

## The Sky's the Limit – New Revelations About Airline Fees

December 4, 2024

### Opening Statement

Chair Richard Blumenthal

**Chair Blumenthal:** This Hearing of the Subcommittee on Investigations will come to order. I want to put into the record right away, two letters that I have written to Secretary of Treasury Yellen and Secretary of Transportation Buttigieg, asking for investigation of potential violations of law that have been uncovered in the course of our investigation. They relate to possible avoidance of excise taxes on airline fares and potential violations of the consumer protection laws insofar as deceptive and misleading practices may have occurred. Those letters will be part of our record without objection.

Last week was the busiest travel week of the year. 18 million people took to the air, many of them frustrated and infuriated, not just by delays and cancellations—some of them inevitable— but by fees that seemed to be sky high with no prospect of landing. In fact, they feel with more than understandable justification that they are piggy banks to be shaken down by these skyrocketing fees that seem to have no connection to any costs that the airlines incur. In fact, our investigation shows they have no connection to actual costs that the airlines are bearing.

Fee revenue is skyrocketing, and consumers feel it. Passengers now are forced to pay extra for almost everything. If you want to reserve a seat, there is a fee for that. If you want to change or cancel your reservation, there is a fee for that. If you want to travel with a bag, there is a fee for that, too.

The five airlines here today generated \$25.3 billion dollars in checked bag fees over the past six years. In fact, airlines have forced parents to choose between sitting apart from their minor children and paying an extra fee.

We passed a law last May requiring the Department of Transportation to prohibit those kinds of fees. The comment period closed in November, and the DOT has yet to issue a final rule, but, in the meantime, the airlines should have respected the intent of Congress eliminating it, and frankly the Department of Transportation ought to issue that final rule right now. Get it done. No more delay.

Now I know the airlines say that they offer lower fares and more choices. But the fact of the matter is that those lower fares, the so-called economy class, are basically for people who travel with no more than the shirt on their back and the underwear and socks they have on. And the fees that they inevitably incur when they have to carry on

a bag are often confusing, complicated, and inconsistent. And they are concealed in a way that defeat efforts to do comparison shopping, which is the essence of competition.

Airlines often conceal these fees, making comparison shopping difficult if not impossible, and more travelers are searching for tickets without knowing what the final price will be until they pay it. Some are surprised by concealed charges at the moment they are about to board at the gate.

Airlines call the practice of separately charging for every little thing, “unbundling.” Frustrated passengers have a different word for it—they call it junk. Sometimes they use another four-letter word, and understandably they feel that sense of frustration and anger.

For the past year, our Subcommittee, the Permanent Subcommittee on Investigations, has been investigating how five of the most prominent airlines have used these fees to change the way Americans travel. American, Delta, and United are together responsible for a majority of all domestic air travel. I think it is about 60%. With Southwest, that figure is close to 70%. And Frontier and Spirit, while smaller, have pioneered new methods of charging their customers. Some of their latest practices, like targeting individual passengers with pricing algorithms, are likely spreading to other airlines, which is the pattern in the industry. The smaller airlines experiment with a new tactic, and it is then mimicked or adopted by the larger ones.

Our investigation found that in 2023 alone, American, Delta, United, Frontier, and Spirit collected more than three billion dollars in seat fees. Only seat fees. That’s not airfare. That is just fees for booking a specific seat in advance or selecting a slightly better seat. And that’s an increase of 50% from 2018, just six years ago. In fact, we found that over the past six years, the five airlines we investigated made more than \$12.4 billion dollars from the many seat fees that they charge.

Now I know there are going to be claims in the airlines’ testimony of rising costs. But we found that for checked bags, the fees are unconnected to any costs in transporting them, and it is obvious that assigning paid seats is pure profit. You do not have to create new seats on a specific flight when you charge more.

We obtained internal documents showing that Frontier paid \$10 to its gate agents every time they identified a passenger whose free personal item is large enough to qualify as a carry-on bag, requiring a fee up to \$99 dollars. In other words, a bounty bag program. \$10 dollars, an incentive payment, so that the consumer would pay up to \$99 dollars to carry on a bag. I call it a bounty bag program, and Spirit has one too.

When we asked Frontier about this program, they accused customers who don't pay for carry-on bags of "stealing" from the airline. It is not surprising given that Frontier has estimated this program would generate \$40 million dollars in extra revenue in just its first year.

This hostile view of their customers certainly leaves no doubt why complaints are surging. Our investigation also found that airlines benefit by making information about the fees they charge obscure and confusing. One airline even admitted in our investigation that they hide seat fees from customers until late in the booking process because doing so leads to more customers completing their purchase. Keeping this information hidden from customers is working out very well for the airlines, not so much the customers. Last year, seat fees accounted for \$1.3 billion dollars in revenue for United—even more than the \$1.2 billion dollars they earned from charging for bags.

Travelers are quite simply fed up with hidden sky-high fees, and they are right to worry about the future. Our investigation found airlines are exploring new ways to charge customized fees to each passenger using algorithms and maybe even AI. This type of consumer specific pricing will make it much easier for airlines to discriminate against particular passengers and to raise fares and fees for those airlines that the consumers are suspected to be able to pay more. Once again, the airlines are racing to put profits above all else.

Let me conclude by talking a little bit about what has to be done. First of all, more must be done to address the rising cost of air travel and to empower passengers, beginning with greater transparency. The billions of dollars that airlines make in seat fees and other unreported fees must be disclosed to the public. The Department of Transportation must swiftly implement Congress's mandate that parents be allowed to sit next to their children without extra fees attached. There is no excuse for additional delay. It ought to be done by the end of this year.

We have to pass legislation, including the Airline Passenger Bill of Rights and the Fair Fees Act, which the airline industry has spent millions to lobby against. And, on the issue of transparency, I want to know from these witnesses why they are in court blocking a bill that was passed by Congress, a law that we approved that requires greater transparency. The Fifth Circuit has blocked implementation because of that lawsuit brought by your airline companies. If you are in favor of transparency, why go to court blocking a transparency law? It makes no sense. And I hope that our witnesses will address those efforts, and in fact commit, to lift the lawsuits.

We also have to continue to investigate the deceptive and potentially illegal conduct that our investigation has revealed, and I hope that we'll have a prompt response from the Secretaries of Treasury and Transportation to my requests for investigation.

Finally, at the root of the problem is a lack of competition. I have opposed some of these consolidations, the acquisitions, and mergers that have occurred. Airlines charge these fees because they can. Consolidation has enabled four airlines to control nearly 70% of the market. Major carriers march in lockstep on these fees, and we need a review of whether something has to be done to provide for more competition among airlines in this industry.

So, thank you to the witnesses for being here today. Frankly, I hope that your responses to our questions will be comprehensive and forthright because each of your airlines, unfortunately, engaged in some measure of stonewalling our investigation. I hope that you understand the public deserves answers, and I hope that you will provide them. Thank you, and I will turn it to Senator Marshall.