Before the
DEPARTMENT OF TRANSPORTATION
Office of the Secretary
Washington, D.C. 20590

Enhancing Flexibility of Air Fare Price Advertising	Docket No. DOT-OST-2025-0831 RIN 2105-AF37

August 21, 2026

Office of the Secretary &
Office of the General Counsel
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Comment submitted electronically via https://www.regulations.gov

Re: July 1, 2026 Proposed Revision of DOT Full Fare Rule, 14 CFR Part 399

COMMENT AND PETITION FOR HEARING OF:

Public Counsel
Community Legal Services in East Palo Alto
Consumer Watchdog
Public Good Law Center
Consumer Federation of California

By their counsel:

Shelmun Dashan
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INTEREST OF THE FILERS

The signatories to this comment are organizations and entities that advocate for economic justice. All signatories have a strong interest in protecting Americans from manipulative marketing and sales tactics, and in promoting robust competition that improves consumer welfare. Some of the signatories are nonprofit organizations that provide direct legal services to consumers and borrowers who are financially and attentionally overburdened. Others represent the interests of their communities through litigation and policy advocacy. Accordingly, the undersigned entities, on behalf of the communities they represent, have a strong and abiding interest in preserving clear and easily comparable airline fare prices.

REQUEST FOR INFORMAL PUBLIC HEARING

We request that the Department hold a public hearing on its proposed rule and revocations to allow for oral presentation of comments, opportunity for stakeholders to hear from each other, and to give the Department an opportunity to ask commenters direct questions.

INTRODUCTION AND SUMMARY

Americans are feeling the pain of higher prices. They are experiencing sticker shock at the gas pump and the grocery checkout line.[1] They are also paying significantly more for airline travel compared to just months ago. Jet fuel prices doubled in the first 45 days of the war with Iran,[2] leading airlines to pass those higher costs on to the more than three million daily US flyers.[3][4] Researchers have found sharp increases in flight prices on nearly all of the most frequently traveled routes, with some domestic routes increasing by more than 70% and one international route increasing by a whopping 239%.[5]

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[1] Will Lennon, *After months of war with Iran, people across the US say they're feeling the strain of high gas prices*, ABC NEWS (May 8, 2026), https://abcnews.com/Politics/after-months-war-iran-people-us-feeling-strain/story?id=132760039

[2] Sam Forsdick, *The Iran conflict saw jet fuel prices soar—when you use 1.88 million tonnes a year, how you respond really matters (just ask DHL)*, FORTUNE (July 1, 2026), https://fortune.com/2026/07/01/iran-conflict-jet-fuel-dhl-europe-ceo-middle-east-wellbeing

[3] Ben Blatt & Christine Chung, *How Much Have Airfares Risen With High Jet Fuel Costs?*, NY TIMES (June 27, 2026), https://www.nytimes.com/2026/06/27/upshot/airfares-jet-fuel-prices.html

[4] FEDERAL AVIATION AUTHORITY, Air Traffic By the Numbers, https://www.faa.gov/air_traffic/by_the_numbers

[5] *Id.*

Against this backdrop of sharply rising prices, the Department proposes a deregulatory rule that will allow airlines – which netted $6 billion in profits in 2025[6] – to make it harder for consumers to find the best price for their flights. It does so by changing the rules airlines have followed for at least fifteen years that require the total price of a flight to be stated more prominently than any sub-charge or ancillary charge. If the regulation is finalized as drafted, airlines will no longer have to advertise the total fare more prominently than other charges. Airlines will also be free to unleash numerous specific unfair and deceptive schemes that the Department previously deemed unfair or deceptive and explicitly prohibited in nine separate guidances dating as far back as 1994.

Strikingly, the Department proposes this upheaval with no meaningful description of the need for the changes, no cost-benefit analysis, no examination of the reasoning and empirical support that justified the existing rule and guidelines the Department seeks to revoke, no analysis of alternatives, no examination of the "public interest" factors the Department is required to consider in making a rule, and with insufficient time for public comment. The Department rests its claim that allowing airlines to display multiple charges as prominently as the total fare is not "inherently unfair or deceptive" entirely on its "belief."

The Department also failed to adequately consider the impact of the Proposed Rule on consumers in general, and vulnerable consumers in particular. For instance, the Department did not consider the impact of permitting the display of multiple undifferentiated numbers on vulnerable subsets of the population: older consumers, consumers who are less technologically savvy, consumers with visual impairments, and consumers with other disabilities for whom the change may result in burdensome difficulties and not just temporary confusion or annoyance.

The Department did not address the Proposed Rule's impact on competition and on the reliance interests of consumers and industry. Southwest Airlines, the only low-cost carrier in the top four airlines (which makes up more than 70% of US flights), opposed the original rule in 2011 but now supports the existing rule and opposes the Department's proposal to weaken the Full Fare Rule and revoke the nine guidances.[7] The Proposed Rule also fails to address what impact the

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[6] Bureau of Transportation Statistics, US Dep't of Transp., BTS 26-43, *US Airlines profited $6.0 billion in 2025* (May 12, 2026), https://www.bts.gov/newsroom/us-airlines-profited-60-billion-2025-decrease-over-2024. The industry trade group representing more than 370 airlines in 120 countries (IATA) projects the industry will still be profitable in 2026, though less than previously projected because of the war with Iran; *Air Transport World Staff. Data Spotlight: Key Airline Revenue, Aircraft Order Metrics* (Aug. 17, 2026), https://aviationweek.com/air-transport/airlines-lessors/data-spotligh-key-airline-revenue-aircraft-order-metrics.

