

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**14 CFR Part 399**

**[Docket No. DOT-OST-2022-0109]**

**RIN 2105-AF10**

**Enhancing Transparency of Airline Ancillary Service Fees**

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT or the Department).

**ACTION:** Denial of Request for Extension of Comment Period

**SUMMARY:** The U.S. Department of Transportation (Department or DOT) declines to extend the comment period beyond January 23, 2023 for its proposed rule on Enhancing Transparency of Airline Ancillary Service Fees.

**DATES:** Comments on the rulemaking should be filed by January 23, 2023. Late-filed comments will be considered to the extent practicable. Petitions for a hearing pursuant to 14 CFR 399.75(b)(1) must also be filed by January 23, 2023.

**ADDRESSES:** You may file comments identified by the docket number DOT-OST-2022-0109 by any of the following methods:

- Federal eRulemaking Portal: go to <https://www.regulations.gov> and follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. S.E., West Building Ground Floor, Room W12-140, Washington, D.C., 20590-0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey

Ave. S.E., Washington, D.C., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Commenters using this method of delivery should contact Docket Services at 202-366-9826 or 202-366-9317 before delivery to ensure staff is available to receive the delivery.

- Fax: (202) 493-2251

*Instructions:* You must include the agency name and docket number DOT-OST-2022-0109 or the Regulatory Identification Number (RIN 2105-AF10) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

*Docket:* For access to the docket to read background documents and comments received, go to <https://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** Ryan Patanaphan or Blane Workie, Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Ave. S.E., Washington, D.C., 20590, 202-366-9342 (phone), [ryan.patanaphan@dot.gov](mailto:ryan.patanaphan@dot.gov) or [blane.workie@dot.gov](mailto:blane.workie@dot.gov) (e-mail).

**SUPPLEMENTARY INFORMATION:** On September 26, 2022, the Department of Transportation (DOT or Department) publicly announced and posted to its website a notice of proposed rulemaking (NPRM) that proposed several disclosure requirements to enhance the

transparency of ancillary service fees that consumers pay for when they purchase airline tickets. (See 87 FR 63718; October 20, 2022). In the NPRM, the Department proposed to require U.S. air carriers, foreign air carriers, and ticket agents to clearly disclose passenger-specific or itinerary-specific baggage fees, change fees, and cancellation fees to consumers whenever fare and schedule information is provided to consumers for flights to, within, and from the United States. The Department also proposed requiring similar disclosures for fees for a child 13 or under to be seated adjacent to an accompanying adult, as well as the transactability of such seating fees. The proposed rule would require carriers to provide useable, current, and accurate information regarding fees to ticket agents that sell or display the carrier's fare and schedule information.

The NPRM initially provided for a comment period of 60 days after publication of the NPRM in the *Federal Register*, i.e., December 19, 2022. During this time, the Aviation Consumer Protection Advisory Committee (ACPAC) met on December 8, 2022 and heard from Department staff and various stakeholders on the proposed rule. The ACPAC meeting was open to the public. The Department received requests for an extension of the comment period from several commenters.<sup>1</sup> In response to those requests, and to provide additional time for stakeholders to conduct a thorough review of the NPRM's potential impacts, the Department extended the comment period by 35 days to January 23, 2023. (See 87 FR 77765 (Dec. 20, 2022)). During the extended comment period, the ACPAC met again on January 12, 2023 to deliberate and vote on recommendations in connection with the NPRM's proposals. The ACPAC meeting was again open to the public.

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<sup>1</sup> Commenters requesting additional time for comment were Airlines for America, the International Air Transportation Association, the Travel Technology Association, the American Society of Travel Advisors, and the Global Business Travel Association.

On January 18, 2023, the Travel Technology Association (Travel Tech) requested an extension to file comments on the NPRM, writing that commenters would not have a sufficient opportunity to review and respond to the ACPAC's recommendations that resulted from its January 12 meeting.<sup>2</sup> Travel Tech asserts that it and others were not able to view the meeting when it occurred, and that, at the time the organization requested an extension, the meeting materials had not yet been posted to the public docket. Travel Tech requested a two-week extension to February 6, 2023, to file comments.

While materials from the ACPAC's January 12 meeting, including a video recording of the full meeting, have been posted publicly and can be viewed on the Department's website or on regulations.gov (Docket DOT-OST-2018-0190), the meeting was publicly viewable on the date it was held. Stakeholders were provided sufficient notice of the meeting in advance, and the Federal Register notice announcing the meeting noted that the ACPAC intended to deliberate and decide on recommendations, if any, regarding ancillary fee transparency.<sup>3</sup> Indeed, Travel Tech was aware that the ACPAC would meet on January 12 to deliberate and decide on recommendations, if any, regarding this rulemaking. Moreover, the Department believes members of the public have had sufficient time, nearly 4 months, to consider the proposed rule and to file comments. In light of the foregoing, the Department finds insufficient basis to extend further the comment period for the Enhancing Transparency of Airline Ancillary Service Fees NPRM. As such, the Department denies Travel Tech's request for an extension to file comments in this rulemaking. The Department's denial notwithstanding, commenters are reminded that late-filed comments will be considered to

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<sup>2</sup> <https://www.regulations.gov/comment/DOT-OST-2022-0109-0068>

<sup>3</sup> A meeting notice was published in late December 2022 both on the Department's website and at regulations.gov. See <https://www.transportation.gov/airconsumer/latest-news> and <https://www.regulations.gov/document/DOT-OST-2018-0190-0087>.

the extent practicable.

Signed in Washington, D.C., on or around this 20th day of January 2023, under authority delegated at 49 U.S.C. 1.27n.

John E. Putnam,  
*General Counsel.*