BEFORE THE

U.S. DEPARTMENT OF TRANSPORTATION
DISTRICT OF COLUMBIA

In the matter of:	)	
	)	
Notice of Proposed Rulemaking	)	**DOT-OST-2025-0831**
Enhancing Flexibility of Air Fare Price Advertising	)	
	)	

PETITION FOR HEARING

SUBMITTED BY

AMERICAN ECONOMIC LIBERTIES PROJECT, NATIONAL CONSUMERS LEAGUE, AND U.S. PUBLIC INTEREST RESEARCH GROUP

August 21, 2026

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Dear General Counsel Gregory Zerzan,

Pursuant to 14 C.F.R. § 399.75, the American Economic Liberties Project ("AELP"), the National Consumers League ("NCL"), and the U.S. Public Interest Research Group ("PIRG") each petition the U.S. Department of Transportation ("DOT" or "Department) for a hearing on the notice of proposed rulemaking ("NPRM") titled Enhancing Flexibility of Air Fare Price Advertising, Docket No. DOT-OST-2025-0831. The NPRM contemplates two courses of action: either weakening the Full Fare Advertising Rule ("Rule") found at 14 C.F.R. § 399.84 or eliminating the 42-year-old consumer protection entirely.

Following review of the NPRM, the three public interest organizations identified similar concerns with the proposal. This filing represents consolidated petitions for hearing from each group: AELP, NCL, and PIRG.

I. Interest of Petitioners

AELP was founded in February 2020 and is a non-profit and non-partisan organization devoted to fighting concentrated economic power through the anti-monopoly movement. Since 2022 AELP has taken a leading role in the airline sector, fighting against airline consolidation and on behalf of airline passengers. AELP has testified on airline issues in Congress, met with former Transportation Secretary Pete Buttigieg, published numerous aviation white papers and statements, and joined other consumer organizations in working with the DOT and Federal Aviation Administration to improve airline service, safety, and competition. AELP's Senior Fellow for Aviation and Travel, William J. McGee, previously served as the lone consumer advocate on Secretary Raymond LaHood's Future of Aviation Advisory Committee.

Founded in 1899, NCL is America's oldest consumer advocacy organization. NCL promotes the interests of American consumers in numerous legislative, regulatory, and judicial proceedings. Regarding air travel, NCL has secured consumer protections in Congressional reauthorizations of the Federal Aviation Administration, provided input on Departmental efforts to enhance price transparency and marketplace competition, and filed an amicus curiae brief in support of DOT's authority to regulate price advertising when challenged in the U.S. Court of Appeals for the 5th Circuit. For four years, NCL's vice president served as the consumer representative on DOT's Aviation Consumer Protection Advisory Committee.

PIRG is a nonpartisan, nonprofit organization that advocates for common sense solutions in the public interest. PIRG has a more than 50-year track record of advancing solutions to problems that affect our health, safety and financial well-being. PIRG's senior director emeritus, Ed Mierzwinski, frequently testifies before Congress, state legislatures, and agencies on a wide range of consumer issues, from privacy to product safety and airline passenger rights. Since

2020, Consumer Watchdog Director Teresa Murray has focused on airline passenger protections, tracked airline performance metrics and analyzed air travel complaints filed with DOT in annual research reports titled The Plane Truth.[1]

II. Granting This Petition for Hearing Is in the Public Interest

The Department's NPRM lacks economic data or evidence in support of its deregulatory approach, fails to consider the full harms to consumers that the proposal would generate, and excludes decades of relevant legislative and administrative history. Advancing the proposal in its current form would amount to an arbitrary and capricious application of DOT's authorities. Specifically, the NPRM as noticed does not meet the Department's obligations to make reasoned decision-making under the Administrative Procedures Act and applicable executive orders, nor does it satisfy the public interest criteria for DOT regulatory actions found under 49 U.S.C. § 40101(a).