[7] Southwest Airlines, Request for Extension (July 22, 2026), DOT Enhancing Flexibility of Air Fare Price Advertising (proposed on July 1, 2026), https://www.regulations.gov/comment/DOT-OST-2025-0831-0044.

changes will have on websites commonly used by consumers to search fares across multiple airlines at the same time.

We urge the Department to withdraw the proposed rule, ground any future rulemaking in its mandate to *prevent* – not promote – unfair and deceptive airline practices, provide adequate time for stakeholders to comment, engage with the likely impacts of its proposal, provide bona fide reasons for its policy choices, and support those choices with reliable data and research.

In short, we ask the Department to engage in reasoned rulemaking, as the law demands.

I. The Department's Stated Rationales for the Rule Obscure the Simpler and More Likely Reason for it: That Airlines Would Like to Return to Currently-Prohibited Deceptive Pricing Schemes That Fleece the Public.

The Department's stated reasons for proposing the rule do not plausibly explain the rule's actual content. Blunting competition and permitting consumer confusion to increase airline profits do.

The Department's stated reasons for proposing this rule are as follows:

1. Airlines need additional flexibility and the Full Fare Rule is unnecessarily prescriptive.
2. Prohibiting airlines from displaying sub-charges as prominently as the total price "unconstitutionally burdens" airlines' First Amendment rights to call "greater attention to the portion of air fare that is attributable to government-imposed taxes and fees."[8]
3. Airlines currently face an unnecessary regulatory burden.
4. The rule complies with [Executive Order 14219](), "Ensuring Lawful Governance and Implementing the President's `Department of Government Efficiency' Deregulatory Initiative" (February 19, 2025), because the current Full Fare Rule raises constitutional concerns, imposes significant costs that are not outweighed by benefits, was based on something other than the best reading of the underlying statutory authority, and/or was inconsistent with Administration priorities.
5. There is friction between the full fare rule and IRS regulations that prohibit taxes from being displayed more prominently than the total price.

As a result of these suddenly discovered problems, the Department's reasoning goes, not only the Full Fare Rule but also nine guidance documents adopted and implemented by the Department in both Democratic and Republican administrations over three decades must be rescinded. Unfortunately, it is difficult to reconcile the purported reasons for rescinding the guidances with the content of the guidances themselves.

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[8] Enhancing Flexibility of Air Fare Price Advertising, 91 Fed. Reg. 39932, 39938 (Dep't of Transp. July 1, 2026) (notice of proposed rulemaking to be codified at 14 C.F.R. pt. 399), https://www.federalregister.gov/d/2026-13294. ("Proposed Rule").

The guidances that the Department proposes to rescind set out basic rules of the road for airline conduct. They reflect the collective wisdom and experience of decades of air travelers. It defies logic – and shows a contempt for passengers – to discard the hard-earned guardrails that these guidances provide. For example, the guidances:

1. *Require Airlines to display the total fare more prominently than any sub-charge.*
2. *Prohibit a variety of unfair or deceptive practices* including two-for-one fares if the price is higher than the lowest-cost ticket offered by the carrier, 50% off fares unless they are discounted from real fares that were reasonably available, discounted fares unless the discounts are available for a reasonable number of flyers, undisclosed blackout periods, overbooked flights, and failure to accommodate passengers with disabilities.[9]
3. *Prohibit deceptively advertising* a ticket as "free" if there are undisclosed charges required to use the ticket.[10]
4. *Require honest disclosure of fees* incurred for ordering a ticket over the phone as compared to an online purchase.[11]
5. *Require up-front disclosure of the total fare* – including all fees – for fares advertised on social media sites.[12]
6. *Prohibit deceptively placing carrier-imposed fees in the "taxes" line* of charges.[13]
7. *Require advertising the total fare for tours* with an exact or rounded up total.[14]
8. *Require total fare disclosure for mileage travel* with concurrent and just-as-prominent disclosure of the amount of taxes and fees for the advertised mileage fare.[15]

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[9] U.S. DEP'T OF TRANSP., *Letter to Major and National U.S. Air Carriers and to Air Travel Industry Associations and Labor Unions* (Dec. 20, 1994), https://www.transportation.gov/sites/dot.gov/files/docs/19941220.pdf

[10] U.S. DEPT OF TRANSP, *Advertising: 'Free' Tickets, Disclosure of Fees* (Sept. 4, 2003), https://www.transportation.gov/sites/dot.gov/files/docs/20030904.pdf

[11] U.S. DEPT. OF TRANSP., *Disclosure of Higher Prices for Airfares Purchased Over the Telephone Via Airline Telephone Reservation Centers or At Airline Ticket Counters and Surcharges That May Be Listed Separately in Fare Advertisements* (Nov. 5, 2004), https://www.transportation.gov/sites/dot.gov/files/docs/2004-11-15-DOT_0.pdf

[12] US DEPT' OF TRANSP., *Advertising Fares on Social Media Sites* (Oct. 3, 2011), https://www.transportation.gov/sites/dot.gov/files/docs/2011-10-03%20Twitter%20Notice.pdf

[13] US DEP'T OF TRANSP., *Guidance on the Use of Rounding in Air Fare Advertisements* (Feb. 28, 2012), https://www.transportation.gov/sites/dot.gov/files/docs/Notice_re_exact_fares_final_web_0.pdf

[14] US DEP'T OF TRANSP., *Guidance on the Use of Rounding in Air Fare Advertisements* (Feb. 28, 2012), https://www.transportation.gov/sites/dot.gov/files/docs/Notice_re_exact_fares_final_web_0.pdf

[15] U.S. DEP'T OF TRANSP., *Use of the Term `Free' in Air Fare Advertisements and Disclosure of Consumer Costs in Award Travel*, (May 17, 2012), https://www.transportation.gov/sites/dot.gov/files/docs/Use_of_the_word_free_in_fare_advertisements_0.pdf.

