Department of Transportation Office of Aviation Enforcement and Proceedings

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Cathay Pacific) February 4, 2013
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Price Advertising Violations of)
49 U.S.C. § 41712 and 14 CFR 399.84(a))
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Cathay Pacific advertises around-the-world air travel via the self-service booking tool at http://rtw.oneworld.com/. This tool systematically mischaracterizes carrier-imposed surcharges as "tax." These amounts can be substantial – regularly more than \$1000 on a single ticket, and I believe in some instances more than \$2000.

I hereby request that DOT docket this complaint as a request for DOT to exercise its authority under 49 USC 41712 to investigate and impose sanctions on Cathay Pacific for the unfair and deceptive practices described herein.

If a passenger chooses an itinerary with the first segment on Cathay Pacific, Cathay Pacific charges the customer's credit card and issues the entire ticket. See http://www.oneworld.com/flights/plan-book-online/?faqOnly=1 at heading "FAQ" — "Who is my ticketing airline?"

I have quoted a variety of around-the-world tickets using this tool. For example, on January 20, 2013, I quoted a coach ticket ORD-HKG-NRT-HKG-SIN-LHR-ARN-LHR-DXB-LHR-JFK-YVR with the first four segments on CX. Taxes were quoted at \$1,327.44 USD. See Attachment 1. I clicked the "Proceed" button and received the lengthy itinerary and fare quote shown in Attachment 2, reiterating the \$1,327.44 quote of "Taxes." There, the word "Taxes" appeared as a hyperlink. I clicked this link, receiving the itemization in Attachment 3. The top two lines of that itemization report "Multiple Surcharges" of \$242.50 and "Surcharge" of \$798.

As best I can tell there are no actual government taxes totaling the \$1,327.44 "tax" charged on this itinerary. Rather, I believe the majority of the \$1,327.44 "tax" – specifically, the \$242.50 and \$798 later characterized as "surcharge" – are actually carrier-imposed surcharges. Thus, 78.3% of the \$1,327.44 "tax" is not actually tax but rather carrier-imposed surcharge.

Crucially, the initial disclosures (as shown in Attachments 1 and 2) mischaracterize the amounts at issue as "taxes", <u>not</u> "taxes and surcharges" or the like. Moreover, every user using this booking tool must see the screens in Attachments 1 and 2; in contrast, the information in Attachment 3 is shown only if users specifically click the "Taxes" hyperlink to view details. Thus, even though Attachment 3 describes the surcharges within a page entitled "taxes and surcharges information", most users are unlikely to see this screen. Moreover, the "and surcharges" label appears only in HTML title, not in page text – insufficiently prominent to cure the false statements made previously. Indeed, at the same time that the "taxes and surcharges" label appears at the top of the page (indicating that some of the listed charges are "surcharges" rather than taxes), the wording "TaxBreakdownPopUp" appears immediately below (in the popup's URL bar) (indicating that everything in the listing is a "tax"). Finally, even on the most favorable view, the statements in Attachment 3 still fall short of applicable DOT rules: Note the absence of the crucial words "carrier-imposed" as well as the failure to include statements substantiating the surcharge amounts ("On average our passengers paid..." or similar). These omissions are in sharp contrast to the requirements of Additional Guidance on Airfare/Air Tour Price Advertisements (http://airconsumer.dot.gov/rules/Notice.Taxes.fees.sam.dl.13.website.pdf).

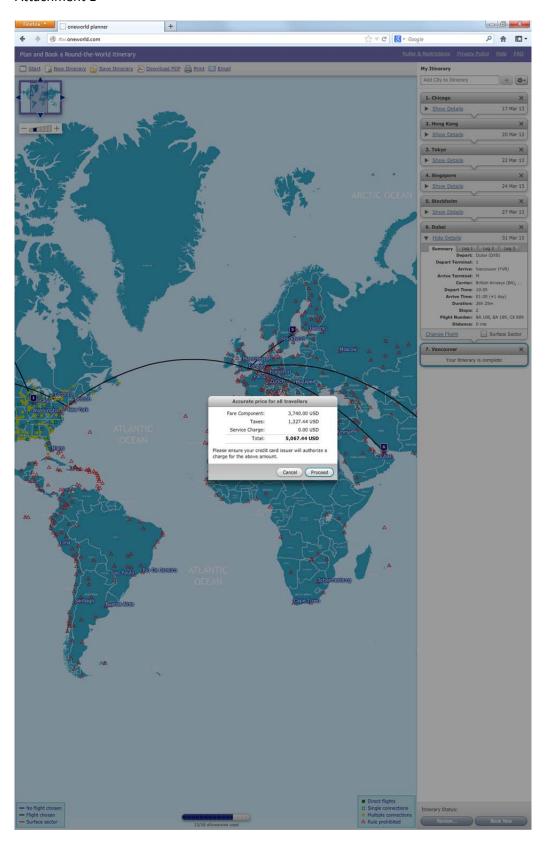
Required Resolution

I ask that the Department of Transportation:

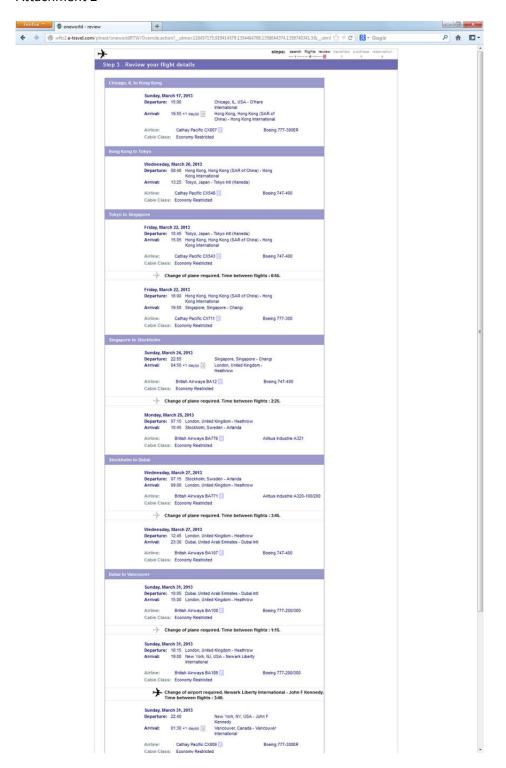
- (1) Exercise its authority under 49 USC 41712 to open an investigation of Cathay Pacific for having engaged in, and continuing to engage in, the unfair or deceptive practices described above;
- (2) Order Cathay Pacific to refund to ticket purchasers all monies represented to ticket purchasers as "taxes" or government-imposed fees, but not actually remitted to governments;
- (3) Impose appropriate civil penalties on Cathay Pacific;
- (4) Refer this matter to appropriate US and foreign tax collection agencies for investigation of possible tax fraud or other violations of tax law in non-payment to governments of monies collected as "taxes" or government-imposed fees; and
- (5) Issue any guidance or revised regulations needed to clarify to other airlines and ticket agents, and to preclude any future claim of ambiguity, that these practices are unfair and deceptive in violation of 49 USC 41712.

Submitted February <u>4</u> 2013, /s/ Benjamin Edelman

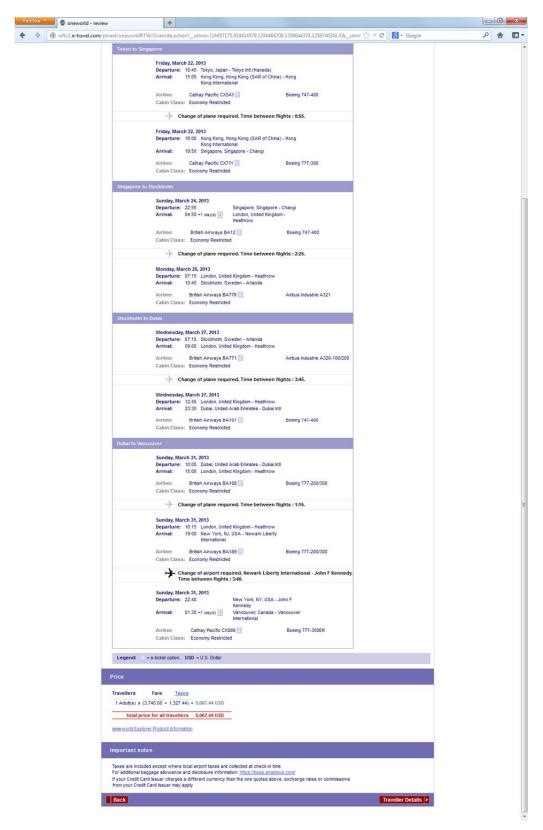
Attachment 1



Attachment 2



Attachment 2 (continued)



Attachment 3