A. The Proposal Depends on Conclusions Concerning One or More Specific, Economic, And Other Factual Issues That Are Genuinely in Dispute

The proposal depends on conclusions concerning one or more specific, economic, legal, and other factual issues that are genuinely in dispute. AELP, NCL, and PIRG respectfully request that the following matters be adjudicated:

1. Factual contentions related to the cost-benefit analysis, including:
    a. Whether DOT can categorize the proliferation of an illegal activity as a benefit of its proposal;
    b. Whether the Rule has generated regulatory failure and airlines face conflicting advertising requirements;
    c. Whether DOT's proposal will have a significant impact on small businesses;
    d. Whether DOT's proposed harms to Americans are outweighed by estimated benefits;
2. Whether the 47-year-old record supporting full fare advertising requirements—as a matter of compliance with 49 U.S.C. § 41712—is no longer valid;
3. Whether DOT's proposal is in the public interest, as required by 49 U.S.C. § 40101(a);
4. Whether prominence requirements are consonant with the First Amendment; and
5. Whether Congress intended for the Internal Revenue Code to preclude Departmental regulation of airline price advertising.

[1] "Archive: The Plane Truth airline reports by U.S. PIRG Education Fund," U.S. PIRG Education Fund (May 2026). https://pirg.org/edfund/resources/archive-the-plane-truth-airline-reports-by-u-s-pirg-education-fund/

First, DOT's Regulatory Impact Analysis ("RIA" or "2026 Analysis") relies on numerous factual issues consumer advocates dispute.

a. The Department correctly recognizes in its RIA that DOT has an "obligation to prevent unfair and deceptive practices, such as drip pricing, that undermine consumer welfare."[2] Yet on the eighth page of the 2026 Analysis, the Department lists as a benefit of repealing the Rule that "some re-emergence of drip pricing could occur." Consumer advocates contest whether a federal agency can claim the promotion of illegal activity[3] as a benefit to a proposed regulatory action.
b. DOT states that "regulatory failure" is the reason for this proceeding, yet cites no evidence of such failure.[4] The Department claims that 26 U.S.C. § 7275 and 14 C.F.R. § 399.84 "have slightly different requirements, creating overlapping mandates. Repealing the [Rule] would eliminate the costs associated with these misaligned requirements, streamlining compliance efforts."[5] However, there is no conflict between the Internal Revenue Code section and the Rule, nor does DOT specify one. That is because compliance with the Rule ensures compliance with the tax statute. There is no "regulatory friction" to be resolved.
c. The 2026 Analysis declined to meaningfully assess if its proposal would significantly or disproportionately impact small entities as required under the Regulatory Flexibility Act. DOT instead concluded that small businesses would "not be required to make any changes…"[6] The Department's conclusion does not seem to consider that dominant firms are more likely to ignore the fines of $100 under DOT's proposed enforcement structure (compared to current statutory penalties up to $75,000).[7] That is, the incentive calculation for the largest carriers to advertise misleadingly would change significantly. Coupled with DOT's proposed enforcement guidance that the Department prefers not to seek penalties for law violations,[8] the Department's contention that the public "would continue

[2] Enhancing Flexibility of Air Fare Price Advertising - Regulatory Impact Analysis - RIN 2105-AF37, U.S. Department of Transportation, page 4 (Jul. 24, 2026). https://www.regulations.gov/document/DOT-OST-2025-0831-0046
[3] Federal statute has prohibited drip pricing in airfares since 1970. *See* 26 U.S.C. § 7275. Penalty for offenses relating to certain airline tickets and advertising. https://www.govinfo.gov/content/pkg/USCODE-2024-title26/pdf/USCODE-2024-title26-subtitleF-chap75-subchapB-sec7275.pdf
[4] Enhancing Flexibility of Air Fare Price Advertising - Regulatory Impact Analysis - RIN 2105-AF37, U.S. Department of Transportation, page 3 (Jul. 24, 2026). https://www.regulations.gov/document/DOT-OST-2025-0831-0046
[5] *Id.* page 8
[6] *Id.* page 10
[7] 49 U.S.C. § 46301. Civil penalties. https://www.govinfo.gov/content/pkg/USCODE-2024-title49/pdf/USCODE-2024-title49-subtitleVII-partA-subpartiv-chap463-sec46301.pdf
[8] Notice of Proposed Guidance, "Notice Regarding Investigatory and Enforcement Policies and Procedures of the Office of Aviation Consumer Protection," U.S. Department of Transportation (Jan. 6, 2026). https://www.federalregister.gov/documents/2026/01/06/2025-24282/notice-regarding-investigatory-and-enforcement-policies-and-procedures-of-the-office-of-aviation

to be presented with full fares upfront" is likely untrue, as well-resourced and well-connected law breakers would no longer fear accountability. Should dominant businesses begin to advertise unfairly or deceptively, smaller businesses will face considerable market pressure to mimic the behavior, undermining DOT's conclusion that small entities "would not be required to make any changes."