In contrast to the robust record developed by the Department to promulgate the Full Fare Rule, which the District of Columbia Circuit Court found sufficient in *Spirit Airlines,*[16] the Department provides no evidence that consumers are inadequately apprised of the taxes and fees they pay on flights. Indeed many, if not all, airlines do disclose itemized charges both before and after checkout.[17] The Department repeatedly refers to "flexibility" as a benefit but does not explain how airlines benefit from the additional flexibility. How does a need for flexibility explain advertising one fare but then charging a higher amount at checkout? Or deceptively failing to disclose to consumers that their over-the-phone fare is higher than a fare booked on the airlines' website?

Furthermore, the actual language of the proposed rule goes beyond the Department's explanation and allows airlines to display any or all sub-charges – not just taxes – as prominently as the total fare.[18] The overbroad drafting of the rule calls into question the Department's purported rationale that airlines' inability to display taxes with equal prominence to the total fare interferes with their First Amendment expressive rights.

None of the revoked rules and guidances prevents airlines from effectively and persuasively telling consumers how much they are being taxed on each fare. Airlines can (and do) prominently feature tax charges on the confirmation page after the purchase is completed. They could put examples of the tax burden for various base fares on the front page of their website. They could display a pop-up highlighting the tax portion of a fare after a consumer selects the fare: "Of your $300 total fare, a whopping $80 is taxes!" Indeed, the Department addressed this argument head on in the 2011 Final Rule. It directly responded to airlines' comments, stating:

> Some airlines were concerned that passengers would not know how much of their total price consists of government imposed taxes and fees. We want to assure these carriers that nothing in this rule prohibits them from making this information available to consumers. This final rule allows carriers to advise the public in their fare solicitations about government taxes and fees, or other mandatory carrier or ticket agent imposed charges applicable to their airfares. Sellers of air transportation may have pop-ups or links adjacent to an advertised price to take the consumer to a listing of such charges, or they may display these charges on the same page in fine print if they prefer.[19]

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[16] *Spirit Airlines v. U.S. Dep't of Transp.*, 687 F.3d 403, 411 (D.C. Cir. 2012) ("Contrary to the airlines' repeated suggestions, nothing in the Airfare Advertising Rule requires airlines to hide the taxes—or, as Spirit's website puts it, the "Government's Cut.")

[17] See Appendix, pp. 1-3.

[18] "Charges included within the single total price listed may be stated separately or through links or "pop ups" on online platforms that display the total price. Such charges may be displayed with the same prominence as the total price itself..." (*See* Proposed Rule.)

[19] DOT Enhancing Airline Passenger Protections, 76 Fed. Reg. 23143 (2011) (final rule), https://www.federalregister.gov/d/2011-9736/p-256

The airlines claim that their request to revoke the Full Fare rule is animated by their right to express the impact of taxation on the flight fares. This claim is pretextual and not credible, yet the Department adopts it uncritically.

To be clear, we do not argue that full notice and comment is required to withdraw guidelines that were issued without notice and comment. Instead, we point out that the mismatch between the rationale and the policy choices is the clearest evidence that the given reason for the proposed rule is pretextual.

As another example of the mismatch between the proposed rule and the Department's stated reasons for the proposal, the existing Full Fare Rule promotes compliance with the IRS regulation better than the Department's proposal: the existing rule *requires* the total fare to be more prominent than charges for taxes. The IRS regulation prohibits the taxes from being more prominently displayed than the full fare. The proposed rule would allow the airlines to bring every fare advertisement closer to violating the IRS regulation. Looking at what the proposed rule actually does rather than what it claims to do is the best way to evaluate whether the Department's given reasons are bona fide.

The effect of the Department's proposed action is largely to make price comparison more difficult for consumers, which weakens competitive pressures on airlines. The airlines would only ask for these changes if they believed it would increase their profits. Those profits necessarily will come from consumers paying even more than they already do, since there is no indication or claim that this rule change will result in lower operating costs for airlines. If anything, the airlines will have to expend capital to change their advertising and compliance if they want to take advantage of the weaker rules. Therefore, it is not plausible that an airline would undertake such a change if there was no business case for doing so. Indeed, the Department estimated a 10-year present value of $29 million in consumer benefits when they adopted the existing version of the rule in 2011.[20] The Department has not been transparent about the real reasons animating its proposal, and it has done no economic analysis to assess any of these matters. Nor have the airlines clearly stated or quantified the benefit of the rule to them other than applauding additional "flexibility." The proposal will harm consumers. The Department should abandon their proposed changes.

II. The Proposed Rule Both Exceeds the Department's Legal Authority and Fails to Meet the Department's Obligation to Engage in Reasoned Decisionmaking.

The proposed rule lacks the indicia of reasoned rulemaking. There is no evidence that the Department considered the statutorily required "public interest" factors.[21] The Department has marshaled no data or evidence to support the foundation of its "belief" that "there is nothing

[20] DOT Full Fare Rule, 14 C.F.R. § 399 (2011), Docket No. DOT-OST-2010-0140, https://www.federalregister.gov/documents/2011/04/25/2011-9736/enhancing-airline-passenger-protections.
[21] 49 U.S. Code § 40101.

inherently unfair or deceptive in having components of a fare be displayed 'prominently,' so long as the total price is just as prominent,"[22] or that airlines "need" the flexibility to display "components of air fares."[23] The Department makes no attempt to quantify the value of the benefits the Department claims the rule will bring the airlines, nor the harms the rule can reasonably be expected to unleash upon consumers. It ignores the substantial public support expressed[24] for more prominent displays of the total price by stating – against all available evidence[25] – that the Department "believes" that equally prominent displays of the total price and other charges are "not inherently unfair or deceptive."[26] No weight is given to the fact that clear apples-to-apples price advertising is the most efficient way for consumers to compare offers and exert pressure on airlines to compete on price.

