

December 9, 2021

The Honorable Peter A. DeFazio
Chairman
Committee on Transportation &
Infrastructure
Unites States House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Sam Graves
Ranking Member
Committee on Transportation &
Infrastructure
Unites States House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Rick Larsen
Chairman
Subcommittee on Aviation
Unites States House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Garret Graves
Ranking Member
Subcommittee on Aviation
Unites States House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman DeFazio, Ranking Member Graves, Chairman Larsen, and Ranking Member Graves

The undersigned consumer advocacy organizations support the Forbidding Airlines from Imposing Ridiculous (FAIR) Fees Act of 2021. This bill would protect consumers from unreasonable fees that airlines have reimposed as consumer demand to fly has rebounded from the pandemic.

Millions of consumers are annually charged excessive fees for checking baggage, changing reservations, canceling flights, and other services.¹ These fees are a major profit center for

¹ USA TODAY. Shopping for flights? Change fees and other pre-pandemic penalties are back or returning soon on cheapest tickets. April 2, 2021. Online: <https://www.usatoday.com/story/travel/airline-news/2021/04/02/covid-travel-airlines-change-fees-return-cheap-tickets-american-united/4805128001/>

the airlines. For example, U.S. airlines collected \$5.8 billion in baggage fees alone in 2019.² Compare this to analyst estimates that it costs airlines less than \$20 per bag flown to provide the service.³ Furthermore, exaggerated change and cancellation fees are especially punitive as consumers cannot plan for unexpected events that force them to adjust their reservations.

The capture of more than 80% of domestic air traffic by just four U.S. airlines is a clear predicate of the rise in ancillary fees.⁴ The non-competitive nature of the industry has allowed predatory practices to go unchallenged for too long. To be clear, airlines have the right to charge appropriate fees to cover operational costs and to make a profit. However, the supra-competitive amounts that airlines collect for providing basic services are unjustifiable. Prior to some ancillary fees being waived during the COVID-19 pandemic, such add-on fees were a steadily increasing source of revenue for the industry.⁵ Now that the airlines' moratorium on many of their fees has ended, we are concerned that this trend will resume.

The federal government must act to protect consumers from being forced to pay billions of dollars in bogus charges. The FAIR Fees Act, which has received bipartisan support,⁶ would bring much-needed relief to travelers by requiring fees to be reasonable and reflect the actual costs of the services provided.

² CNBC. US airlines charged almost \$5 billion in baggage fees last year—here's how to avoid them. May 16, 2019. Online: <https://www.cnn.com/2019/05/15/us-airlines-brought-in-almost-5-billion-dollars-in-baggage-fees-last-year.html>

³ McCartney, Scott. "What It Costs An Airline to Fly Your Luggage," *Wall Street Journal*. (November 25, 2008). Online: <https://www.wsj.com/articles/SB122757025502954613> (Note: \$15 in November 2008 is equal to \$19.11 when adjusted for inflation in September 2021, per the U.S. Bureau of Labor Statistics.)

⁴ Openmarketsinstitute.org. Airlines & Monopoly. Online: <https://www.openmarketsinstitute.org/learn/airlines-monopoly>

⁵ Statista.com. Total ancillary revenue in the airline industry from 2011 to 2020. December 4, 2020. Online: <https://www.statista.com/statistics/788849/airline-industry-ancillary-revenue/>

⁶ Office of Senator Edward J. Markey. "FAA Bill a Missed Opportunity to Protect Passengers from Ridiculous Airline Fees, Says Senator Markey." Press release. (October 3, 2018) Online: <https://www.markey.senate.gov/news/press-releases/faa-bill-a-missed-opportunity-to-protect-passengers-from-ridiculous-airline-fees-says-senator-markey>

In addition to this immediate cost-saving benefit to consumers, the FAIR Fees Act would also direct the Department of Transportation to review any other fees charged by airlines and work to reduce airlines' untaxed revenue. Since the IRS does not consider baggage fees or other ancillary fees to be related to the transport of a person, airlines do not pay excise taxes on the earnings they receive from these charges.⁷ As ancillary charges have become a major source of revenue for the industry, this loophole has allowed airlines to avoid (conservatively) hundreds of millions of dollars in federal taxes.⁸ Therefore, reining in ancillary fees would help reduce the amount of untaxed income this industry receives.

We applaud Representative Cohen for his continued leadership in protecting consumers from the exorbitant ancillary charges found on too many plane tickets. We urge your respective committees to report the legislation without delay.

Sincerely,

National Consumers League
Business Travel Coalition
Consumer Federation of America
Consumer Reports
U.S. PIRG

cc: Members, House Committee on Transportation & Infrastructure

⁷ Smarter Travel. If Fees Were Taxed, Would Airlines Ditch Them? July 16, 2020. Online: <https://www.smartertravel.com/if-fees-were-taxed-would-airlines-ditch-them/>

⁸ Testimony of Dr. Gerald Dillingham (Director of Civil Aviation Issues, U.S. Government Accountability Office) before the House Subcommittee on Aviation. (July 14, 2010) ("However, if checked bag fee revenues that airlines reported in fiscal year 2009 had been subject to the excise tax on domestic travel, it would have generated about \$186 million, or somewhat less than 2 percent of the Trust Fund revenues for 2009.") Online: <https://www.congress.gov/event/111th-congress/house-event/LC6763/text?s=1&r=9>