

While “preferred” seats are generally optional, in some cases it appears that multiple passengers traveling on the same itinerary are essentially required to pay preferred seating fees to sit together. This is a particularly serious issue for families traveling with small children. News reports indicate that families have been required to pay these fees or face potential separation from their small children.<sup>47</sup>

In addition, when selecting seats, consumers are sometimes presented only with seats for which the consumer must pay an additional fee. This occurred, for example, when Committee minority staff attempted to select a seat for a flight from New York City’s LaGuardia (LGA) to Cincinnati/Northern Kentucky (CVG) on Delta:



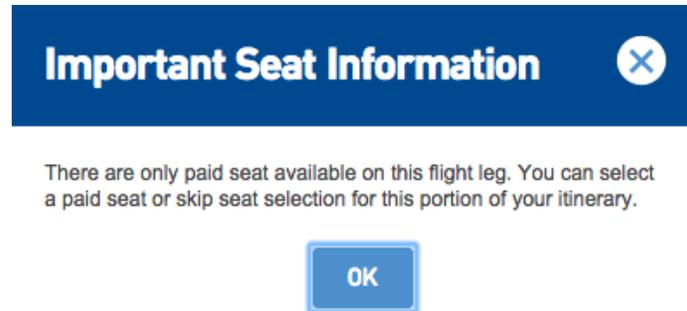
Source: Delta Air Lines (accessed August 3, 2015)

<sup>46</sup> See Southwest, EarlyBird Check-in (online at [www.southwest.com/flight/early-bird-retrieve-reservation.html](http://www.southwest.com/flight/early-bird-retrieve-reservation.html)) (accessed Aug. 3, 2015).

<sup>47</sup> See *Airlines Try to Upsell Seats to Parents Who Want to Sit with Their Children*, Fox News (July 30, 2014); *Families May Have to Pay More to Sit Together on Planes*, AP (June 26, 2015).

In these instances, some consumers face confusion as to whether they are required to pay an additional fee for a seat, and do not realize that, if they do not, they will still be assigned a free seat at a later time.

Other airlines do provide various notices to consumers when standard economy seats are not available; however, some of these notices do not clearly inform consumers of their options. For example, the JetBlue notice below states that a consumer can skip seat selection, but it does not inform the consumer that a seat will be assigned free of charge at a later time.



Source: JetBlue (accessed August 3, 2015)

Preferred seating is one of the fee categories in which airlines offer the least transparency regarding specific costs in advance of ticket purchase.<sup>48</sup> The airlines explain that the price of these seats is “market demand based”<sup>49</sup> and describe the prices in ranges – such as \$4 to \$99. For a flight with a base airfare cost of \$200, the purchase of a preferred seat priced from \$4 to \$99 would result in an increase in cost for the consumer of as little as 2% or as much as 50%. A few of the surveyed carriers told the Committee it was impossible to specify circumstances that determine different prices within the price range because the prices for such seats are in flux and determined by a variety of factors.<sup>50</sup> What is clear, however, is that at least three airlines that currently charge for preferred seating initiated this fee category after January 2009.

Preferred seating fees are an increasingly important revenue source. In recent earnings calls, executives from United,<sup>51</sup> JetBlue,<sup>52</sup> Spirit,<sup>53</sup> Delta,<sup>54</sup> American,<sup>55</sup> and Alaska<sup>56</sup> each

<sup>48</sup> An exception is Alaska Airlines, which bases preferred seating prices solely on the flight distance. *See* Alaska Airlines, Preferred Plus Seats Are Here (online at [www.alaskaair.com/content/deals/special-offers/preferred-plus-seating.aspx](http://www.alaskaair.com/content/deals/special-offers/preferred-plus-seating.aspx)) (accessed Aug. 4, 2015).

<sup>49</sup> *See* Letter from JetBlue to Chairman John D. Rockefeller IV, 3 (Sept. 18, 2014).

<sup>50</sup> Only one surveyed airline, JetBlue, was responsive to the Committee’s request for a specific description of the frequency with which the airline has charged passengers different rates within the seating price range; therefore, it was not possible to assess trends across airlines on this issue.

<sup>51</sup> United Continental Holdings, Inc., Q1 2015 Earnings Call (Apr. 23, 2015) (“Economy plus pricing optimization continues to be a leading contributor to our ancillary revenue performance. Quite simply, our customers value and are willing to pay for the extra space and comfort of our economy plus seats.”).

<sup>52</sup> JetBlue Airways Corp., Q4 2014 Earnings Call (Jan. 29, 2015) (“[O]ur Even More offering continued to exceed expectations generating just over \$200 million in 2014 as compared to \$150 million of revenue just two years

identified seat upgrades as a primary driver of ancillary revenue. Importantly, the revenue generated by seat upgrade fees is not subject to the 7.5% excise tax, which supports the AATF, when the seat upgrade is made within the same ticket class. This presents an interesting tax anomaly where the fee for upgrading to a higher class, such as business or first, is subject to the excise tax,<sup>57</sup> but the fee to upgrade within a class – to preferred seating or “economy-plus” – is not subject to the tax.<sup>58</sup> The effect of this tax discrepancy may continue to grow as airlines continue to reorganize their economy seating to create or expand preferred seating sections – often at the expense of legroom in the standard economy section.<sup>59</sup>

### **(3) Change and Cancellation Fees Are Not Always Transparent to Consumers**

Change and cancellation fees present particularly compelling transparency concerns because they are not only one of the most costly categories of fees for consumers, but also, unlike most other fees, they are generally not optional for the consumer.<sup>60</sup> With the exception of Southwest, which does not charge change/cancellation fees, major airlines typically charge consumers \$200 for change/cancellation of domestic flights, and change/cancellation fees for international flights can run many hundreds of dollars higher.<sup>61</sup> Consumers who do not receive appropriate notice of potential change/cancellation penalties may be surprised to find that

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ago.”); JetBlue Airways Corp., Q3 2014 Earnings Call (Oct. 23, 2014) (“Our Even More offering continues to be a significant driver of ancillary growth. Dynamically priced Even More seats drove higher yields and seat factor, resulting in higher Even More revenue per seat.”).

<sup>53</sup> Spirit Airlines Inc., Q3 2014 Earnings Call (Oct. 28, 2014) (“The year-over-year increase in non-ticket [revenue] was primarily driven by a higher volume of passengers selecting to purchase seat assignments.”).

<sup>54</sup> Delta Air Lines Inc., Q4 2014 Earnings Call (Jan. 20, 2015) (“Our revenues for our premium economy product comfort plus, increased by 18% and we’re now generating an annual incremental revenue stream of roughly \$350 million.”).

<sup>55</sup> American Airlines Group Inc., Q4 2014 Earnings Call (Jan. 27, 2015) (“More of the upside now will be driven from new initiatives and new programs. We have a lot going on with choice seats for example in how we’re selling seats on the airplane. And so those will continue to grow...”).

<sup>56</sup> Alaska Air Group Inc., Q1 2015 Earnings Call (Apr. 23, 2015) (“We are debuting preferred seating later next month, as we begin to explore further segmentation of our cabin. Customers will enjoy extra leg room accompanied by a free drink and priority boarding. This initiative is expected to add \$15 million a year in revenue without any incremental capital expenditure.”).

<sup>57</sup> See 26 C.F.R. § 49.4261-7.

<sup>58</sup> See 26 C.F.R. § 49.4261-8; Rev. Rul. 80-31; Priv. Ltr. Rul. 118216-09 (Sept. 28, 2009).

<sup>59</sup> See *Airlines Shrink Seats, Offer Extra Legroom For a Fee*, Los Angeles Times (Oct. 19, 2012); *Airline Squeeze: It's Not You, It's the Seat*, CNN (June 1, 2012).

<sup>60</sup> Many airlines offer waivers of change/cancellation fees for consumers with status in their loyalty programs or those who have purchased refundable fares. The price for refundable fares, however, tends to be substantially higher than non-refundable fares. National Consumers League, *Stuff Happens: Airlines Benefit Handsomely From the Unexpected...and Consumers' Fears About It*, 8-9 (Sept. 23, 2013). In addition, pursuant to DOT rules, most airlines reviewed by Committee minority staff waive change/cancellation fees when the change/cancellation is made within 24 hours of booking a ticket. See 14 C.F.R. 259.5(b)(4). One of the airlines reviewed by Committee minority staff instead complies with the DOT rules by allowing a consumer to hold a seat and fare for 24 hours rather than later offering a refund. See Department of Transportation, *Guidance on the 24-Hour Reservation Requirement* (May 31, 2013) (online at [www.transportation.gov/sites/dot.gov/files/docs/Notice\\_24hour\\_hold\\_final20130530.pdf](http://www.transportation.gov/sites/dot.gov/files/docs/Notice_24hour_hold_final20130530.pdf)).

<sup>61</sup> See Section 2B above for a discussion on change/cancellation fees.

changing their flight plans can mean virtually doubling the cost of their travel – even when the change is made far in advance of the flight.

Airlines justify their change/cancellation fees by claiming the fees are necessary to cover the opportunity cost of an airline not being able to rebook a seat.<sup>62</sup> This rationale, however, fails to account for why many airlines charge the same penalty fees regardless of the lead time a passenger provides for an airline to resell the ticket. Five of the seven surveyed airlines that charge change/cancellation fees – United, Delta, American, Hawaiian, and Spirit – charge consumers a flat fee for a change/cancellation that does not fluctuate based on lead time before the scheduled flight.<sup>63</sup> JetBlue, on the other hand, charges one set of fees, which vary based on the type of fare and can cost up to \$70, if a change/cancellation is made 60 days or more prior to departure.<sup>64</sup> However, if a change/cancellation is made less than 60 days prior to departure, JetBlue applies a different set of fees, which vary based on the price of the ticket and type of fare and can cost up to \$135.<sup>65</sup> Alaska waives the fee entirely if the change/cancellation occurs more than 60 days prior to departure but charges \$125 for changes made less than 60 days prior to departure.<sup>66</sup>

Further, if the rationale for change/cancellation fees is to deter consumers from purchasing airfare before their travel plans are finalized, airlines should strive to provide

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<sup>62</sup> For example, United believes that the purchase of a non-refundable ticket constitutes an agreement between the customer and United where “United agrees to fly the passenger to the selected destination at a given price and the customer commits to travel on the agreed upon flights at the given price.” However, “as a service,” United allows customers to break this agreement for a fee. “United held a seat for the customer that we may not be able to resell. As a result of this opportunity cost, we require compensation when the customer changes their plans. On average, it is costly for airlines to lose the ability to sell a seat that the passenger changes or refunds, and United may not be able to resell the seat the passenger cancels or may have to sell the seat at a lower price.” Letter from United Airlines to Chairman John D. Rockefeller IV - Response Attachment, 4 (Sept. 19, 2014).