A. The Proposed Rule Violates the Public Interest Requirement for DOT Rulemaking

The Department has failed to consider whether its proposed changes meet mandated[27] "public interest" and "public convenience and necessity" considerations. Under the Department's enabling statute, when conducting notice and comment rulemaking under 49 U.S. Code § 41712 (on unfair or deceptive practices and methods of competition), the Secretary "shall consider" whether a proposed action is "in the public interest and consistent with public convenience and necessity." The statute enumerates considerations that the Department "shall" weigh to make such a determination. The relevant public interest factors – which the Department entirely failed to engage with include –

1. "[T]he availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices." 49 U.S. Code § 40101(a)(4).
2. "[P]lacing maximum reliance on competitive market forces and on actual and potential competition— to provide the needed air transportation system; and to encourage efficient and well-managed air carriers to earn adequate profits and

[22] Proposed Rule, 91 Fed. Reg. at 39934.
[23] *Id*., at 39936
[24] The vast majority of comments on both the 20ll Full Fare Rule and the currently proposed Rule support the 2011 Full Fare Rule.
[25] The Department cites no factual evidence supporting its belief. The Department's responses to input on the proposed 2011 Rule pointed to consumer comments that the Full Fare Rule would reduce confusing and deceptive advertising and also noted that several international airlines supported the rule because they were already required to advertise transparently under international regulations. Two travel agent trade groups also supported passage of the 2011 rule, opining that it was "the best way to eliminate passenger confusion and ensure that passengers understand the total cost of their air travel." https://www.federalregister.gov/d/2011-9736/p-251.
[26] Proposed Rule, 91 Fed. Reg. at 39938.
[27] 49 U.S. Code § 40101.

attract capital, considering any material differences between interstate air transportation and foreign air transportation." 49 U.S. Code § 40101(a)(6).

3. "[D]eveloping and maintaining a sound regulatory system that is responsive to the needs of the public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of—(A) the commerce of the United States;".... 49 U.S. Code § 40101(a)(7).
4. "[P]reventing unfair, deceptive, predatory, or anticompetitive practices in air transportation." 49 U.S. Code § 40101(a)(9).
5. "[A]voiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier or foreign air carrier unreasonably to increase prices, reduce services, or exclude competition in air transportation." 49 U.S. Code § 40101(a)(10).
6. "[E]ncouraging, developing, and maintaining an air transportation system relying on actual and potential competition—(A) to provide efficiency, innovation, and low prices; and (B) to decide on the variety and quality of, and determine prices for, air transportation services." 49 U.S. Code § 40101(a)(12).

The proposed rule makes no mention of the requirement that DOT engage in rulemaking pursuant to 49 U.S. Code § 40101. Perhaps unsurprisingly, the rule fails to meet the standards of that section in several ways. First, the proposed rule cannot meet the standard of "maximum" reliance on competitive market forces, because it reduces (rather than increases) the clarity of price disclosures and advertising. The proposal also flies in the face of public opinion and common sense. It promotes, rather than prevents, several deceptive practices. It has a tendency to allow airlines to extract higher prices from consumers.

In sum, the proposed rule does not conduct the mandated analysis of the impact of the proposed rule on the public interest.

B. The Department Fails to Meet its Burden to Provide a Sufficient Rationale, Analysis, or Evidence to Support the Proposed Rule.

The proposed rule does not (1) give a clear, intelligible reason for the various changes; (2) evaluate the pros and cons of the proposed rule; (3) refute the reasoning, data or analysis of the Full Fare Rule; or (4) support the Department's policy choice with any analysis of the costs and benefits of the proposal as compared to the status quo or other alternatives.

For example, the proposed rule does not explain how increasing airline "flexibility" in the manner proposed fits within the Department's authority and mandate. The Department misuses the authority under which the Full Fare Rule was promulgated – the Department's authority to prevent unfair and deceptive practices – to support its rulemaking authority here. Notably, the Department supported the promulgation of the 2011 Full Fare rule with intelligible reasoning and ample evidence that requiring the total fare to be more prominent would reduce deceptive and time-consuming consumer shopping experiences. The Court in *Spirit Airlines* affirmed that the

Full Fare Rule was well-reasoned and factually supported, including by numerous supportive comments from consumers and consumer advocates.[28]

Here, by contrast, the Department provides no plausible reasoning or evidentiary basis that displaying other charges as prominently as the total price combats unfair and deceptive practices. The Department's task of connecting its policy choices to its authority to prevent unfair and deceptive practices moves from implausibility to impossibility when considering the guidances the Department seeks to revoke. The Department must also explain its about-face on pricing transparency to avoid embodying the very definition of caprice and arbitrariness. The Proposed Rule is not supported by substantial evidence and is not warranted by the facts.

C. The Department has Failed to Consider Significant Potential Impacts of the Proposed Rule, including Consumer and Industry Reliance on the 2011 Rule.