d. The 2026 Analysis does not consider that several government taxes and charges are excluded from 26 U.S.C. § 7275, yet covered by the Rule. Consumer advocates reviewed sample airfares and found that the omission of these non-carrier fees would have increased the total cost to consumers 8%-39% between advertised fare and checkout.[9] The RIA also does not consider the significant confusion consumers would experience should advertisements display two or more numbers in equal prominence, with only one reflecting the full fare. Without DOT fully accounting for these harms, as well as appropriately categorizing drip pricing only as a cost, the Department cannot accurately conclude whether its proposed harms are outweighed by the estimated benefits.

Second, DOT does not provide quantified or economic data in support of its proposal. The only academic material the Department cites in its RIA demonstrates the harms of drip pricing and reinforces the need to retain and enforce the Rule without change.[10] As a whole, the NPRM provides no evidence that DOT is aware of the 47-year-old record, which includes extensive analysis and reasoning in support of the Rule as it stands. For example, the 2026 Analysis does not mention the Department's estimation in 2011 that the public would gain $22.2 million in net benefits over a 10-year period just from DOT's prominence requirements and the inclusion of government-imposed charges in the advertised fare (which were promulgated as part of the "2011 Amendments" or "2011 Updates" to the Rule).[11] The public must assume that repealing the 2011 Amendments would result in a net harm of $22.2 million, which the RIA does not reflect.

In addition to the absence of quantified data, DOT's legal analysis is lacking and contradicted by the full record. There are two administrative law judge decisions and an opinion by the full Civil Aeronautics Board that concluded advertisers must comply with 26 U.S.C. § 7275 to operate lawfully under 49 U.S.C. § 41712. DOT provides no reasoning, or even awareness, of these decisions nor does the Department state why it may now disagree with this longstanding legal rationale. The Department also speculates that a judge today may disagree with the 2012 D.C.

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[9] *See* Section V.B. of American Economic Liberties Project, Consumer Action, Consumer Federation of America, FLYERSRIGHTS, National Consumers League, Travelers United, and U.S. Public Interest Research Group Comment Letter on Proposed Rule titled Enhancing Flexibility of Air Fare Price Advertising, Docket No. DOT-OST-2025-0831, RIN 2105-AF37 (Aug. 21, 2026). https://nclnet.org/wp-content/uploads/2026/08/Consumer-Advocates-Full-Fare-2026-Comments.pdf

[10] Enhancing Flexibility of Air Fare Price Advertising - Regulatory Impact Analysis - RIN 2105-AF37, U.S. Department of Transportation, footnotes 2, 3, 4, 5, 6, 7, 8, and 9 (Jul. 24, 2026). https://www.regulations.gov/document/DOT-OST-2025-0831-0046

[11] Final Rule, "Enhancing Airline Passenger Protections," U.S. Department of Transportation (Apr. 25, 2011). https://www.federalregister.gov/documents/2011/04/25/2011-9736/enhancing-airline-passenger-protections

Circuit Court of Appeals opinion in *Spirit v. DOT* that explicitly upheld the Full Fare Advertising Rule's record, yet provides no concrete facts, evidence, or data that would be necessary to make that contrary opinion.

The public must assume that the 47-year-old record supporting full fare advertising requirements—as a matter of compliance with 49 U.S.C. § 41712—remains valid as DOT has not proven otherwise.

Third, Congress has required DOT to act in the interest of the American public, not the interests of a few dominant businesses. 49 U.S.C. § 40101(a) stipulates that DOT must prioritize the following goals, among others, to ensure rulemaking determinations are in the public interest and consistent with public convenience and necessity:[12]

- "(4) the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices,"
- "(6) placing maximum reliance on competitive market forces and on actual and potential competition,"
- "(7) developing and maintaining a sound regulatory system that is response to the needs of the public…,"
- "(9) preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation,"
- "(10) avoiding 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,"
- "(12) encouraging, developing and maintaining an air transportation system relying on actual and potential competition,"
- "(13) encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry."