<sup>63</sup> Spirit’s fee varies based on whether the consumer requests the change/cancellation by web (\$110) or through reservations or at the airport (\$120). The fee is less if the change/cancellation is for a group booking (\$50 per person). Spirit Airlines, Options and Extras (online at [www.spirit.com/OptionalServices](http://www.spirit.com/OptionalServices)) (accessed June 29, 2015). Most airlines also vary their fees for specific categories of customers, such as those enrolled in loyalty programs. For example, a same-day change to a flight with a confirmed seat on United would cost \$75 for a Silver and non-Premier MileagePlus member and \$0 for members with higher MileagePlus Premier status. United Airlines, Same-day Flight Changes (online at [www.united.com/web/en-US/content/reservations/samedaychange.aspx](http://www.united.com/web/en-US/content/reservations/samedaychange.aspx)) (accessed Aug. 3, 2015).

<sup>64</sup> JetBlue breaks fares into three categories: Blue, Blue Plus, and Blue Flex. For changes and cancellations made 60 days or more prior to departure date: for Blue fares, \$70 plus difference in fare; for Blue Plus, \$60 plus difference in fare; and for Blue Flex, difference in fare only. JetBlue, Change/Cancel Fee Amounts (online at [help.jetblue.com/SRVS/CGI-BIN/webisapi.dll?New,Kb=askBlue,case=obj\(404766\)#s1](http://help.jetblue.com/SRVS/CGI-BIN/webisapi.dll?New,Kb=askBlue,case=obj(404766)#s1)) (accessed July 30, 2015).

<sup>65</sup> For changes and cancellations made less than 60 days from departure date: For Blue fares, JetBlue charges \$70 plus difference in fare on fares under \$100; \$90 plus difference in fare for fares between \$100-\$149; and \$135 plus difference in fare for fares of \$150 or more. For Blue Plus fares, JetBlue charges \$60 plus difference in fare for fares under \$100; \$80 plus difference in fare for fares between \$100-\$149; and \$120 plus difference in fare for fares of \$150 or more. For Blue Flex fares, JetBlue will not charge for ticket changes, but the consumer must pay the difference in fare. *Id.*

<sup>66</sup> Alaska also waives the fee if the change/cancellation is made to an intra-Alaska itinerary. Alaska Airlines, Optional Services and Fees (online at [www.alaskaair.com/content/travel-info/optional-services-fees.aspx](http://www.alaskaair.com/content/travel-info/optional-services-fees.aspx)) (accessed July 9, 2015).

consumers with clear notice of the potential for substantial penalties should they wish to change their plans. However, Committee minority staff review of the websites of the seven major airlines that charge change/cancellation fees shows that consumers do not generally receive prominent disclosures regarding these fees when procuring airfare.

Information about change/cancellation fees is usually available on a separate page to which a consumer can be connected by clicking on a link – generally set forth in small font – with general descriptors such as “fare rules,” “fare restrictions,” “optional services,” and “optional fees.” For example, after selecting a route on United’s homepage, a consumer is brought to a page listing various fares with a link to “taxes and fees,” which appears in a box above those listed fares. Clicking on that link brings up a page that lists certain fees for ticketing but does not include change/cancellation fees.<sup>67</sup> Instead, a link for “charges for baggage or optional services” on that page brings up another screen that constitutes four printed pages listing a variety of baggage and other fees. “Other flight changes and cancellations,” listed near the end of the final page, vaguely explains that fees range “[f]rom \$0 to \$1,000 per passenger, based on applicable fare rules.”<sup>68</sup>

After selecting specific flights on United’s website, the consumer is brought to a “Review Trip Itinerary” page, which includes a link – found in small font immediately below the summary of the itinerary – titled “View Rules and Restrictions.” Clicking on this link opens a page that lists fare rules for each segment of the trip. Even if a consumer opens this page, the consumer will likely find the information presented to be voluminous and, at times, confusing.

For example, rules and restrictions applicable to a round-trip United flight from Washington, DC (DCA) to Orlando, Florida (MCO), with a layover in Chicago, Illinois (ORD), span 54 printed pages of text. The rules state, “The most restrictive set of fare rules applies to the entire itinerary.” This would appear to indicate that the consumer must read all applicable rules – in this case four, one for each segment of the trip – and determine which is the most restrictive. Even a single fare rule’s discussion of change/cancellation fees may be lengthy and unclear. For example, the rule applicable to the segment from Washington, DC to Chicago includes a section titled “Refunds/Change” and a section titled “Voluntary Changes,” which both discuss change/cancellation fees and together total more than nine printed pages of text. The first section, “Refunds/Change,” includes the following:

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<sup>67</sup> United Airlines, Taxes and Fees (online at [www.united.com/web/en-US/content/booking/flight/taxes.aspx](http://www.united.com/web/en-US/content/booking/flight/taxes.aspx)) (accessed July 8, 2015).

<sup>68</sup> United Airlines, Changed Bag Rules and Optional Services (online at [www.united.com/CMS/en-US/travel/Pages/ChangedBagRulesOptionalServices.aspx](http://www.united.com/CMS/en-US/travel/Pages/ChangedBagRulesOptionalServices.aspx)) (accessed July 7, 2015).

B. FARES COMBINED END-ON-END ON THE SAME TICKET  
// FARES THAT COULD STAND ALONE IF ISSUED ON  
A SEPARATE TICKET// MAY BE CHANGED SEPARATELY  
ACCORDING TO ASSOCIATED FARE RULE.  
IF CHANGED FARE COMPONENT HAS NO SERVICE  
CHARGE AND THAT IS THE ONLY FARE COMPONENT  
CHANGED THERE WOULD BE NO SERVICE CHARGE.  
---  
CHANGES  
BEFORE DEPARTURE  
CHARGE USD 200.00 FOR REISSUE/UNTICKETED PTA.  
WAIVED FOR SCHEDULE CHANGE.  
NOTE -  
--  
BEFORE DEPARTURE CHANGE OPTIONS -  
--  
BEFORE DEPARTURE OF JOURNEY AND WITHIN TICKET  
VALIDITY CERTAIN DOMESTIC REISSUE PROVISIONS  
MAY BE OVERRIDDEN BY THOSE OF UA INTERNATIONAL  
FARES. CHARGE HIGHEST FEE OF ONLY CHANGED  
FARE COMPONENTS WITHIN JOURNEY.  
--

Source: United Airlines (accessed June 30, 2015)

The “Voluntary Changes” section also includes the following discussion of change/cancellation fees:

GENERAL RULES TEXT  
IN THE EVENT OF CHANGES TO TICKETED FLIGHTS  
BEFORE DEPARTURE OF JOURNEY - APPLIES WITHIN TKT VALIDITY  
CERTAIN DOMESTIC REISSUE PROVISIONS MAY BE OVERRIDDEN BY  
THOSE OF UA INTERNATIONAL FARES  
CHARGE USD 200.00 FOR REISSUE OR HIGHEST FEE OF ALL  
CHANGED FARE COMPONENTS - DISCOUNTS APPLY - NO FEE FOR  
INFANTS W/O SEAT AND  
REPRICE USING CURRENT FARES - ONLY BOOKING CODE  
CHANGES PERMITTED  
PROVIDED ALL OF THE FOLLOWING CONDITIONS ARE MET-  
1. NO CHANGE TO FARE BREAKS  
2. WHEN NO INTL COUPONS REMAIN - ALL NEW TRAVEL MUST  
BE DOMESTIC  
3. CHANGE IS ON/BEFORE DAY OF ORIGINAL SCHEDULED  
FLIGHT  
4. SAME TRAVEL DATES  
5. UA FARES ARE USED  
6. PUBLIC FARES ARE USED IF TICKETED FARE IS IN  
PUBLIC TARIFF. PRIVATE FARES ARE USED IF TICKETED  
FARE IS IN PRIVATE TARIFF  
7. ADV RES IS MEASURED FROM REISSUE DATE TO DEPARTURE  
OF PRICING UNIT  
WHEN CHANGE RESULTS IN LOWER FARE REFUND RESIDUAL THEN  
ADD-COLLECT - REFUND VIA MCO  
ENDORSEMENT BOX- NEW ENDORSEMENTS.

Source: United Airlines (accessed June 30, 2015)

On the final page, after the consumer completes seat selection, the “Terms and Conditions” are listed in the “Payment Information” box, which appears immediately above where the consumer enters payment information. One of the terms/conditions states, in bold print, “This ticket is nonrefundable, and a fee may apply for changes. View the full fare rules,” with a link to the fare rules. It also provides other disclosures, which can be seen below:



## Payment Information

### Terms and Conditions

- **This ticket is nonrefundable, and a fee may apply for changes.** View the full [fare rules](#).
- **You will have up to 24 hours to change your mind.** Review our [24-hour flexible booking policy](#).
- **How to keep the value of this ticket:** Any changes or cancellations must be made prior to scheduled departure; otherwise, the ticket value will be forfeited. The value of this ticket is valid for up to one year from the date when the ticket was originally issued, or according to the fare rules of the purchased fare, whichever is most restrictive.
- **If you are planning to check bags:** Please review our [baggage policies](#) to determine if any service charges apply.
- **Your ticket is a contract.** Your travel is subject to United's [Contract of Carriage](#).
- **Hazardous Materials:** Federal law forbids the carriage of hazardous materials aboard aircraft. Hazardous Materials include explosives, compressed gases, flammable liquids and solids, oxidizers, poisons, corrosives, and radioactive materials. Please review our [dangerous goods policy](#) before you travel.