The public has come to rely on and expect the total fare price to be more prominently displayed than other charges. The existing Full Fare Rule is a commonsense expectation of the public that saves time and reduces confusion and mistaken overspending. But it is more than that. The Full Fare Rule also provides a critical aid for consumers who already find online shopping and purchasing challenging. This includes seniors, people with visual or processing disabilities, people use screen readers to access websites, and people who do not frequently shop online. The Department fails to consider the impact of this change not just on the public at large but particularly on consumers who already have difficulty parsing pricing disclosures. The Department's failure to analyze and consider the impact of changing its longstanding policies extends to its revocation of the nine guidances that go as far back as 1994.

Even Southwest Airlines, which opposed the 2011 Rule, now supports the Full Fare Rule and opposes withdrawing the nine guidances. It has stated in opposition to the Proposed Rule,

> …now that the rule has been in effect since 2012, an entire generation of consumers have shopped and purchased air travel under this system, and we believe a change could be extremely disruptive. Fourteen years have elapsed since the Rule went into effect and consumers have settled expectations that all government-imposed taxes and fees will be included in the fare in the first display….Southwest is currently of the view that the guidance documents provide important guardrails in preventing deceptive practices in air fare advertising.[29]

Notably, Southwest is the only low-cost carrier among the four largest US airlines.

The Department also does not address the impact of the rule on consumers' ability to use sites that allow shoppers to compare fares from multiple airlines with one search. Millions of

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[28] *Spirit Airlines*, 687 F.3d 403, 410-11.
[29] *See*, Southwest Airlines, Request for Extension, fn. 7, *supra*.

consumers use price comparison sites that aggregate prices from most airlines. These comparison sites (e.g. Kayak, Expedia, Hotwire, Orbitz) have developed software that obtains fare information from airlines and displays it for consumers in a format that facilitates head-to-head price comparisons. The proposed rule fails to consider whether and how its changes to longstanding standards will impact these aggregator sites' ability to accurately identify and display the correct total price number for consumers.

D. The Proposed Rule Fails to Consider Less-Harmful Alternatives.

As noted earlier, the Department's reasons for proposing the rule do not match the text of the rule it has proposed. The lack of a bona fide reason makes it impossible for commenters to offer alternative ways to achieve the Department's goals. (This comment has, however, provided several alternatives for airlines to advertise taxes that would be lawful under the existing rule.) Because it is not clear what airlines intend to do with additional "flexibility," it is impossible to propose additional alternatives or even evaluate the impact of the proposed changes.

There is no evidence that the airlines are unable to effectively notify customers about taxes or any other surcharge under the existing Full Fare Rule. If we accept on its face the Department's aim of allowing airlines to have flexibility to inform consumers about the level of taxation that attends each ticket, there is no reason to amend the Full Fare Rule because the airlines can already adequately notify consumers about the taxes included in the total fare. (Notably the proposed rule does not specify what airlines might like to do that the rule currently prevents.) As noted, airlines are not currently prohibited from having a banner on their website that every visitor to the site would see highlighting how much tax passengers pay, or from implementing flashy notices post-purchase that highlight the amount of tax the consumer just paid as part of the total fare. Because these information-advancing activities are permitted under the current rule, the public can only wonder, with trepidation, what practices the airlines want to implement that they cannot engage in now.

To demonstrate the adequacy of the current regime, we have gathered in the Appendix some examples of existing disclosures that comport with the existing rule and meet any reasonable definition of "flexibility." The airlines take different approaches to disclosing fees and taxes but all of the sample disclosures – both before buying tickets and after – clearly and noticeably show the amount of taxes and the total amount separately. It is not apparent what more the industry stands to gain if its true aim is merely equalizing the prominence of the taxes and the total fare - the proposed rule neither offers a reason nor proves the need for one.

Worse, the proposed rule allows "any charges" to be displayed as prominently as the full fare. That change would greatly complicate price comparison. It would allow airlines to display disparate charges whose only goal and impact is to frustrate consumers' ability to easily compare prices between airlines. It may also impact pricing comparator websites' ability to accurately identify the total fare across airlines. No benefit to consumers or to competition would result.

E. The Proposed Rule is Procedurally Defective Because it Violates Executive Order 12866, Which Requires a 60-Day Comment Period.

The Proposed Rule is procedurally defective and therefore invalid because it is a "significant rulemaking," as defined by Executive Order 12866. Here, the Department provided only 30 days (not the required 60) for comment. Although the Department later extended the comment deadline by 21 days – at the request of the airlines – for a total of 51 days, that number still falls short of the required period. In 2011 the Department explicitly deemed the original Full Fare Rule rule "significant."[30] A rule undoing that regulation is by definition significant as well.

III. The Full Fare Rule Comports with Current First Amendment Jurisprudence.

The authorities the Department cites as support for the proposition that the Full Fare Rule "may" violate airlines' First Amendment rights in fact say no such thing. The article by Micah Berman that the Department cited in footnote 8 of the Proposed Rule, for example, suggests the opposite. Professor Berman argues that the claim that First Amendment jurisprudence is becoming more and more protective of commercial speech is actually only true in the narrow instance of the government paternalistically trying to protect people from "truthful, nonmisleading advertisements." The article notes that the Supreme Court has specifically stated that regulations will face less scrutiny if – as with the existing Full Fare Rule – the government is restricting commercial speech for a "neutral" purpose aimed at "protecting consumers from 'commercial harms,'" or "to protect the fairness of commercial exchanges."[31]