By promoting unfair, deceptive, and anticompetitive advertising practices, DOT's proposal would directly contradict these many statutory criteria. Additionally, by proposing to abdicate its penalty structure (which discounts smaller entities) in favor of a flat fine under the Internal Revenue Code (which would disproportionately favor larger competitors), the Department is further straying from Congress's mandates for DOT to promote competition and new market entrants. This is particularly relevant in 2026, with the loss of one ultra low cost carrier

[12] 49 U.S.C. § 40101(a).
https://www.govinfo.gov/content/pkg/USCODE-2024-title49/pdf/USCODE-2024-title49-subtitleVII-partA-subparti-chap401-sec40101.pdf

("ULCC") via bankruptcy (Spirit Airlines),[13] the loss of another ULCC via merger (Sun Country Airlines),[14] and the remaining ULCCs petitioning Congress and the Trump-Vance Administration for financial assistance following the sharp rise in the cost of jet fuel.[15]

Additionally, the Department's own 2026 Analysis outlines over several pages the potential harms to the public should DOT proceed with its NPRM. The 2026 Analysis concludes that should the Department fail to enforce full fare requirements, "net benefits would likely be negative."[16] Inflicting tangible costs on Americans to adhere to speculative and unjustified theories regarding judicial jurisprudence and legislative intent is not reasoned decision-making nor is it in the public interest.

Fourth, given the lack of economic evidence for DOT's proposal, the NPRM relies on speculation of how a judge may rule on currently non-existent litigation. Specifically, DOT contemplates that the First Amendment might not allow for prominence requirements in price advertising. The Department's only citation that refers to an opinion by the U.S. Supreme Court references a 2018 decision that dealt with controversial speech and religious freedom. The 2018 decision in *National Institute of Family and Life Advocates v. Becerra*[17] is inapplicable to airfare price advertising since airlines are not religiously compelled to deceive consumers, nor does the Full Fare Advertising Rule force carriers to disclose the existence of state-funded alternatives, like Amtrak passenger rail service.

The NPRM claims "if *Spirit* were litigated today, the limits on deference afforded by the court to the agency's interpretation of its regulation could lead to a different decision." Yet DOT does not substantively explain how the Supreme Court's upholding of *Auer* deference in *Kisor v. Wilkie*[18] might lead to such an outcome. Furthermore, even without deference to agencies, truth-in-advertising policies are a decades-old and well-accepted application of consumer protection authority. Indeed, even after *Kisor* in 2019 and *Loper Bright Enterprises v. Raimondo* in 2024,[19] the federal government has continued to enforce requirements regarding prominence

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[13] "Spirit Airlines Begins Orderly Wind-Down of Operations," Spirit Airlines (May 2, 2026). https://www.spiritrestructuring.com/resources/Spirit-Airlines-Begins-Orderly-Wind-Down-of-Operations.pdf
[14] "A new chapter in leisure travel begins," Allegiant Air (accessed Jul. 28, 2026). https://www.allegiantair.com/together-we-fly
[15] "Budget Airlines Ask Trump Administration for Billions as Fuel Costs Rise," The New York Times (Apr. 27, 2026). https://www.nytimes.com/2026/04/27/business/budget-airlines-trump-bailout.html
[16] Enhancing Flexibility of Air Fare Price Advertising - Regulatory Impact Analysis - RIN 2105-AF37, U.S. Department of Transportation, page 9 (Jul. 24, 2026). https://www.regulations.gov/document/DOT-OST-2025-0831-0046
[17] *Nat'l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755 (Jun. 26, 2018). https://www.supremecourt.gov/opinions/17pdf/16-1140_5368.pdf
[18] *Kisor v. Wilkie*, 588 U.S. 558 (Jun. 26, 2019). https://www.supremecourt.gov/opinions/18pdf/18-15_9p6b.pdf
[19] *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (Jun. 28, 2024). https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf

of certain information and prohibitions on drip pricing.[20] The limitations on deference to an agency does not automatically grant a victory for industry litigants.

Furthermore, DOT does not grapple with the Trump-Vance Administration's furtherance of prominence requirements in other industries, including artificially intelligent chatbots, unfair and deceptive fees associated with rental housing, and unfair and deceptive fees associated with online food delivery services. The Federal Trade Commission's ("FTC") July 2026 policy statement proposing prominence requirements regarding certain disclosures for AI chatbots is the result of a White House executive order directly requesting the policy statement. As current U.S. Supreme Court jurisprudence has confirmed that "[t]he Constitution places all Executive power in the hands of the President,"[21] the FTC's proposed prominence requirements that resulted from an explicit presidential order appear to have greater authority within the executive branch than DOT's philosophy, which is seemingly misaligned with the president and decades of regulatory administration.

Neither does the Department address the likely regulatory vacuum it would create if it abdicates its role in protecting the flying public from misleading advertising, as both the FTC[22] and the states[23] are statutorily precluded from enforcing full fare requirements—an extraordinary privilege for airlines.

Fifth, today's NPRM relies on a belief that Congress may have intended for a 1970 statute that empowers the Internal Revenue Service ("IRS") to enforce full fare advertising requirements to be preclusive of the Department's aviation consumer protection expertise and ability to promulgate regulations that may better protect the public interest. However, DOT's speculation on legislative intent seemingly begins and ends in 1970.

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[20] "StubHub Refunding $10 Million in Fees to Consumers After Deceptive Ticket Pricing," Federal Trade Commission (Apr. 9, 2026). https://www.ftc.gov/news-events/news/press-releases/2026/04/stubhub-refunding-10-million-fees-consumers-after-deceptive-ticket-pricing;"Instacart to Pay $60 Million in Consumer Refunds to Settle FTC Lawsuit Over Allegations it Engaged in Deceptive Tactics," Federal Trade Commission (Dec. 18, 2025). https://www.ftc.gov/news-events/news/press-releases/2025/12/instacart-pay-60-million-consumer-refunds-settle-ftc-lawsuit-over-allegations-it-engaged-deceptive; "FTC Sues Live Nation and Ticketmaster for Engaging in Illegal Ticket Resale Tactics and Deceiving Artists and Consumers about Price and Ticket Limits," Federal Trade Commission (Sep. 18, 2025). https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-sues-live-nation-ticketmaster-engaging-illegal-ticket-resale-tactics-deceiving-artists-consumers; "FTC, Illinois Attorney General Take Action Against Grubhub for Harming Diners, Workers, and Small Businesses," Federal Trade Commission (Dec. 17, 2024). https://www.ftc.gov/news-events/news/press-releases/2024/12/ftc-illinois-attorney-general-take-action-against-grubhub-harming-diners-workers-small-businesses

[21] Opinion of the Court, *Trump v. Slaughter*, 609 U. S. ____, page 10. (Jun. 29, 2026). https://www.supremecourt.gov/opinions/25pdf/25-332_qn12.pdf

[22] 15 U.S.C. 45(a)(2). https://www.govinfo.gov/content/pkg/USCODE-2024-title15/pdf/USCODE-2024-title15-chap2-subchapI-sec45.pdf

[23] 49 U.S.C. § 41713. Preemption of authority over prices, routes, and service. https://www.govinfo.gov/content/pkg/USCODE-2024-title49/pdf/USCODE-2024-title49-subtitleVII-partA-subpartii-chap417-subchapI-sec41713.pdf

The Department does not contend with the several laws Congress enacted over the following decades that repeatedly augmented the Department's abilities to regulate price advertising,[24] nor does DOT address why the legislature amended 26 U.S.C. § 7275 in 2012 to ensure the code section did not conflict with the 2011 Updates to the Full Fare Advertising Rule—a clear demonstration of Congressional acceptance of the Rule and an intent to evade the very legal conflicts that the Department now cites for its proceeding.[25]

B. The Ordinary Public Comment Period Is Unlikely to Provide an Adequate Examination of the Issues

The ordinary public comment period is unlikely to provide an adequate examination of these issues and will not permit DOT to make a fully informed judgement. Even following an extension, today's NPRM appears to provide the shortest public comment period for a DOT rulemaking of this significance. The original 1984 NPRM promulgating the Rule provided a 60-day comment period;[26] the 2011 NPRM to amend the Rule provided for a 108-day comment period.[27] Granting a hearing to more robustly engage with the issues AELP, NCL, and PIRG identify is necessary to provide the adequate examination currently unavailable under today's unprecedentedly brief comment deadline.

Furthermore, information critical for DOT and the public to sufficiently evaluate these issues are absent from today's NPRM. For example, the Department declined to conduct a quantifiable analysis on how its proposal will impact small businesses. Additionally, the NPRM's section titled "History of DOT's Full Fare Rule" erroneously begins with the Department's 2011 Amendments to the 42-year-old Rule. Today's NPRM does not contend with the several enforcement actions, administrative adjudications, and Article III court decisions that have supported the validity and public necessity of the Rule as developed since the 1970s. The noticed RIA either omits critical information or incorrectly categorizes certain costs as benefits.

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[24] *See* Section VIII. of American Economic Liberties Project, Consumer Action, Consumer Federation of America, FLYERSRIGHTS, National Consumers League, Travelers United, and U.S.
Public Interest Research Group Comment Letter on Proposed Rule titled Enhancing Flexibility of Air Fare Price Advertising, Docket No. DOT-OST-2025-0831, RIN 2105-AF37 (Aug. 21, 2026).
https://nclnet.org/wp-content/uploads/2026/08/Consumer-Advocates-Full-Fare-2026-Comments.pdf

[25] FAA Modernization and Reform Act of 2012, § 1104.
https://www.govinfo.gov/content/pkg/STATUTE-126/pdf/STATUTE-126-Pg11.pdf#page=141

[26] Notice of Proposed Rulemaking, "Public Charters and Statements of General Policy," Civil Aeronautics Board, Docket 41184, 48 FR 50900-50901 (docket dated Oct. 14, 1983, published in the Federal Register Nov. 4, 1983).
https://www.govinfo.gov/content/pkg/FR-1983-11-04/pdf/FR-1983-11-04.pdf#page=34

[27] Extension of Comment Period on Proposed Rule, "Enhancing Airline Passenger Protections," U.S. Department of Transportation (Aug. 3, 2010).
https://www.federalregister.gov/documents/2010/08/03/2010-19123/enhancing-airline-passenger-protections

Since the establishment of DOT's hearing process under 14 C.F.R. § 399.75, the Department has granted petitions submitted by industry lobbyists without exception.[28] Of the two previously petitioned rulemakings, one had a comment period of 95 days and the other had a public input window timing out at 117 days.[29]

AELP, NCL, and PIRG appreciate DOT's issuance of a 21-day extension for the comment period for today's NPRM. The extension allowed consumer advocates to better examine aspects of the proposal, including the 2026 Analysis. However, even after an extension, today's NPRM provides for just 51 days of public comment. To the knowledge of public interest representatives, this is the shortest comment period DOT has ever provided for such a significant rulemaking on aviation consumer protection.

C. The Resolution of the Disputed Factual Issues Would Likely Have a Material Effect on the Costs and Benefits of the Proposed Rule

Discussion of the issues AELP, NCL, and PIRG petition to adjudicate in a hearing would likely have a material effect on the costs and benefits of the proposed rule, including the issuance of a missing analysis of small business impacts. Just by reversing the 2011 Amendments, DOT's proposal would harm the American public by inflicting an estimated $22.2 million in net costs (and wiping out $29 million in gross benefits)—a public injury not reflected in today's NPRM.[30]

Complete abdication of the Department's role in protecting the public from unfair and deceptive advertising practices, signaled by eliminating the Rule from the Code of Federal Regulations, would inflict even greater costs on everyday Americans and significantly hamper free marketplace competition. The revocation of decades of regulatory stability would likely pressure businesses to invest substantial resources into changing their advertising displays to be less fair and more deceptive in order to compete with dishonest rivals who take advantage of the law enforcement vacuum. These costs are not accounted for in the 2026 Analysis.

The RIA also does not consider that 26 U.S.C. § 7275 does not cover all taxes and fees, including common charges like passenger facility charges, passenger civil aviation security service fees, animal and plant health inspection service fees, immigration inspection fees, customs inspection fees, and charges imposed by foreign authorities. Sample itineraries showed

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[28] Public Hearing, "Enhancing Transparency of Airline Ancillary Service Fees," U.S. Department of Transportation (Mar. 3, 2023). https://www.federalregister.gov/documents/2023/03/03/2023-04510/enhancing-transparency-of-airline-ancillary-service-fees; Public Hearing, "Airline Ticket Refunds and Consumer Protections; Public Hearing," U.S. Department of Transportation (Mar. 3, 2023). https://www.federalregister.gov/documents/2023/03/03/2023-04494/airline-ticket-refunds-and-consumer-protections-public-hearing

[29] *Id.*

[30] Final Rule, "Enhancing Airline Passenger Protections," U.S. Department of Transportation (Apr. 25, 2011). https://www.federalregister.gov/documents/2011/04/25/2011-9736/enhancing-airline-passenger-protections

that these excluded taxes and fees can increase the total cost to consumers by 8%-39% (see Section V.B. of consumer advocates' full comments).[31] The 2026 Analysis does not address this likely harm to consumers.