### Payment Information:

For your security, we use standard [SSL encryption](#) to protect the transfer of your payment information. If you would prefer to complete your purchase via phone visit our [phone order page](#).

Read our [privacy policy](#).

### Redemption Options: [Need help?](#)

- Nothing to redeem.
- Redeem a gift certificate.
- Redeem a travel certificate.

### Payment Options:

- Credit/Debit Card
- PayPal Credit
- PayPal
- Online Check
- Cash



Source: United Airlines (accessed August 3, 2015)

In contrast, on American's homepage, in the "Find Flights" box, where the consumer selects the departure and arrival airports and dates of travel, a link in small font titled "Baggage & optional service fees" appears below the departure date. While this link is visible from the beginning of the ticket purchasing process – a feature that is not the case for some airlines reviewed by Committee minority staff – it directs the consumer to a chart of numerous fees spanning seven full printed pages.<sup>69</sup> After three pages listing various baggage fees and additional pages covering, among other things, the fees associated with flying with animals and children, using features of the frequent-flyer program, and purchasing food and beverages, the final category of "Ticketing and Other Charges" sets forth fees for a "voluntary change to ticket made prior to day of travel" of \$200 for domestic travel and "up to \$750" for international travel.<sup>70</sup> Another link in small font titled "Baggage and Optional Service Charges," which opens this same fee chart in a new window, is available on the page where the consumer selects specific flights. The link appears in a box on the right side of the screen that shows a summary of the itinerary and the price of the trip. A similar link appears on the following page, where the consumer enters personal information.

<sup>69</sup> American Airlines, Optional Service Charges (online at [www.aa.com/i18n/utility/aacom\\_services\\_charges.jsp](http://www.aa.com/i18n/utility/aacom_services_charges.jsp)) (accessed July 7, 2015).

<sup>70</sup> *Id.*

Only after the consumer selects flights, enters personal information, including name, date of birth, gender, phone number, and email address, and completes the seat selection process are the details of the fare rule(s) applicable to an itinerary made available to the consumer. On the “Review & Pay” screen, in small font below a summary of the itinerary, a link to “View Fare Rules” will take the consumer to a new window detailing the specific fare rules, which are generally lengthy and disorganized and may include a separate rule for each segment.<sup>71</sup> This link appears to be the first point at which a consumer booking an itinerary involving international travel would be able to view the specific cost of a change/cancellation.

In a typical example, for a direct flight from New York City’s John F. Kennedy International Airport (JFK) to Los Angeles, California (LAX), the portion of the rules in which a consumer can find information about change/cancellation fees, titled “Penalties,” spans two printed pages of text and is often difficult to decipher. The rules state, “The most restrictive set of fare rules applies to the entire itinerary,” appearing to indicate that the consumer again may need to review and compare multiple, lengthy rules to fully understand the terms applicable to the consumer’s itinerary. Below is the “Penalties” section of a single fare rule from American:

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<sup>71</sup> The rules explain, “The most restrictive set of fare rules applies to the entire itinerary.” *See, e.g.*, American Airlines, Detailed Fare Rules (accessed July 30, 2015).