Similarly, the only First Amendment case the Department cites,[32]*National Institute of Family and Life Advocates v. Becerra* (NIFLA), has no direct bearing on the modest requirements of the Full Fare Rule. Unlike the statute at issue in NIFLA, which compelled pro-life "crisis pregnancy centers" to post signs informing consumers of the availability of abortion services elsewhere, the speech regulated by the Full Fare Rule does not compel airlines to "speak a particular message," nor does it "alter the content" of the airlines' speech.[33] The Rule simply requires the airlines to disclose "factual, noncontroversial information" in their commercial speech which benefits consumers and competition by requiring honesty in the market.[34] *NIFLA* in no way suggests that the Full Fare Rule infringes on airlines' freedom of speech. Whatever interest airlines may have in not disclosing their prices in a particular way does not and cannot rise to the interest that the "crisis pregnancy centers" in *NIFLA* had in not offering information about the availability of

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[30] DOT Full Fare Rule, 76 Fed. Reg. at 23157, https://www.federalregister.gov/d/2011-9736/p-354. The Department provided an initial 60 days for comments, then extended the comment period by an additional 44 days. Extension of Comment Period on Proposed Rule (Aug. 3, 2010), 75 Fed. Reg. 45563.
[31] Micah L. Berman, *Manipulative Marketing and the First Amendment*, 193 Geo. L.J. 497, 513 (2015) (quoting *Sorrell v. IMS Health Inc.*, 131 S. Ct. 2653, 2672 (2011)).
[32] *Nat'l Inst. of Family & Life Advocates* v. *Becerra,* 585 U.S. 755 (2018).
[33] *NIFLA*, 585 U.S. 755, 766.
[34] *Id*. at 768.

abortion services. Neither *NIFLA* nor any other case decided since *Spirit Airlines* cast doubt on the existing rule's compliance with the First Amendment. Unsurprisingly, the Department does not try to explain how the *NIFLA* case brings the Full Fare Rule and *Spirit Airlines* into question.

IV. The Department's Proposed Discarding of the Full Fare Rule and Revocation of the Nine Guidances is Anti-Competitive and Harms Consumers.

The proposed rule will reduce consumers' ability to compare prices apples-to-apples across sellers and will obscure the true costs of "deals," thereby weakening price competition and leading to higher prices. It also rewards higher-priced airlines with confusing price advertisements at the expense of airlines that offer the lowest total fare and advertise clearly. Such a move cannot be squared with the Department's mandate to consider "placing maximum reliance on competitive market forces," and "preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation." As illustrated by the comments already filed on this proposed rule, as well as the hundreds of comments filed on the original Full Fare Rule, consumers and consumer advocates consistently and overwhelmingly tell regulators that they do not want unbundled price disclosures and find them confusing and deceptive. In upholding the original Full Fare Rule, the court in *Spirit Airlines* approvingly noted the Department's reliance on consumers' self reports of confusion, feeling deceived, and increased search times.[35]

Yet the Department adopts the airlines' specious complaint that it is unfair that only airlines are forced to advertise their full fare when their non-air travel competitors are not. The largest passenger train company in the U.S., Amtrak, and the largest passenger bus company, Greyhound, both advertise only the total fare up front and don't break out sub-charges until checkout (if at all).[36] Additionally, the solution to other industries engaging in deceptive pricing is not for the Department to foment a drip-pricing race to the bottom, but rather to use its authority to extend full fare rules to other industries.

The domestic airline industry is already significantly consolidated and lacks adequate competition. The top four carriers hold 75% of the market.[37] Because airlines have doubled down on a strategy that relies heavily on dominating specific hub city routes, a large and growing number of direct flights are covered by only two carriers – or even one.[38] In this context, it is particularly critical that the Department analyze the impact of its rule on competition – which would weaken competitive forces by making it harder for consumers to compare prices.

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[35] *Spirit Airlines*, 687 F.3d 403, 410.
[36] *See* Appendix, pp. 4-5.
[37] Joel Rose, NPR, Weekend Edition, *Airline Consolidation Now Rules the Skies. Has it Been Good for Passengers?* https://www.npr.org/2026/07/12/nx-s1-5822534-e1/airline-consolidation-now-rules-the-skies-has-it-been-good-for-passengers
[38] *Id*. (remarks of Marc Remer, economics professor and former airline merger analyst for US DOJ Antitrust Division).

At time when families across the nation are struggling to make ends meet, the Department may want to reconsider whether it really wants to pursue a rule that invites airlines to increase prices.

CONCLUSION

The Department has failed to engage in reasoned rulemaking and should withdraw both its proposal to weaken the existing Full Fare Rule and its revocation of nine guidances issued by the Department and relied on by consumers and airlines over the last three decades. Most consumers are struggling mightily to afford basic necessities – including transportation. At the same time, airlines booked more than $6 billion in profits in 2025.[39] The Department has an opportunity to meet the moment by increasing competition, transparency, and affordability.

We urge it to take that opportunity by reconsidering the proposed rule.

Respectfully submitted,

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[39] US Dep’t of Transp., Final Rule, *Procedures in Regulating and Enforcing Unfair or Deceptive Practices* (July 1, 2026), https://www.federalregister.gov/documents/2026/07/01/2026-13295/procedures-in-regulating-and-enforcing-unfair-or-deceptive-practices.

EXHIBITS

Existing Pre- and Post-Flight Purchase Disclosures with Tax Amounts[1]

Southwest Airlines: Email Confirmation pre-purchase disclosure 7/25/2026

Southwest®

AUG 11 - 14
MDW → LGA

You chose a Basic fare
Basic fares are non-refundable except as allowed by our 24-hour cancellation policy. Flight changes are allowed but require a fare upgrade. Customers may be eligible for a flight credit if canceled at least 10 minutes prior to the flight's original departure time. Checked bag fees may apply.