Additionally, the RIA states that the "primary benefits [of repealing the Rule] would stem from the reduction in regulatory friction…" yet the Rule does not conflict with the tax statute DOT cites, nor does the Department specifically identify "misaligned requirements" that may generate unjustified costs. Following the 2011 Amendments, Congress swiftly passed a law to amend the Internal Revenue Code to ensure no such friction would occur.[32] Importantly, the Rule does not create burdens on carriers like reporting, recordkeeping, approval processes, or other similar requirements. The Full Fare Advertising Rule simply prohibits misleading marketing materials, a longstanding regulation that does not impose costs.

Lastly, the 2026 Analysis correctly anticipates that the proposal would encourage illegal drip pricing, yet categorizes this outcome as a benefit. Federal agencies cannot claim the proliferation of an illegal practice as a benefit of a proposed rule and still meet reasoned decision-making and public interest obligations.

The Supreme Court has repeatedly held that federal agencies must engage in reasoned decisionmaking; the process by which DOT reaches its conclusions must be logical and rational.[33] Departmental action is unlawful unless DOT's decision is based "on a consideration of the relevant factors."[34] In addition to requirements under the Administrative Procedure Act, Congress has required that DOT's rulemaking determinations must be in the public interest and consistent with public convenience and necessity.[35]

Without examination of public interest advocates' contentions via a hearing, the Department will be unable to make a rational connection between the facts of modern airfare shopping and DOT's choices, nor could it sufficiently satisfy its public interest requirements for regulatory decision-making. Consideration of the issues AELP, NCL, and PIRG raise is especially

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[31] American Economic Liberties Project, Consumer Action, Consumer Federation of America, FLYERSRIGHTS, National Consumers League, Travelers United, and U.S. Public Interest Research Group Comment Letter on Proposed Rule titled Enhancing Flexibility of Air Fare Price Advertising, Docket No. DOT-OST-2025-0831, RIN 2105-AF37 (Aug. 21, 2026). https://nclnet.org/wp-content/uploads/2026/08/Consumer-Advocates-Full-Fare-2026-Comments.pdf

[32] FAA Modernization and Reform Act of 2012, § 1104. https://www.govinfo.gov/content/pkg/STATUTE-126/pdf/STATUTE-126-Pg11.pdf#page=141

[33] *Michigan v. Envtl. Prot. Agency*, 576 U.S. 743 (Jun. 29, 2015). https://www.supremecourt.gov/opinions/boundvolumes/576BV.pdf#page=788

[34] *Id.*

[35] 49 U.S.C. § 40101(a). https://www.govinfo.gov/content/pkg/USCODE-2024-title49/pdf/USCODE-2024-title49-subtitleVII-partA-subparti-chap401-sec40101.pdf

important as the Department's proposal appears untethered to the actual challenges facing American travelers today.

III. Conclusion

DOT has proposed substantial changes to its Full Fare Advertising Rule, potentially upending regulatory stability that consumers and competing businesses have relied on for 42 years. Even after an extension, the NPRM provided a truncated input period unprecedented in DOT's history. It is in the public interest for the Department to grant AELP, NCL, and PIRG's petition for a hearing so that DOT can fully address the factual disputes at the heart of the proceeding.

AELP, NCL, and PIRG appreciate DOT's consideration of this petition. Additional information on these issues can be found in the comments submitted in this proceeding by the larger coalition of seven consumer advocacy organizations.[36]

Respectfully submitted,

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Consumer Watchdog Director

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[36] American Economic Liberties Project, Consumer Action, Consumer Federation of America, FLYERSRIGHTS, National Consumers League, Travelers United, and U.S. Public Interest Research Group Comment Letter on Proposed Rule titled Enhancing Flexibility of Air Fare Price Advertising, Docket No. DOT-OST-2025-0831, RIN 2105-AF37 (Aug. 21, 2026). https://nclnet.org/wp-content/uploads/2026/08/Consumer-Advocates-Full-Fare-2026-Comments.pdf