**Penalties**

CANCELLATIONS TICKET IS NON-REFUNDABLE. NOTE - TICKET HAS NO VALUE UNLESS PASSENGER CANCELS TICKETED FLIGHT RESERVATIONS PRIOR TO TICKETED DEPARTURE TIME. CHANGES CHARGE USD 200.00 FOR REISSUE. NOTE - IF PASSENGER CANCELS TICKETED FLIGHT RESERVATION PRIOR TO TICKETED DEPARTURE TIME/ TRAVEL THAT IS REBOOKED IS VALID AS FOLLOWS. 1.WHOLLY UNUSED TICKETS ARE VALID PROVIDED TRAVEL COMMENCES WITHIN ONE YEAR FROM THE ORIGINAL TICKET ISSUE DATE OR 2/ PARTIALLY USED TICKETS ARE VALID PROVIDED TRAVEL IS COMPLETED WITHIN ONE YEAR FROM THE OUTBOUND TRAVEL DATE ON THE ORIGINAL TICKET. SERVICE CHARGE APPLIES. IF TICKETED FLIGHT RESERVATION IS NOT CANCELLED PRIOR TO TICKETED DEPARTURE TIME/ REBOOKING IS NOT PERMITTED AND THE TICKET HAS NO VALUE. --- FARE DIFFERENCE AND SERVICE CHARGE MUST BE PAID AND TICKET MUST BE REISSUED WHEN ITINERARY IS REBOOKED. --- IF MULTIPLE CHANGES ARE MADE AT THE SAME TIME/ ONLY ONE SERVICE CHARGE WILL APPLY PER TICKET. IF FARES WITH DIFFERENT SERVICE CHARGES ARE COMBINED ON THE SAME TICKET/ THE HIGHEST CHARGE OF ALL CHANGED FARE COMPONENTS WILL APPLY. --- WHENEVER A NONREFUNDABLE FARE TICKET IS REISSUED TO A REFUNDABLE FARE/ A NONREFUNDABLE NOTATION MUST BE MADE IN THE ENDORSEMENT BOX OF THE NEW TICKET. THE ORIGINAL NONREFUNDABLE VALUE REMAINS NONREFUNDABLE FOR ANY SUBSEQUENT REISSUES. --- CERTAIN DOMESTIC REISSUE PROVISIONS MAY BE OVERRIDDEN BY THOSE OF AA INTERNATIONAL FARES. --- GUARANTEED AIRFARE RULE- TRANSPORTATION IS SUBJECT TO THE RULES/ FARES AND CHARGES IN EFFECT ON THE DATE/ TIME OF TICKET ISSUANCE OR PREPAID TICKET ADVICE PURCHASE. SHOULD FARES INCREASE AFTER TICKET PURCHASE/ NO INCREASE IN FARE WILL BE COLLECTED PROVIDED THE ORIGINATING FLIGHT COUPON OF THE TICKET REFLECTING A CONFIRMED RESERVATION HAS NOT BEEN VOLUNTARILY CHANGED/ AND PROVIDED THAT VOLUNTARY CHANGES FOR FLIGHT COUPONS OTHER THAN THE ORIGINATING FLIGHT DO NOT REFLECT A CHANGE IN CARRIER/ FARE BASIS/ ORIGIN/ DESTINATION OR STOPOVER POINTS FROM THOSE FOUND ON THE TICKET. IF AFTER TICKET HAS BEEN ISSUED AND BEFORE ANY PORTION HAS BEEN USED EITHER A DECREASE IN THE FARES OR CHARGES APPLICABLE TO THE TRANSPORTATION SHOWN ON THE TICKET BECOMES EFFECTIVE/ OR A NEW FARE FOR WHICH THE PASSENGER QUALIFIES IS ADDED BETWEEN THE POINTS SHOWN ON THE TICKET/ THE DIFFERENCE IN FARES WILL BE REFUNDED AS STATED BELOW/ IN THE FORM OF A NONREFUNDABLE TRANSPORTATION VOUCHER/ PROVIDED A. THERE IS NO CHANGE IN TICKETED ORIGIN/ DESTINATION/ STOPOVER POINTS/ FLIGHTS/ DATES B. ALL CONDITIONS OF THE DECREASED FARES OR CHARGES OF THE NEW FARE ARE MET/ INCLUDING BOOKING CODE AND ADVANCE RESERVATIONS AND TICKETING REQUIREMENTS C. ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM THE ORIGINAL TICKET DATE TO THE DEPARTURE OF THE PRICING UNIT. D. THE PASSENGER WILL RECEIVE THE DIFFERENCE IN FARES LESS THE APPLICABLE SERVICE CHARGE IN THE FORM OF A NONREFUNDABLE AA TRAVEL VOUCHER VALID FOR ONE YEAR FROM THE DATE OF ISSUE. --- I. PRIOR TO DEPARTURE OF THE JOURNEY - CHANGES TO THE ORIGINATING FLIGHT ON THE TICKET - CANCEL AND START OVER. 1. THE ENTIRE TICKET MUST BE REPRICED WITH FARES IN EFFECT ON THE DATE OF NEW TICKET ISSUANCE. 2. USE ANY AA FARE ALLOWED BY COMBINATION AND REISSUE RULES. 3. ALL PROVISIONS OF THE NEW FARE I.E. ADV RSVN/MIN/MAX STAY/INVENTORY ETC MUST BE MET 4. ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM THE REISSUE DATE TO THE DEPARTURE OF THE PRICING UNIT. 5. ANY DIFFERENCE IN FARES PLUS THE SERVICE CHARGE MUST BE COLLECTED. IF THE REPRICE RESULTS IN A LOWER FARE/ THE DIFFERENCE IN FARES LESS THE SERVICE CHARGE MAY BE RETURNED IN THE FORM OF A NONREFUNDABLE TRAVEL VOUCHER VALID FOR TRAVEL VIA AA ONLY --- II. PRIOR TO DEPARTURE OF THE JOURNEY - CHANGES TO CONTINUING/RETURN FLIGHTS WHEN THERE IS NO CHANGE TO ORIGIN/DESTINATION OR STOPOVERS. THE FOLLOWING OPTIONS ARE AVAILABLE AND THE LOWEST SOLUTION WILL APPLY. --- A. ATTEMPT TO KEEP THE SAME FARES AS TICKETED. REPRICE THE ITINERARY USING THE SAME FARE BASIS CODE/ SAME FARE LEVEL/ SAME RULES AS TICKETED/ THAT IS/ THOSE IN EFFECT AT THE TIME THE ORIGINAL TICKET WAS SOLD. 1.NO CHANGE IS PERMITTED TO STOPOVER/ THE FIRST FARE COMPONENT OR FARE BREAKS. 2.THE TICKETED FARE BASIS CODE/ SAME RULE MUST BE USED AS THE REPLACEMENT FARE FOR THE REVISED FARE COMPONENT ON THE NEW TICKET. 3.FULLY FLOWN ONE-WAY FARE MUST NOT BE REPRICED AS A HALF ROUND-TRIP FARE. 4.NEW FARE MUST BE EQUAL TO THE PREVIOUS FARE. COMPARE BASE FARE VALUES FOR THE REVISED FARE COMPONENT TO THAT OF THE TICKETED FARE COMPONENT. 5.ALL RULE/BOOKING CODE PROVISIONS MUST BE MET. 6.FLIGHT SPECIFIC FARES MUST REMAIN WITHIN THE TIMES SPECIFIED FOR THAT FARE. 7.ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM THE REISSUE DATE TO DEPARTURE OF PRICING UNIT. 8.SERVICE CHARGE APPLIES. --- B. CANCEL AND START OVER. REPRICE THE ITINERARY USING FARES IN EFFECT ON THE DATE OF NEW TICKET ISSUANCE. 1.USE ANY AA FARE ALLOWED BY COMBINATION AND REISSUE RULES. 2.ALL RULE/BOOKING CODE PROVISIONS OF THE NEW FARE MUST BE MET. 3.ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM REISSUE DATE TO DEPARTURE OF THE PRICING UNIT. 4.ANY DIFFERENCE IN FARES PLUS THE SERVICE CHARGE MUST BE COLLECTED. IF THE REPRICE RESULTS IN A LOWER FARE/ THE DIFFERENCE IN FARES LESS THE SERVICE CHARGE MAY BE RETURNED IN THE FORM OF A NONREFUNDABLE TRAVEL VOUCHER VALID FOR TRAVEL VIA AA ONLY --- C. REPRICE THE ITINERARY USING THE SAME FARE BASIS CODES AND RULES AS THOSE IN EFFECT ON THE DATE OF ORIGINAL TICKET ISSUANCE FOR UNCHANGED FARE COMPONENTS AND USING FARES IN EFFECT ON THE DATE OF NEW TICKET ISSUANCE FOR ALL CHANGED FARE COMPONENTS. 1.NO CHANGE IS PERMITTED TO STOPOVER/ THE FIRST FARE COMPONENT OR FARE BREAKS. 2.THE TICKETED SAME FARE MUST BE USED ON THE FIRST FARE COMPONENT. 3.USE ANY AA FARES ALLOWED BY COMBINATION AND REISSUE RULES. 4.ALL RULE AND BOOKING CODE PROVISIONS MUST BE MET. 5.ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM ORIGINAL TICKET DATE TO DEPARTURE OF PRICING UNIT. 6.ANY DIFFERENCE IN FARES PLUS THE SERVICE CHARGE MUST BE COLLECTED. IF THE REPRICE RESULTS IN A LOWER FARE/ THE DIFFERENCE IN FARES LESS THE SERVICE CHARGE MAY BE RETURNED IN THE FORM OF A NONREFUNDABLE TRAVEL VOUCHER VALID FOR TRAVEL VIA AA ONLY. --- III. PRIOR TO DEPARTURE OF THE JOURNEY - CHANGES TO THE CONTINUING/RETURN FLIGHTS WHEN THERE IS A CHANGE TO ORIGIN/DESTINATION OR STOPOVERS. --- A. CANCEL AND START OVER. REPRICE THE ITINERARY USING FARES IN EFFECT ON THE DATE OF NEW TICKET ISSUANCE. 1.USE ANY AA FARE ALLOWED BY COMBINATION AND REISSUE RULES. 2.ALL RULE/BOOKING CODE PROVISIONS OF THE NEW FARE MUST BE MET. 3.ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM REISSUE DATE TO DEPARTURE OF THE PRICING UNIT. 4.ANY DIFFERENCE IN FARES PLUS THE SERVICE CHARGE MUST BE COLLECTED. IF THE REPRICE RESULTS IN A LOWER FARE/ THE DIFFERENCE IN FARES LESS THE SERVICE CHARGE MAY BE RETURNED IN THE FORM OF A NONREFUNDABLE TRAVEL VOUCHER VALID FOR TRAVEL VIA AA ONLY --- IV. AFTER DEPARTURE OF THE JOURNEY - WHEN THERE IS NO CHANGE TO ORIGIN/DESTINATION OR STOPOVERS. THE FOLLOWING OPTIONS ARE AVAILABLE AND THE LOWEST SOLUTION WILL APPLY. --- A. ATTEMPT TO KEEP THE SAME FARES AS TICKETED. REPRICE THE ITINERARY USING THE SAME FARE BASIS CODE/ SAME FARE LEVEL/ SAME RULES AS TICKETED/ THAT IS/ THOSE IN EFFECT AT THE TIME THE ORIGINAL TICKET WAS SOLD. 1.NO CHANGE IS PERMITTED TO STOPOVER/ THE FIRST FARE COMPONENT OR FARE BREAKS. 2.THE TICKETED FARE BASIS CODE/ SAME RULE MUST BE USED AS THE REPLACEMENT FARE FOR THE REVISED FARE COMPONENT ON THE NEW TICKET. 3.FULLY FLOWN ONE-WAY FARE MUST NOT BE PRICED AS A HALF ROUND-TRIP FARE. 4.NEW FARE MUST BE EQUAL TO THE PREVIOUS FARE. COMPARE BASE FARE VALUES FOR THE REVISED FARE COMPONENT TO THAT OF THE TICKETED FARE COMPONENT. 4.ALL RULE/BOOKING CODE PROVISIONS MUST BE MET. 5.FLIGHT SPECIFIC FARES MUST REMAIN WITHIN THE TIMES SPECIFIED FOR THAT FARE. 6.ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM THE REISSUE DATE TO DEPARTURE OF PRICING UNIT. 7.SERVICE CHARGE APPLIES. --- B. REPRICE THE ITINERARY USING THE SAME FARE BASIS CODES AND RULES AS THOSE IN EFFECT ON THE DATE OF ORIGINAL TICKET ISSUANCE FOR UNCHANGED FARE COMPONENTS AND USING FARES IN EFFECT ON THE DATE OF NEW TICKET ISSUANCE FOR ALL CHANGED FARE COMPONENTS. 1.NO CHANGE IS PERMITTED TO STOPOVER/ THE FIRST FARE COMPONENT OR FARE BREAKS. 2.THE TICKETED SAME FARE MUST BE USED ON THE FIRST FARE COMPONENT. 3.USE ANY AA ONE-WAY FARE ALLOWED BY COMBINATION AND REISSUE RULES. 4.ALL RULE AND BOOKING CODE PROVISIONS MUST BE MET. 5.ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM REISSUE DATE TO DEPARTURE OF THE PRICING UNIT. 6.ANY DIFFERENCE IN FARES PLUS THE SERVICE CHARGE MUST BE COLLECTED. IF THE REPRICE RESULTS IN A LOWER FARE/ THE DIFFERENCE IN FARES LESS THE SERVICE CHARGE MAY BE RETURNED IN THE FORM OF A NONREFUNDABLE TRAVEL VOUCHER VALID FOR TRAVEL VIA AA ONLY --- C. REPRICE THE ITINERARY USING HISTORICAL ONE WAY FARES FROM THE PREVIOUS TICKET ISSUE DATE FOR FLOWN FARE COMPONENTS/ IN AN EQUAL OR HIGHER BOOKING CLASS. USE FARES IN EFFECT ON THE DATE OF NEW TICKET ISSUANCE FOR ALL UNFLOWN COMPONENTS. 1.FARE BREAKS FOR THE FLOWN FARE COMPONENTS MAY NOT BE CHANGED. 2.USE BOOKING CLASS HIERARCHY WHEN REPLACING FARES FOR FLOWN FARE COMPONENTS. THE HIERARCHY IS ECONOMY CLASS - Y B H K M L W V G S N Q O BUSINESS CLASS - J D I C FIRST CLASS - F A P 3.USE ANY AA ONE WAY FARES ALLOWED BY COMBINATION AND REISSUE RULES. 4.ALL RULE AND BOOKING CODE PROVISIONS OF THE NEW FARES MUST BE MET. 5.ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM THE REISSUE DATE TO DEPARTURE DATE OF THE PRICING UNIT. 6.COMPARE THE TOTAL FROM THE ORIGINAL TICKET TO THE NEW TOTAL OF THE FLOWN AND UNFLOWN FARE COMPONENTS. 7.ANY DIFFERENCE IN FARES PLUS THE SERVICE CHARGE MUST BE COLLECTED. IF THE REPRICE RESULTS IN A LOWER FARE/ THE DIFFERENCE IN FARES LESS THE SERVICE CHARGE MAY BE RETURNED IN THE FORM OF A NONREFUNDABLE TRAVEL VOUCHER VALID FOR TRAVEL VIA AA ONLY. --- V. AFTER DEPARTURE OF THE JOURNEY - CHANGES TO CONTINUING/RETURN FLIGHTS WHEN THERE IS A CHANGE TO ORIGIN/DESTINATION OR STOPOVERS. --- A. REPRICE THE ITINERARY USING HISTORICAL ONE WAY FARES FROM THE PREVIOUS TICKET ISSUE DATE FOR FLOWN FARE COMPONENTS/ IN AN EQUAL OR HIGHER BOOKING CLASS. USE FARES IN EFFECT ON THE DATE OF NEW TICKET ISSUANCE FOR ALL UNFLOWN COMPONENTS. 1.FARE BREAKS FOR THE FLOWN FARE COMPONENTS MAY NOT BE CHANGED. 2.USE BOOKING CLASS HIERARCHY WHEN REPLACING FARES FOR FLOWN FARE COMPONENTS. THE HIERARCHY IS ECONOMY CLASS - Y B H K M L W V G S N Q O BUSINESS CLASS - J D I C FIRST CLASS - F A P 3.USE ANY AA ONE WAY FARE ALLOWED BY COMBINATION AND REISSUE RULES. 4.ALL RULE AND BOOKING CODE PROVISIONS OF THE NEW FARES MUST BE MET. 5.ADVANCE RESERVATION REQUIREMENTS ARE MEASURED FROM THE REISSUE DATE TO DEPARTURE DATE OF THE PRICING UNIT. 6.COMPARE THE TOTAL FROM THE ORIGINAL TICKET TO THE NEW TOTAL OF THE FLOWN AND UNFLOWN FARE COMPONENTS. 7.ANY DIFFERENCE IN FARES PLUS THE SERVICE CHARGE MUST BE COLLECTED. IF THE REPRICE RESULTS IN A LOWER FARE/ THE DIFFERENCE IN FARES LESS THE SERVICE CHARGE MAY BE RETURNED IN THE FORM OF A NONREFUNDABLE TRAVEL VOUCHER VALID FOR TRAVEL VIA AA ONLY. --- VI. AFTER EACH TICKETED DEPARTURE TIME 1. NO CHANGES PERMITTED IF PASSENGER HAS NOT CANCELLED THE TICKETED FLIGHT RESERVATION. 2. TICKET HAS NO VALUE IF PASSENGER HAS NOT CANCELLED THE TICKETED FLIGHT RESERVATION. --- VII. IN THE CASE OF THE DEATH OF THE PASSENGER/ IMMEDIATE FAMILY MEMBER/ OR A TRAVELING COMPANION/ THE SERVICE CHARGE MAY BE WAIVED OR THE TICKET REFUNDED PROVIDED A COPY OF THE DEATH CERTIFICATE IS PRESENTED TO AA. REFUND WILL BE IN THE FORM OF A NONREFUNDABLE TRANSPORTATION VOUCHER THAT MAY BE USED FOR FUTURE TRAVEL ON AA ONLY. IN THE CASE OF THE PASSENGER/S DEATH THE REFUND WILL BE TO THE PASSENGER/S ESTATE VIA THE ORIGINAL FORM OF PAYMENT. ALL REFUND REQUESTS MUST BE SENT TO AA PASSENGER REFUNDS.

Source: American Airlines (accessed June 30, 2015)

In another example, on the Delta homepage, a link titled “Changed Baggage Fees & Optional Services” brings the consumer to a page that lists fees for checked baggage, preferred seats, in-flight entertainment, food and beverage, and more.<sup>72</sup> This page also includes a statement that “[t]here are no fees for cancellations of booking within 24 hours of purchase.”<sup>73</sup> However, the page does not explain what fees apply when a flight is cancelled outside of this 24-hour window or when a flight is changed.

Also on the Delta homepage, in small font at the top of the screen, a dropdown menu titled “Traveling With Us” expands to display a link titled “Ticket Changes & Refunds.” After clicking on that link, a consumer can click on a “Learn More” link under “Ticket Changes” and then click again to expand the section titled “Change Fees.”<sup>74</sup> If a consumer reaches this page, he will read, “For travel within the 50 United States, Canada, Puerto Rico and the U.S. Virgin Islands, the fee is \$200 for Delta-marketed flights.”<sup>75</sup> The information on this page also explains that, for international flights, “the change fee for Delta-marketed flights is typically \$200 to \$500, but can vary based on location and type of fare.”<sup>76</sup>

The fare rules applicable to a specific Delta itinerary can be viewed after selecting flights and before entering passenger information. A link to “Fare Rules” appears in small font at the bottom of the page in the “Terms and Conditions” box. A few sentences down on the same page, a link to “View Fare Rules, Change & Cancellation Policies” is also present. Delta is one of a minority of airlines reviewed by Committee minority staff that explicitly mentions “change” or “cancellation” on multiple pages in the booking process – without requiring the consumer to first click on links to view additional terms in order to see these words. On this same page, Delta warns: “This Ticket is Changeable/Nonrefundable. Fees may Apply.” These warnings also appear at the bottom of the final page of the booking process, where the consumer enters payment information and completes the purchase. However, the consumer must read through a separate page of “Fare Rules” – accessible by clicking on either the “Fare Rules” link or the “View Fare Rules, Change & Cancellation Policies” link – before finding, at the bottom of that page, a mention of the actual change/cancellation fee of \$200.

In reviewing the rules applicable to various Delta flights, Committee minority staff observed that the rules were, at times, completely unavailable to the consumer. In these cases, the consumer is directed to contact Delta. An example of the notice that occasionally appeared when Committee minority staff attempted to access fare rules is below:

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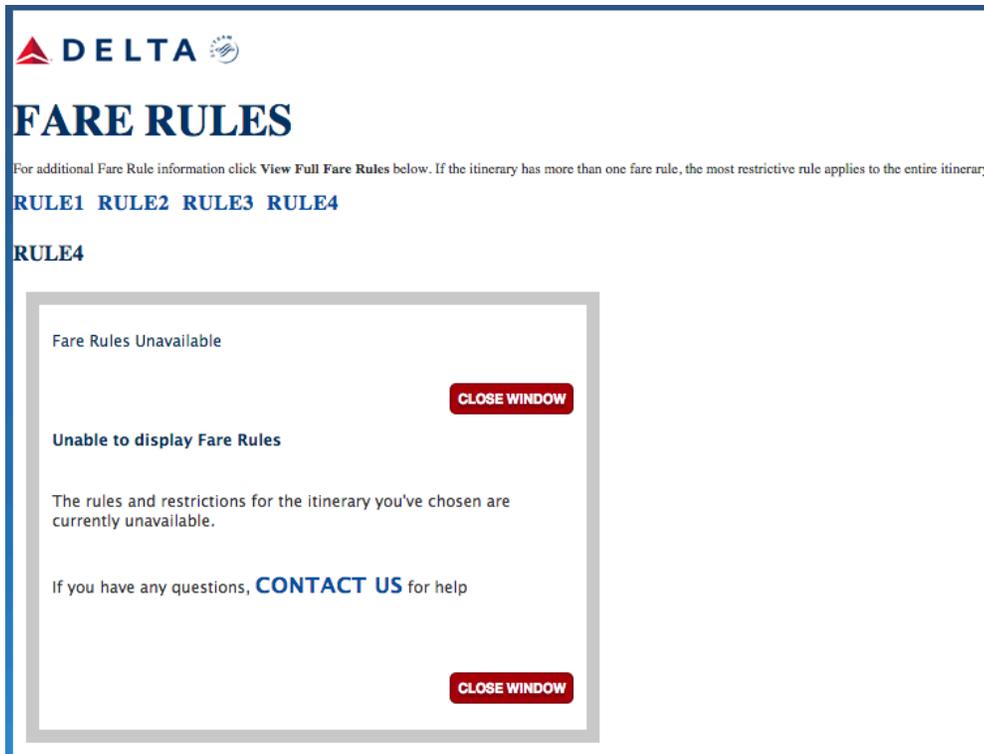
<sup>72</sup> Delta Air Lines, Checked Baggage & Optional Service Fees (online at [www.delta.com/content/www/en\\_US/traveling-with-us/baggage/before-your-trip/checked.html?icid=Policy\\_Ck\\_Baggage\\_Ongoing](http://www.delta.com/content/www/en_US/traveling-with-us/baggage/before-your-trip/checked.html?icid=Policy_Ck_Baggage_Ongoing)) (accessed July 8, 2015).

<sup>73</sup> *Id.*

<sup>74</sup> Delta Air Lines, Ticket Changes (online at [www.delta.com/content/www/en\\_US/traveling-with-us/ticket-changes-refunds/ticket-changes.html](http://www.delta.com/content/www/en_US/traveling-with-us/ticket-changes-refunds/ticket-changes.html)) (accessed July 8, 2015).

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*



Source: Delta Air Lines (accessed July 1, 2015)

Even when the Delta fare rules are available, they are often confusing and extensive. For example, the rule for a flight from San Diego, California (SAN) to Chicago, Illinois – Midway Airport (MDW) states, “CANCEL-NON REFCHANGE-200.00 USDFOR ALL CONDITIONS SEE TEXT RULE.”<sup>77</sup> In the full fare rule, a consumer must read more than 1,000 words before reaching a discussion of the change/cancellation policies, which state “PENALTIES CANCELLATIONS TICKET IS NON-REFUNDABLE IN CASE OF CANCEL/NO-SHOW. CHANGES CHARGE USD 200.00 FOR REISSUE/REVALIDATION/UNTICKETED PTA. NOTE - THE USD 200.00 IS AN ADMINISTRATIVE SERVICE CHARGE -ASC-.” As evidenced in the fare rule below, these rules are generally lengthy, redundant, not written in accessible language, not organized in an easily-decipherable manner, and filled with terms and abbreviations that many consumers will not understand:

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<sup>77</sup> Delta Air Lines, Fare Rules (accessed July 1, 2015).



# FARE RULES

For additional Fare Rule information click [View Full Fare Rules](#) below. If the itinerary has more than one fare rule, the most restrictive rule applies to the entire itinerary.

[RULE1](#) [RULE2](#) [RULE3](#) [RULE4](#)

## RULE1

[CLOSE WINDOW](#)

Fare Code - VA14A0QD

ALL

APPLICATION RULE MAIN CABIN FARES APPLICATION CLASS OF SERVICE THESE FARES APPLY FOR ECONOMY CLASS SERVICE. CAPACITY LIMITATIONS SEATS ARE LIMITED ADVANCE RES/TKTG RESERVATIONS FOR ALL SECTORS ARE REQUIRED AT LEAST 14 DAYS BEFORE DEPARTURE OF EACH TRIP. TICKETING FOR DEPARTURE OF EACH TRIP MUST BE COMPLETED WITHIN 1 DAY AFTER RESERVATIONS ARE MADE OR AT LEAST 14 DAYS BEFORE DEPARTURE WHICHEVER IS EARLIER. CHILD DISCOUNT GENERAL RULES TEXT 1ST INFANT UNDER 2 WITHOUT A SEAT - NO CHARGE TICKET DESIGNATOR - IN00. MUST BE ACCOMPANIED ON ALL FLIGHTS IN SAME COMPARTMENT BY ADULT OR - INFANT UNDER 2 WITH A SEAT - CHARGE 100 PERCENT OF THE FARE. MUST BE ACCOMPANIED ON ALL FLIGHTS IN SAME COMPARTMENT BY ADULT. SURCHARGES IF INFANT 0-1 WITHOUT A SEAT. THERE IS NO CHARGE FOR TRAVEL PER FARE COMPONENT. A SURCHARGE OF USD 32.56 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 02JUL 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 32.56 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL FROM 05JUL 15 THROUGH 06JUL 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 9.30 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 09JUL 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 32.56 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON MON/THU/ FRI/SUN FROM 10JUL 15 THROUGH 09AUG 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 9.30 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON SAT FROM 11JUL 15 THROUGH 03AUG 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 9.30 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 08AUG 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 23.26 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 10AUG 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 23.26 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 13AUG 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 13.95 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 14AUG 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 23.26 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 16AUG 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 13.95 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 17AUG 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 13.95 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 07SEP 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 18.60 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL FROM 20NOV 15 THROUGH 21NOV 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 18.60 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL FROM 24NOV 15 THROUGH 25NOV 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 27.91 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 28NOV 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 55.81 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 29NOV 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 37.21 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 30NOV 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 27.91 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL FROM 18DEC 15 THROUGH 19DEC 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 18.60 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL FROM 20DEC 15 THROUGH 23DEC 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 18.60 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 26DEC 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 27.91 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 27DEC 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 18.60 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL FROM 28DEC 15 THROUGH 30DEC 15. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 27.91 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 02JAN 16. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 46.51 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 03JAN 16. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 27.91 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 04JAN 16. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 18.60 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL FROM 11FEB 16 THROUGH 12FEB 16. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. AND - A SURCHARGE OF USD 18.60 PER FARE COMPONENT WILL BE ADDED TO THE APPLICABLE FARE FOR TRAVEL ON 15FEB 16. NOTE - THIS PEAK TRAVEL SURCHARGE IS ASSESSED ON A FARE COMPONENT BASIS. FLIGHT APPLIC THE FARE COMPONENT MUST BE ON ONE OR MORE OF THE FOLLOWING DL FLIGHTS 1 THROUGH 2659 DL FLIGHTS 2784 THROUGH 5930 DL FLIGHTS 5959 THROUGH 6022 DL FLIGHTS 6026 THROUGH 9784 DL FLIGHTS 9791 THROUGH 9999 IN COMBINATION WITH ONE OR MORE OF THE FOLLOWING DL FLIGHTS

1 THROUGH 2659 DL FLIGHTS 2784 THROUGH 5930 DL FLIGHTS 5959 THROUGH 6022 DL FLIGHTS 6026 THROUGH 9784 DL FLIGHTS 9791 THROUGH 9999. NOTE - 1. MAINLINE TO MAINLINE 2. NO DELTA SHUTTLE THE FARE COMPONENT MUST BE ON ONE OR MORE OF THE FOLLOWING DL FLIGHTS 1 THROUGH 2659 DL FLIGHTS 2784 THROUGH 5930 DL FLIGHTS 5959 THROUGH 6022 DL FLIGHTS 6026 THROUGH 9784 DL FLIGHTS 9791 THROUGH 9999. NOTE - 1. NO DELTA SHUTTLE. TRANSFERS 2 TRANSFERS PERMITTED IN EACH DIRECTION ONLINE ON THE PRIMARY CARRIER FARE BREAK AND EMBEDDED SURFACE SECTORS NOT PERMITTED ON THE FARE COMPONENT. ENDORSEMENTS THE ORIGINAL AND THE REISSUED TICKET MUST BE ANNOTATED - NONREF/PENALTY APPLIES - IN THE

TICKETS MAY ONLY BE SOLD IN AREA 1/AREA 2/AREA 3. PENALTIES CANCELLATIONS TICKET IS NON-REFUNDABLE IN CASE OF CANCEL/NO-SHOW. CHANGES CHARGE USD 200.00 FOR REISSUE/REVALIDATION/UNTICKETED PTA. NOTE - THE USD 200.00 IS AN ADMINISTRATIVE SERVICE CHARGE -ASC-. ----TICKET VALIDITY---- TICKET IS VALID FOR 1 YEAR FROM THE DATE OF ISSUE AND ALL TRAVEL MUST BE COMPLETED WITHIN VALIDITY PERIOD. IF EXCHANGED WHETHER TRAVEL WAS STARTED OR NOT THE TICKET MUST BE REISSUED AND ALL TRAVEL COMPLETED WITHIN 1 YEAR FROM THE ORIGINAL DATE OF ISSUE. ----SAME DAY CONFIRM/SDC---- A. REQUEST MUST BE MADE PRIOR TO THE ORIGINAL TICKETED DEPARTURE TIME. REQUEST MAY BE MADE UP TO 24 HOURS PRIOR TO ORIGINAL TICKETED DEPARTURE TIME. B. NEW CONFIRMED DEPARTURE TIME MUST STILL BE ON THE SAME DAY AS THE ORIGINAL TICKETED DEPARTURE. C. USD50.00 FEE PLUS ANY DIFFERENCE IN GOVERNMENT IMPOSED ITINERARY BASED FEES/TAXES. D. MUST BE SAME ORIGIN/DESTINATION CHANGES FROM NONSTOP TO CONNECTION ARE ALLOWED ONLY IF THE CONNECTING POINT IS PERMITTED BASED ON FARE RULES. E. SAME BOOKING CLASS AS ORIGINAL FLIGHT MUST BE AVAILABLE. F. IF THE REQUESTED CHANGE IS NOT APPLICABLE/ AVAILABLE FOR THE FARE PURCHASED IE INVALID ROUTING/AIRPORT/ETC THE CUSTOMER MAY UPGRADE TO A FARE THAT DOES PERMIT THOSE CHANGES USING NORMAL REISSUE PROCEDURES OF PAYING ANY FARE DIFFERENCE PLUS ASC. ----SAME DAY PAID STANDBY/SDSB---- A. APPLIES TO FLIGHTS PRIOR TO TICKETED DEPARTURE TIME ON THE SAME DAY OF TICKETED DEPARTURE. B. REQUEST MAY BE MADE UP TO 24 HOURS PRIOR TO ORIGINAL TICKETED DEPARTURE TIME. C. USD50.00 FEE D. MUST BE SAME ORIGIN/DESTINATION/CONNECT POINTS AS ORIGINALLY TICKETED NO ROUTING CHANGES PERMITTED. E. THERE MUST BE AVAILABILITY WITHIN THE SAME CABIN AS ORIGINALLY TICKETED. ----TICKET REISSUE PROCEDURES---- THE VALUE OF THE NEW TICKET CAN BE LOWER/EQUAL/HIGHER THAN THE VALUE OF THE ORIGINAL TICKET. IF LOWER - ANY DIFFERENCE IN FARE LESS THE CHANGE FEE WILL BE RETURNED TO THE PASSENGER IN A NON-REFUNDABLE DELTA TRAVEL VOUCHER AT TIME OF REISSUE. IF EQUAL/HIGHER - COLLECT THE CHANGE FEE AND ANY DIFFERENCE IN FARE AT TIME OF REISSUE. FLIGHTS MUST BE REBOOKED AND TICKET REISSUED AT TIME OF CHANGE. --WHOLLY UNUSED TICKET-- 1. CHANGES TO OUTBOUND PORTION OF UNUSED TICKETS A. ISSUE A NEW TICKET - CANCEL AND START OVER 1. MUST USE CURRENT FARES 2. VALIDATE ALL FARE RULES 3. VALUE OF ORIGINAL TICKET LESS CHANGE FEE MAY BE APPLIED TOWARD THE PURCHASE OF A NEW TICKET II. CHANGES TO CONTINUING/RETURN PORTION OF UNUSED TICKETS A. ATTEMPT TO KEEP THE FARES AS TICKETED 1. CANNOT CHANGE ORIGIN/DESTINATION OF ANY FARE COMPONENT 2. VALIDATE ALL FARE RULES 3. ADVANCE RES IS MEASURED FROM ORIGINAL TICKET DATE TO DEPARTURE OF PRICING UNIT 4. MUST BE ABLE TO KEEP THE ORIGINAL FARES AS TICKETED FOR ALL FARE COMPONENTS 5. USE HISTORICAL FARES IN EFFECT ON THE DATE OF THE ORIGINAL TICKET ISSUE DATE -OR- B. REPRICE USING FARES IN EFFECT WHEN TICKET WAS ORIGINALLY ISSUED - USING HISTORICAL FARES 1. NO CHANGES ALLOWED TO THE FIRST FARE COMPONENT 2. WHEN SAME FARES USED - ALL RULES AND BOOKING CODE PROVISIONS MUST BE MET 3. NEW TICKET MAY BE LOWER OR EQUAL OR HIGHER VALUE THAN PREVIOUS TICKET 4. VALIDATE ALL FARE RULES 5. ADVANCE RES IS MEASURED FROM ORIGINAL TICKET DATE TO DEPARTURE OF PRICING UNIT -OR- C. ISSUE A NEW TICKET - CANCEL AND START OVER 1. MUST USE CURRENT FARES 2. VALIDATE ALL FARE RULES 3. VALUE OF ORIGINAL TICKET LESS CHANGE FEE MAY BE APPLIED TOWARD THE PURCHASE OF A NEW TICKET --PARTIALLY USED TICKET-- I. CHANGES TO PARTIALLY USED TICKETS A. ATTEMPT TO KEEP THE FARES AS TICKETED 1. CANNOT CHANGE ORIGIN/DESTINATION OF ANY FARE COMPONENT 2. NO CHANGES TO FULLY FLOWN FARE COMPONENTS 3. VALIDATE ALL FARE RULES 4. ADVANCE RES IS MEASURED FROM ORIGINAL TICKET DATE TO DEPARTURE OF PRICING UNIT 5. MUST BE ABLE TO KEEP THE ORIGINAL FARES AS TICKETED FOR ALL FARE COMPONENTS 6. USE HISTORICAL FARES IN EFFECT ON THE DATE OF THE ORIGINAL TICKET ISSUE DATE -OR- B. REPRICE KEEPING FARES FOR FLOWN FARE COMPONENTS AND REPLACE UNFLOWN FARE COMPONENTS USING HISTORICAL FARES 1. NO CHANGES TO FULLY FLOWN FARE COMPONENTS 2. WHEN SAME FARES USED - ALL RULES AND BOOKING CODE PROVISIONS MUST BE MET 3. NEW TICKET MAY BE LOWER OR EQUAL OR HIGHER VALUE THAN PREVIOUS TICKET 4. VALIDATE ALL FARE RULES 5. ADVANCE RES IS MEASURED FROM ORIGINAL TICKET DATE TO DEPARTURE OF PRICING UNIT 6. USE HISTORICAL FARES IN EFFECT ON THE DATE OF THE ORIGINAL TICKET ISSUE DATE -OR- C. REPRICE REPLACING FARES FOR FLOWN FARE COMPONENTS WITH HISTORICAL FARE/S IN AN EQUAL OR HIGHER BOOKING CLASS AND REPLACE UNFLOWN FARE COMPONENTS USING HISTORICAL FARES 1. NO CHANGES TO FULLY FLOWN FARE COMPONENTS 2. NEW TICKET MAY BE LOWER OR EQUAL OR HIGHER VALUE THAN PREVIOUS TICKET 3. VALIDATE ALL FARE RULES 4. ADVANCE RES IS MEASURED FROM ORIGINAL TICKET DATE TO DEPARTURE OF PRICING UNIT 5. USE HISTORICAL FARES IN EFFECT ON THE DATE OF THE ORIGINAL TICKET ISSUE DATE 6. REPLACEMENT FARES FOR FLOWN FARE COMPONENTS MUST BE OF EQUAL OR HIGHER BOOKING CLASS THAN THE ORIGINAL TICKETED FARE 7. USE BOOKING CLASS HIERARCHY WHEN REPLACING FARES FOR FLOWN FARE COMPONENTS THE HIERARCHY IS ECONOMY CLASS - Y B M S H Q K L U T X V E PREMIUM ECONOMY CLASS - W BUSINESS CLASS - J C D I Z FIRST CLASS - F P A G -OR- D. ISSUE A NEW TICKET 1. APPLY RESIDUAL VALUE /IF ANY/ LESS THE CHANGE FEE TOWARD THE PURCHASE OF A NEW TICKET 2. CALCULATE NEW TICKET USING CURRENT FARES 3. VALIDATE ALL RULES COMBINABILITY DOUBLE OPEN JAWS NOT PERMITTED. APPLICABLE ADD-ON CONSTRUCTION IS ADDRESSED IN MISCELLANEOUS PROVISIONS - CATEGORY 23. END-ON-END END-ON-END COMBINATIONS PERMITTED. VALIDATE ALL FARE COMPONENTS. SIDE TRIPS PERMITTED. PROVIDED - COMBINATIONS ARE FOR CARRIER DL/AF/KL/AZ/VA/ZK/VS OPEN JAWS/2-COMPONENT CIRCLE TRIPS/MULTI-COMPONENT CIRCLE TRIPS FARES MAY BE COMBINED ON A HALF ROUND TRIP BASIS WITH DL FARES IN ANY RULE AND TARIFF. -TO FORM SINGLE OPEN JAWS. A MAXIMUM OF 2 FARE COMPONENTS PERMITTED. MILEAGE OF THE OPEN SEGMENT MUST BE EQUAL/LESS THAN MILEAGE OF THE SHORTEST FLOWN FARE COMPONENT. -TO FORM 2-COMPONENT CIRCLE TRIPS -TO FORM MULTI-COMPONENT CIRCLE TRIPS A MAXIMUM OF 2 FARE BREAK POINTS PERMITTED. END-ON-END END-ON-END COMBINATIONS PERMITTED WITH FARES FROM/TO LWB/MEI/MSL/PIB/TUP/GLH/MCN/BIL. VALIDATE ALL FARE COMPONENTS. SIDE TRIPS PERMITTED. PROVIDED - COMBINATIONS ARE FOR CARRIER DL/WP/3M NOTE - THE CITY PAIRS BELOW ARE CONSIDERED THE SAME POINT- BWI-WAS FLL-MIA LAX-ONT LAX-SNA NYC-EWR OAK-SFO OAK-SJC SFO-SJC LAX-BUR ROUTING 158 FROM-TO SAN-SEA/LAX/SLC/MSP/MEM/DTT/CVG/ATL- CHI\* COMBINATIONS ARE FOR CARRIER DL/WP/3M NOTE - THE CITY PAIRS BELOW ARE CONSIDERED THE SAME POINT- BWI-WAS FLL-MIA LAX-ONT LAX-SNA NYC-EWR OAK-SFO OAK-SJC SFO-SJC LAX-BUR ROUTING 158 FROM-TO SAN-SEA/LAX/SLC/MSP/MEM/DTT/CVG/ATL- CHI\* >+>

CLOSE WINDOW

Source: Delta Air Lines (accessed on July 1, 2015)

On the JetBlue homepage, a link in small font to “Optional Services and Fees Information” appears in the box where a consumer searches for flights. The page this link opens clearly lays out the range of possible fees, including change/cancellation fees.<sup>78</sup> When selecting departure and return flights, a relatively prominent box indicates that, by default, the consumer is viewing non-refundable fares.

**Departing flights**  
**Boston, MA (BOS) to Charleston, SC (CHS)**

**BEST FARE GUARANTEE** jetblue.com has the lowest fares—guaranteed\*  
\*Terms apply

← Prev **Fri Sep 4** \$255 **Sat Sep 5** from \$185 **Sun Sep 6** \$119 Next →

**Non-Refundable** Refundable Compare fare options

Prices displayed are one-way per person including taxes and fees. Additional baggage fees may apply. Did you know you can click on a flight number to see its on-time performance?

Departs	Arrives	Duration	BLUE	BLUE PLUS	BLUE FLEX
10:34AM BOS ✈ 1667 E190	12:54PM CHS View seats	2h 20m Amenities	\$190	\$205	\$290

Source: JetBlue (accessed August 3, 2015)

After selecting specific flights, the consumer is brought to a page where the consumer enters personal information. On the side of this page, a box titled “Itinerary” includes, in small font below the summary of the itinerary, a link titled “Fare restrictions.” Clicking on this link opens a window that summarizes change/cancellation fees:

Fees (Blue / BluePlus / BlueFlex)	Rules
<p><b>Non-refundable and Mint™ Non-Refundable</b></p> <ul style="list-style-type: none"> <li>If change is made 60 days or more prior to departure date: <ul style="list-style-type: none"> <li>Non-refundable: \$70 / \$60 / \$0</li> <li>Mint Non-refundable: \$75</li> </ul> </li> <li>If change is made less than 60 days from departure date: <ul style="list-style-type: none"> <li>Fares under \$100: \$70 / \$60 / \$0</li> <li>Fares between \$100 and \$149.99: \$90 / \$80 / \$0</li> <li>Fares of \$150 or more: \$135 / \$120 / \$0</li> <li>Mint non-stop fares less than \$950: \$150</li> <li>Mint connecting fares less than \$1,350: \$150</li> <li>All other Mint Fares: \$0</li> </ul> </li> </ul>	<p>Prior to scheduled departure, a change or cancel fee will be applied based on the Fare Option purchased (Blue / BluePlus / BlueFlex). For changes, any applicable fare difference will be charged in addition to the change fee. For cancellations, remaining amount will be available as JetBlue credit valid for future travel on JetBlue one year from date of cancellation.</p>
<p><b>Refundable and Mint™ Refundable</b></p> <ul style="list-style-type: none"> <li>Refundable prior to scheduled departure for each flight.</li> </ul>	<p>Prior to scheduled departure, no fee will be applied, but any applicable fare difference will be charged.</p>

Source: JetBlue (accessed July 1, 2015)

<sup>78</sup> JetBlue, Optional Services and Fees (online at [www.jetblue.com/legal/fees/](http://www.jetblue.com/legal/fees/)) (accessed July 8, 2015).

On the payment screen, the “Terms and Conditions / Fare Rules” again appear, at the bottom of the screen, and the consumer is able to scroll through a window of small text to view the specific charges for change/cancellation. JetBlue requires the consumer to check the box “I have read and understand all of the fare restrictions associated with this fare. (Please check the box to continue)” to purchase the trip.<sup>79</sup>

Of the seven airlines reviewed by Committee minority staff that charge change/cancellation fees, one airline, American, never explicitly refers to “change” or “cancellation” fees during the booking process. A consumer will only see these words if the consumer clicks on links found in the purchase flow. Three airlines – Hawaiian, JetBlue, and United – mention these fees but not until the final page of the booking process. Three airlines, Alaska, Delta, Spirit, explicitly mention change and/or cancellation fees on multiple pages of the booking process. Only one airline, Alaska, actually provides the amount of the change/cancellation fee without requiring the consumer to click on a link to another page to learn about the specific fees.

Given the recent increases in change/cancellation fees across many major airlines and the often involuntary nature of these fees, additional Committee scrutiny of airline change/cancellation fee practices is merited. In addition, the Department of Transportation, in consultation with consumer groups and other stakeholders, should immediately consider taking steps to add further protections and transparency to an increasingly consolidated domestic airline market.

#### **(4) Recommendations**

##### **(A) Ancillary Fees Should Be Disclosed as Early as Possible in the Booking Process in a Standardized Format**

As detailed throughout this report, one of the main challenges consumers face in booking air travel is the difficulty in comparing fees among airlines operating on a specific route and calculating the total price of a trip. To help alleviate this problem, policymakers should consider requiring a standardized disclosure chart that lists frequently charged ancillary fees, such as baggage and change/cancellation, that could be associated with a specific ticket.

This type of disclosure has been in effect since 2000 for credit card solicitations and has helped consumers compare, on a standardized basis, the various fees that may be charged by a credit card issuer.<sup>80</sup> An example of the required disclosure for a credit card solicitation is below:

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<sup>79</sup> See, e.g., JetBlue, Final Payment Screen (accessed July 31, 2015).

<sup>80</sup> See 12 C.F.R. § 1026.60 (detailing Truth in Lending Act regulations for consumer credit card issuers including standard disclosure of credit card interest rates and fees).

**G-10(B) Applications and Solicitations Sample (Credit Cards)**

Interest Rates and Interest Charges	
<b>Annual Percentage Rate (APR) for Purchases</b>	<b>8.99% to 19.99%</b> when you open your account, based on your creditworthiness. After that, your APR will vary with the market based on the Prime Rate.
<b>APR for Balance Transfers</b>	<b>15.99%</b> This APR will vary with the market based on the Prime Rate.
<b>APR for Cash Advances</b>	<b>21.99%</b> This APR will vary with the market based on the Prime Rate.
<b>Penalty APR and When it Applies</b>	<b>28.99%</b> This APR may be applied to your account if you: 1) Make a late payment, 2) Go over your credit limit twice in a six-month period; 3) Make a payment that is returned; or 4) Do any of the above on another account that you have with us.  <b>How Long Will the Penalty APR Apply?:</b> If your APRs are increased for any of these reasons, the Penalty APR will apply until you make six consecutive minimum payments when due.
<b>How to Avoid Paying Interest on Purchases</b>	Your due date is at least 25 days after the close of each billing cycle. We will not charge you any interest on purchases if you pay your entire balance by the due date each month.
<b>Minimum Interest Charge</b>	If you are charged interest, the charge will be no less than \$1.50.
<b>For Credit Card Tips from the Federal Reserve Board</b>	To learn more about factors to consider when applying for or using a credit card, visit the website of the Federal Reserve Board at <a href="http://www.federalreserve.gov/creditcard">http://www.federalreserve.gov/creditcard</a> .

Fees	
<b>Annual Fee</b>	<b>None</b>
<b>Transaction Fees</b>	
• Balance Transfer	Either \$5 or 3% of the amount of each transfer, whichever is greater (maximum fee: \$100).
• Cash Advance	Either \$5 or 3% of the amount of each cash advance, whichever is greater.
• Foreign Transaction	2% of each transaction in U.S. dollars.
<b>Penalty Fees</b>	
• Late Payment	\$29 if balance is less than or equal to \$1,000; \$35 if balance is more than \$1,000
• Over-the-Credit Limit	\$29
• Returned Payment	\$35
<b>Other Fees</b>	
• Required Account Protector Plan	\$0.79 per \$100 of balance at the end of each statement period. See back for details.

**How We Will Calculate Your Balance:** We use a method called "average daily balance (including new purchases)."

Source: Appendix G to 12 C.F.R. § 1026<sup>81</sup>

Committee minority staff believes that a similar disclosure box, presented at the time a route is selected on a booking website or orally over a telephone call, and also on the ticket receipt, could help more fully inform consumers about potential additional costs associated with an airfare purchase.

**(B) Checked Baggage and Carry-On Baggage Fees Should Have a Clear Connection to the Costs Incurred by the Airline**

As noted in the report, seven of the eight surveyed airlines now charge for checked baggage. In addition, one surveyed airline charges for carry-on baggage. In some cases, however, there does not appear to be a clear connection between the fees imposed and the costs incurred by the airlines imposing them. For example, many airlines charge a fee for a second checked bag that is substantially higher than the fee for the first checked bag – even though there appears to be no cost justification, other than increased profit, for doing so. Furthermore, there

<sup>81</sup> See 12 C.F.R. § 1026.60 Appendix G, G-10(B) Applications and Solicitations Sample (Credit Cards).

does not appear to be any justification, other than increased profit, for imposing fees for carry-on baggage.<sup>82</sup>

The Department of Transportation has the power to investigate and prohibit “unfair or deceptive” practices in the airline industry.<sup>83</sup> Based on this investigation, Committee minority staff believes that certain practices concerning checked and carry-on baggage fees warrant additional scrutiny by the Department.

**(C) Airlines Should Promptly Refund Fees for Any Checked Bags That Are Delayed More Than 6 Hours on a Domestic Flight**

Payment of checked baggage fees implies that the bags will actually be delivered in a timely fashion with passengers when they arrive at their final destination. Committee minority staff found, however, that most airlines do not have a standardized protocol for issuing refunds for checked baggage fees when baggage does not arrive within a reasonable period. Accordingly, Committee minority staff recommends that DOT set a presumptive requirement that airlines automatically refund any baggage fee paid by the passenger for baggage delayed more than 6 hours after time of arrival.

**(D) Airline Change Fees Should Be Limited to a Reasonable Amount Tied to Lead Time Prior to Departure and a Maximum Percentage of the Original Fare Paid**

As noted in the report, many airline change/cancellation fees do not appear to have any clear connection to the actual cost to the airline if a ticket is changed or cancelled. Instead, change/cancellation fees are usually set on a static basis regardless of whether a ticket is changed or cancelled a month before departure or an hour before departure.

Of the airlines surveyed, JetBlue and Alaska are the only carriers that offer a cancellation policy that reflects the lead time provided to the airline when the consumer changes or cancels a ticket. Committee minority staff believes that DOT should more closely review current airline cancellation policies and determine whether those that consider neither lead time nor ticket price are “unfair and deceptive” practices that should be prohibited.<sup>84</sup>

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<sup>82</sup> H.R. 3149, The Baggage Fee Fairness Act of 2015, proposes limiting the fees on bags to the “total amount of passenger facility charges that could be imposed (without regard to whether the charges are actually imposed) on the passenger by eligible agencies for boarding associated with that flight under paragraphs (1) and (4) of section 40117(b).” Section 40117(b) currently places the maximum passenger facility charge at \$4.50, therefore baggage fees would be limited to \$4.50. H.R. 3149. *See New Legislation Would Cap Checked-Baggage Fees at \$4.50*, Consumerist (July 23, 2015).

<sup>83</sup> 49 U.S.C. § 41712.

<sup>84</sup> Several consumer organizations support fixed caps on airline change fees. For example, FlyersRights.org filed a Petition with DOT on February 11, 2015, calling for DOT to cap international ticket “change fees at no more than \$100 unless an airline shows a reasonable cost basis for a higher amount.” *See FlyersRights.org, Petition for Rulemaking: Limitation on Change Fees for International Flights*, DOT-OST-2015-0031. *See also More Fees Propel Airlines’ Profits, and Embitter Travelers*, New York Times (July 27, 2015).

**(E) Airlines Should Provide Clear Disclosures That “Preferred Seat” Charges Are Optional**

Some airline websites reviewed by Committee minority staff gave the impression that when no “free” seats were available at the time of ticket purchase, an additional fee would be required to secure a seat. Consumers should understand that payment of a seating fee is not required if it is an airline’s policy to assign seats from available inventory at check-in. Accordingly, Committee minority staff believes that DOT should modify its consumer protection rules to require airlines to place disclaimers on seat selection pages noting that payment of an additional fee is not required to obtain a guaranteed seat, barring overbooking or other exceptional circumstances.

**(F) Airline and Travel Websites Should Have a Clear and Conspicuous Link to the Department of Transportation’s Aviation Consumer Protection Website**

Many consumers do not realize that DOT maintains a website for airline consumer complaints. In order to fully inform airline passengers about this free service, Committee minority staff recommends that the Department update its rules to require airlines and travel agency websites to include a clear and conspicuous link to DOT’s Aviation Consumer Protection website<sup>85</sup> on the homepage of the airline or travel agency website and on all electronic ticket receipts.

In addition, an active link to the DOT Aviation Consumer Protection website should be placed on each airline’s customer service website. When consumers file a complaint or submit comments to an airline, they should be notified that they can also file a complaint with DOT and should be provided a link to DOT’s website for Airline Service Complaints and Comments. This will help to ensure that individual complaints are addressed, and will also allow DOT to track trends and identify significant or widespread consumer protection issues.

**(G) The Department of Transportation Should Update Its Aviation Consumer Protection Website to Improve the Consumer Experience**

Committee minority staff found that DOT’s Aviation Consumer Protection website is basic and functional, but it does not provide the type of interactive, consumer-friendly prompts and experience offered by the consumer assistance websites of other federal agencies, such as the Consumer Product Safety Commission<sup>86</sup> and the Consumer Financial Protection Bureau.<sup>87</sup> Therefore, Committee minority staff recommends that DOT upgrade its Aviation Consumer

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<sup>85</sup> See Department of Transportation, File a Consumer Complaint (online at [www.transportation.gov/airconsumer/file-consumer-complaint](http://www.transportation.gov/airconsumer/file-consumer-complaint)).

<sup>86</sup> See Consumer Product Safety Commission, File a Report (online at [www.saferproducts.gov](http://www.saferproducts.gov)).

<sup>87</sup> See Consumer Financial Protection Bureau, Submit a Complaint (online at [www.consumerfinance.gov/complaint/](http://www.consumerfinance.gov/complaint/)).

Protection website to provide a better consumer interface. In addition, due to the increasing prevalence of mobile devices, Committee minority staff recommends that the Department also develop a smartphone “app” that would allow consumers to easily file complaints from mobile devices.

### **Conclusion**

In the last five years, the ancillary fee model has become a central part of the revenue stream for major U.S. airlines. Unfortunately, this new system does not always result in fairness or transparency for the traveling public. This report shows the need for continued oversight by this Committee, the Department of Transportation, and consumer watchdog groups to ensure that airlines engage in fair and reasonable practices regarding ancillary fees and offer consumers transparent information regarding all possible fees when purchasing airfare.

**APPENDIX I**

AIRLINE	FIRST CHECKED BAG FEE	CHANGE/CANCELLATION FEE
	\$25	60+ Days From Departure: Free Within 60 Days From Departure: \$125
	\$25	\$200
	\$25	\$200
	\$25	\$200
	\$20 During Web Check-in or at Kiosk \$25 at Check-in Counter (Blue Fares Only)	60+ Days From Departure: Blue Fares: \$70 Blue Plus: \$60  Within 60 Days From Departure: Blue Fares: \$70 (Fares Under \$100) \$90 (Fares Between \$100 - \$149) \$135 (Fares \$150 or More) Blue Plus: \$60 (Fares Under \$100) \$80 (Fares Between \$100 - \$149) \$120 (Fares \$150 or More)
	\$0	\$0
	\$30 During Spirit.com Booking \$35 Before Online Check-in \$40 During Online Check-in \$50 at Airport/Group Desk/Reservation Center/GDS \$100 at Gate	\$110 Web Modification or Cancellation \$120 Reservations/Airport Modification or Cancellation \$50 Group Booking Itinerary Modification or Cancellation
	\$25	\$200