Trip & Price Details

Price — Passengers — Seats — Payment — Confirmation

Flight Modify

Tue 8/11 — # 4525 MDW 5:10 AM → LGA 8:10 AM — 2 hr 0 min | Nonstop — Basic

1 Passenger | **Seat assigned** at check-in

Fri 8/14 — # 2411 LGA 6:00 AM → MDW 7:15 AM — 2 hr 15 min | Nonstop — Basic — Only 4 left!

1 Passenger | **Seat assigned** at check-in

Base fare 1 Passenger(s)	$266.05
Taxes and fees	$50.75
Flight total	$316.80

or from $32/mo*
with flexpay Learn more

Helpful Information:

- All fares and fare ranges are subject to change until purchased and are per person for each way of travel.
- For more information regarding Cash + Points, visit Southwest.com/rrterms

Southwest Airlines post-purchase disclosure

Payment information

Total cost

[redacted]

Base Fare	$	363.12
U.S. Transportation Tax	$	27.23
U.S. 9/11 Security Fee	$	11.20
U.S. Flight Segment Tax	$	10.40
U.S. Passenger Facility Chg	$	9.00
Total	**$**	**420.95**

Payment

August 21, 2025
Payment Amount **$420.95**
[redacted]

[1] Note: The pre and post flight images are not from the same flights. The post-purchases are real flights. The Pre-purchase searches were collected in preparation for filing this comment.The images are meant to illustrate that airlines' disclosures clearly communicate the taxes for each flight before and after purchase.

Delta Airlines Pre-Purchase Disclosure 7/25/2026

DELTA | MDW - LGA | Round Trip | Aug 11 - 13 | 1 Passenger | Modify | Sign Up | Log in

Book Better. Fly Better.

Start Over · 1 Trip Summary · 2 Review & Pay · 3 Confirmation

Trip Summary

Outbound	DL4674[1], DL1669			1 stop, 3h 39m	
Change Flight	MDW ‣ LGA	Tue, Aug 11	9:24am - 2:03pm	Main Classic	
Return	DL1231, DL4684[1]			1 stop, 4h 12m	
Change Flight	LGA ‣ MDW	Thu, Aug 13	6:05am - 9:17am	Main Classic	

Changeable / Nonrefundable

Trip Total

Currency Calculator

1 Passenger

Flights	**$1,276.28**
Taxes, Fees & Charges	**$146.12**
Amount Due	**$1,422.40 USD**

UNLOCK TRAVEL

Delta Airlines Post-Purchase Disclosure 1/7/2026

CHARGES	
Air Transportation Charges	
Base Fare	$219.71 USD
Taxes, Fees and Charges	
United States - September 11th Security Fee(Passenger Civil Aviation Security Service Fee) (AY)	$11.20 USD
United States - Transportation Tax (US)	$16.48 USD
United States - Passenger Facility Charge (XF)	$18.00 USD
United States - Flight Segment Tax (ZP)	$21.20 USD
TICKET AMOUNT	**$286.59 USD**

United Airlines Pre-Purchase Disclosure 7/25/2026

united.com/en/us/traveler/choose-travelers?cartId=E633DAE6-5E0D-4D87-97FD-1A117A4C58A7&tqp=R

English - US $ 1

FareLock

Hold this fare and complete your purchase at a later date.

- 3 days for **$11.99 per person**
- 7 days for **$14.99 per person**
- 14 days for **$18.99 per person**

Fare	$221.49
1 adult 18+	$221.49/person
Taxes and fees	$32.01
Adult (18+)	$32.01
U.S. Transportation Tax	$16.61
U.S. Passenger Facility Charge	$4.50
U.S. Flight Segment Tax	$5.30
Passenger Civil Aviation Security Service Fee	$5.60
Total due	**$253.50**

or starting from $38/month

Continue

United Airlines Post-Purchase Disclosure 1/1/2012

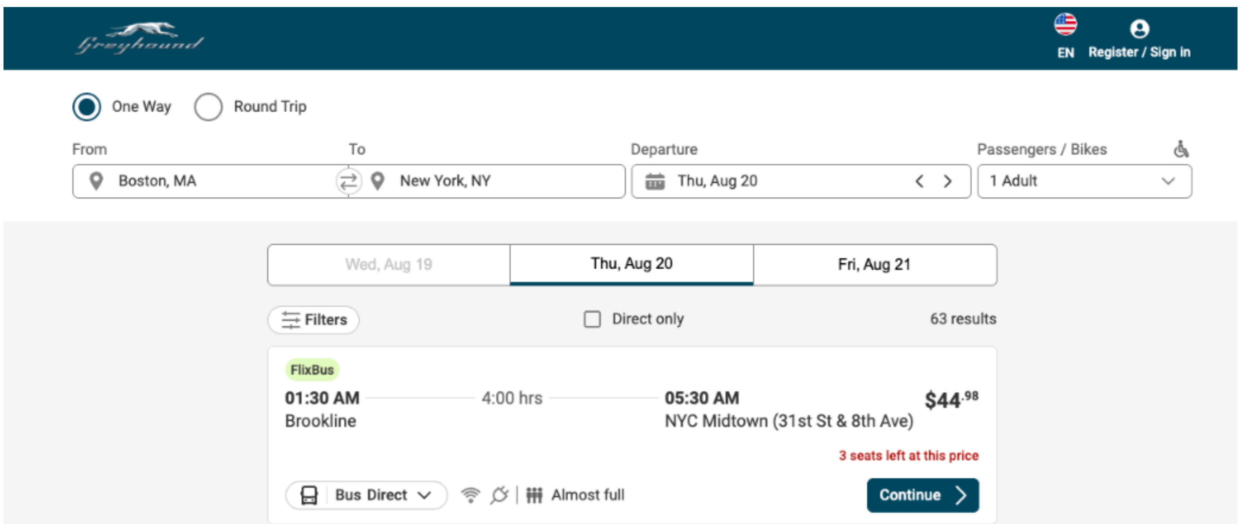
E-ticket receipt

Confirmation n[redacted]6 **Issued:** 29 JAN 12 **Number in party:** 1

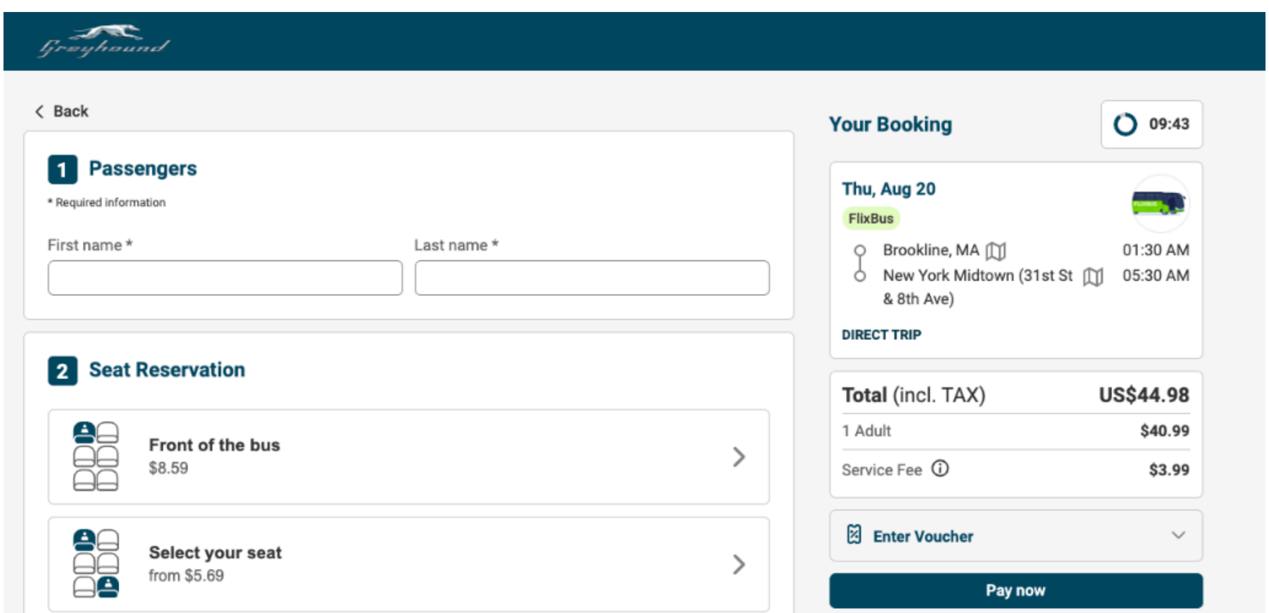
Name:	**Ticket no.:**	**Mileage Plus® no.:**
[redacted]	[redacted]	[redacted]
	Per passenger	**Miles Used**
Base fare:	386.05 USD	
Tax/Fee/Charge:	50.55	
Total:	436.60 USD	

Greyhound and Amtrak Pre-purchase Price Disclosures Showing Full Fare More Prominently than other Charges (August 19, 2026 searches)

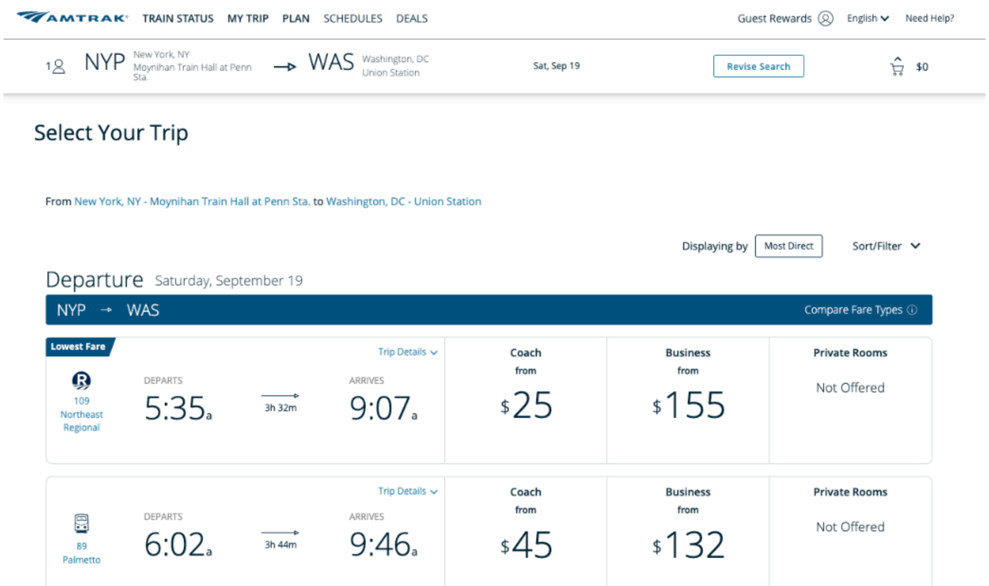
Initial Greyhound search:



Greyhound Checkout Page:



Amtrak Initial Search:



Amtrak Checkout Page: