

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS  
WASHINGTON, D.C.

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)  
Benjamin Edelman, )  
third-party complainant )  
)  
v. ) Docket DOT-OST-2015-\_\_\_\_  
)  
American Airlines, Inc. )  
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**COMPLAINT OF BENJAMIN EDELMAN**

Comments with respect to this document should be addressed to:

Benjamin Edelman  
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Brookline, MA 02445  
E-mail: ben@benedelman.org

Dated: July 6, 2015

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**COMPLAINT OF BENJAMIN EDELMAN**

1. In my experience, American Airlines e-ticket confirmation and receipts systematically fail to provide required information about passengers’ baggage allowances whenever American reissues tickets. In particular, when American reissues a ticket, the e-ticket confirmation email omits information about baggage allowance, notwithstanding DOT regulations requiring such information.

2. I have consulted my records of my personal travel as well as the e-ticket confirmations that others have forwarded me when I assisted them with travel arrangements. I found 20 e-ticket confirmation emails from American Airlines pertaining to reissues made since January 1, 2014. (These include reissues for AAdvantage upgrades as well as changes in dates and routings.) In all 20 of those reissues, American

omitted the required baggage information and indeed omitted any information whatever about baggage allowances.

3. See for example Attachment 1, an e-ticket confirmation for a passenger flying BOS-MIA-BOS, a coach ticket that was reissued due to a round-trip upgrade into first class using American systemwide upgrades from my wife's account. Notice the complete lack of any baggage allowance information.

4. Reissues can change a passenger's baggage allowance. For example, a passenger's ticket might be reissued into a different class of service that provides a different baggage allowance. A passenger's ticket might be reissued onto another routing or another carrier with a different baggage allowance.

#### **I. Applicable Requirements**

5. American's omission of baggage allowance in reissued e-ticket confirmations squarely contradicts DOT requirements in 14 CFR 399.85(c):

On all e-ticket confirmations for air transportation within, to or from the United States, including the summary page at the completion of an online purchase and a post-purchase email confirmation, a U.S. carrier, a foreign air carrier, an agent of either, or a ticket agent that advertises or sells air transportation in the United States must include information regarding the passenger's free baggage allowance and/or the applicable fee for a carry-on bag and the first and second checked bag. Carriers must provide this information in text form in the e-ticket confirmation. (emphasis added)

6. Nothing in the regulation, nor in any of the policy analysis leading to the regulation, offers any relevant exception to this unambiguous requirement.

7. The 399.85(c) requirements took effect January 26, 2012, and the Department specifically declined to delay implementation of these requirements based on carrier association requests. (See Order 2012-1-2, denying the petition to delay the

effective date of 14 CFR 399.85(c) and 399.87.) Thus, the applicable requirements have been in effect for approximately three and a half years during which, as best I can tell, American Airlines has never complied as to reissued tickets.

## **II. Harm to Consumers**

8. Consumers use baggage allowance information in e-ticket confirmation emails in order to know how much baggage they may transport and at what expense. This information assists customers in planning their packing and their choice of baggage. This information also allows resolution of disputes at check-in: If a passenger's e-ticket confirmation indicates that a certain amount of baggage may be transported at a certain price, the passenger can bring this statement to the attention of carrier staff to oppose any request that the passenger pay more. Because the statement is personalized to the individual passenger and the specific ticket, there are less likely to be disputes or misinterpretations, compared with the prospect of interpreting a complex table or other general statement of fees.

9. Conversely, the lack of such information causes consumers to fail to know their entitlements, impeding planning and inviting surprises or disputes at check-in. These are exactly the concerns that prompted DOT to require the improved disclosures required by 399.85(c). See Second Final Rule on Enhancing Airline Passenger Protections at 23147.

10. The lack of baggage information in reissued e-ticket confirmation emails has caused direct harm to me in my attempt to use American upgrades to upgrade friends' travel. In April 2015, I upgraded my friend [REDACTED] on round-trip travel BOS-PVG-BOS with American "systemwide" upgrades from my account. Based on my

understanding of American policies, including tariff provision 116, I told [REDACTED] that his confirmed upgraded travel would increase his checked baggage allowance from two bags (standard for a coach transpacific journey on American) to three bags (the allowance American provides to business class passengers).<sup>1</sup> When his PVG-BOS e-ticket confirmation email did not include information about the increased baggage allowance, he called American telephone reservations to inquire.<sup>2</sup> After the reservations agent put him on hold for some time and consulted with a colleague, the agent told my friend that the upgrade did *not* increase his baggage allowance.<sup>3</sup> As a result, he elected not to bring additional baggage that he would have preferred to transport had he been permitted to do so. I believe that the American representative was incorrect, but the lack of authoritative personalized information, on my friend's e-ticket confirmation email, was the direct cause of his decision to bring less baggage and, I believe, to forego rights to which he was entitled under American's tariff.

11. Consumers are likely to be harmed in a variety of other circumstances. Consider a standard passenger (no elite status, no special credit card, etc.) who books international travel, say JFK-LHR-JFK, for which American's standard coach baggage is one bag without charge. Suppose that passenger needs to cancel the trip and, consistent with American's tariff and fare rules, applies the residual value (net of change fee)

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<sup>1</sup> See <http://www.aa.com/i18n/travelInformation/baggage/checked-baggage.jsp> at heading "1st and 2nd checked bags are complimentary for:" "And when traveling to these destinations" – China; versus "1st, 2nd and 3rd checked bags are complimentary for:" "Confirmed First and Business Class customers." See also American Airlines tariff provision 116 at heading "transpacific baggage allowances."

<sup>2</sup> Attachment 2 gives his reissued e-ticket confirmation email after his BOS-PVG upgrade cleared. Attachment 3 gives his reissued e-ticket confirmation email after 1) he had already flown BOS-PVG (segments thus no longer shown in the confirmation) and 2) his PVG-BOS upgrade had cleared (including separating the segments PVG-ORD and ORD-BOS into separate segments as required by American policy in light of the differing booking classes for upgrades for those segments).

<sup>3</sup> He is willing to sign a declaration to this effect if desired, or to file a complaint in his own name. At present he has not done so because he and I believe my complaint adequately presents the relevant facts.

towards a domestic ticket, say JFK-LAX-JFK. Under American's tariff, this passenger will have to pay a fee to check the first bag. Yet the passenger's reissued e-ticket email confirmation will say no such thing. Furthermore, the passenger's original e-ticket email confirmation (for the original itinerary) will indicate, incorrectly, that the passenger is entitled to check a bag without charge. Anticipating exactly this sort of situation, 399.85(c) sensibly requires that baggage information be provided on "all" e-ticket confirmations, including reissues.

### **III. Anticipated Defenses**

12. American may be expected to argue that its conduct is mitigated by its provision of baggage allowance information in initial e-ticket confirmations prior to any eventual reissues. But 399.85(c) specifically applies to "all" e-ticket confirmations, not just some e-ticket confirmations or initial e-ticket confirmations. A reissue yields a new e-ticket and a new e-ticket confirmation email. Nothing in the plain language of 399.85(c) offers any exception for reissues. Moreover, reissues can change a passenger's baggage allowance, including when a passenger changes class of service (as in Attachments 1-3), routing (as in the example in paragraph 11), or carrier. Even if a consumer retains a prior e-ticket confirmation email, the consumer would rightly hesitate to rely on that earlier document and indeed, after the reissue, might face baggage allowances and fees that are either more or less than the amounts indicated in the initial e-ticket confirmation email.

13. American may be expected to argue that tickets with reissues are more complicated than normal and that failure to provide the required information should be excused in that circumstance. But complicated tickets are exactly the tickets for which

consumers would otherwise struggle to find their baggage allowances on a carrier web site, for which the improved 399.85(c) disclosures are most useful, and for which confusion or disputes are most likely if 399.85(c) disclosures are omitted. For example, when upgrading a journey, it is normal for an upgrade to be available (or for a passenger to elect to pay for an upgrade) on some segments but not others. (Indeed, [REDACTED] initial one-way upgrade, shown in Attachment 2, typifies this problem.) 399.85(c) disclosures are particularly important in these mixed-class journeys, when airline web sites may provide unclear information about a passenger's baggage allowance and when airline staff are at greater risk of misinterpreting or misapplying applicable rules.

#### **IV. Requested Resolution**

14. I ask that the Department of Transportation:
- (1) Exercise its authority under 49 USC §41712 to open an investigation of American Airlines for having engaged in, and continuing to engage in, the unfair or deceptive practices described above;
  - (2) Order American Airlines to search customer correspondence for all customers complaining about the lack of required disclosure of bag fees, and to produce all such correspondence to the DOT;
  - (3) Order American Airlines to refund any bag fees charged to any customer whose e-ticket confirmation email or reissued e-ticket confirmation email lacked any information required by then-applicable regulation;
  - (4) Impose appropriate civil penalties on American Airlines

- (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.

Respectfully submitted,  
/s/  
Benjamin Edelman

Attachment 1

From: "American Airlines@aa.com" <notif@aa.globalnotifications.com>  
Subject: E-Ticket Confirmation: [REDACTED] 15JAN  
Date: January 7, 2015 at 12:36:05 PM EST  
To: [REDACTED]

Ticket Issued: Jan 7, 2015

Thank you for choosing American Airlines / American Eagle, a member of the oneworld® Alliance. Below are your itinerary and receipt for the ticket(s) purchased. Please print and retain this document for use throughout your trip.

You may check in and obtain your boarding pass for U.S. domestic electronic tickets within 24 hours of your flight time online at [AA.com](http://AA.com) by using [www.aa.com/checkin](http://www.aa.com/checkin) or at a Self-Service Check-in machine at the airport. Check-in options may be found at [www.aa.com/options](http://www.aa.com/options). For information regarding American Airlines checked baggage policies, please visit [www.aa.com/baggageinfo](http://www.aa.com/baggageinfo).

**For faster check-in at the airport, scan the barcode below at any AA Self-Service machine.**

You must present a government-issued photo ID and either your boarding pass or a priority verification card at the security screening checkpoint.

You can now [Manage Your Reservation on aa.com](http://aa.com), where you can check in and purchase additional items to customize your journey. A variety of seating options are also available for purchase to enhance your travel with features such as convenient front of cabin location, extra legroom and early boarding.

As American and US Airways merge, many changes are taking place at our airport locations. Visit [Find Your Way](#) to assist with your journey.

[Book a Hotel »](#)   [Book a Car »](#)   [Buy Trip Insurance »](#)

Record Locator: [REDACTED]

Itinerary

Carrier	Flight #	Departing	Arriving	Fare Code
American	1582	BOSTON THU 15JAN 11:04 AM	MIAMI INTERNL 2:43 PM	A
	Seat 5E	First CI		Lunch
American	1355	MIAMI INTERNL SUN 18JAN 3:15 PM	BOSTON 6:25 PM	A
	Seat 5E	First CI		Dinner

Receipt

Passenger	Ticket #	Fare-USD	Taxes and Carrier-Imposed Fees	Ticket Total
A [REDACTED]	[REDACTED]	481.86	64.34	546.20
Exchange				

Benjamin Edelman  
Complaint – E-ticket Confirmations / Baggage Allowance

Attachment 1 (continued)

You have purchased a NON-REFUNDABLE fare. The itinerary must be canceled before the ticketed departure time of the first unused coupon or the ticket has no value. If the fare allows changes, a fee may be assessed for changes and restrictions may apply.

Electronic tickets are NOT TRANSFERABLE. Tickets with nonrestrictive fares are valid for one year from original date of issue. If you have questions regarding our refund policy, please visit [www.aa.com/refunds](http://www.aa.com/refunds).

To change your reservation, please call 1-800-433-7300 and refer to your record locator.

Check-in times will vary by departure location. In order to determine the time you need to check-in at the airport, please visit [www.aa.com/airportexpectations](http://www.aa.com/airportexpectations).

Air transportation on American Airlines and the American Eagle carriers® is subject to American's [conditions of carriage](#).

NOTICE OF INCORPORATED TERMS OF CONTRACT

Air Transportation, whether it is domestic or international (including domestic portions of international journeys), is subject to the individual terms of the transporting air carriers, which are herein incorporated by reference and made part of the contract of carriage. Other carriers on which you may be ticketed may have different conditions of carriage. International air transportation, including the carrier's liability, may also be governed by applicable tariffs on file with the U.S. and other governments and by the Warsaw Convention, as amended, or by the Montreal Convention. Incorporated terms may include, but are not restricted to: 1. Rules and limits on liability for personal injury or death, 2. Rules and limits on liability for baggage, including fragile or perishable goods, and availability of excess valuation charges, 3. Claim restrictions, including time periods in which passengers must file a claim or bring an action against the air carrier, 4. Rights on the air carrier to change terms of the contract, 5. Rules on reconfirmation of reservations, check-in times and refusal to carry, 6. Rights of the air carrier and limits on liability for delay or failure to perform service, including schedule changes, substitution of alternate air carriers or aircraft and rerouting.

You can obtain additional information on items 1 through 6 above at any U.S. location where the transporting air carrier's tickets are sold. You have the right to inspect the full text of each transporting air carrier's terms at its airport and city ticket offices. You also have the right, upon request, to receive (free of charge) the full text of the applicable terms incorporated by reference from each of the transporting air carriers. Information on ordering the full text of each air carrier's terms is available at any U.S. location where the air carrier's tickets are sold or you can click on the Conditions of Carriage button below.

If you have a customer service issue, please [Contact AA](#).

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Attachment 2

----- Forwarded message -----  
 From: American Airlines@aa.com <notify@aa.globalnotifications.com>  
 Date: Mon, Apr 27, 2015 at 6:57 AM  
 Subject: E-Ticket Confirmation: [REDACTED] 29APR  
 To: [REDACTED]

**American Airlines** Reservations Redeem Miles My Account Deals

## eTicket Itinerary & Receipt Confirmation

Ticket Issued: Apr 27, 2015

**Mr. Benjamin G Edelman,**

Thank you for choosing American Airlines / American Eagle, a member of the oneworld® Alliance. Below are your itinerary and receipt for the ticket(s) purchased. Please print and retain this document for use throughout your trip.

You may check in and obtain your boarding pass for U.S. domestic electronic tickets within 24 hours of your flight time online at [AA.com](http://AA.com) by using [www.aa.com/checkin](http://www.aa.com/checkin) or at a Self-Service Check-In machine at the airport. Check-in options may be found at [www.aa.com/options](http://www.aa.com/options). For information regarding American Airlines checked baggage policies, please visit [www.aa.com/baggageinfo](http://www.aa.com/baggageinfo).

**For faster check-in at the airport, scan the barcode below at any AA Self-Service machine.**

You must present a government-issued photo ID and either your boarding pass or a priority verification card at the security screening checkpoint.

You can now [Manage Your Reservation](#) on [aa.com](http://aa.com), where you can check in and purchase additional items to customize your journey. A variety of seating options are also available for purchase to enhance your travel with features such as convenient front of cabin location, extra legroom and early boarding.

As American and US Airways merge, many changes are taking place at our airport locations. Visit [Find Your Way](#) to assist with your journey.

[Book a Hotel »](#)
[Book a Car »](#)
[Buy Trip Insurance »](#)

Record Locator: [REDACTED]

Itinerary

Carrier	Flight #	Departing	Arriving	Fare Code
American	289	BOSTON WED 29APR 7:40 AM	SHANGHAI PUDONG 2:05 PM	C
[REDACTED]		Business		Breakfast
American	288	SHANGHAI PUDONG WED 27MAY 4:10 PM	BOSTON 10:09 PM	Q
[REDACTED]	Seat 33C	Economy		Dinner/Snack

Receipt

Passenger	Ticket #
[REDACTED]	[REDACTED]

[Exchange](#)

You have purchased a NON-REFUNDABLE fare. The itinerary must be canceled before the ticketed departure time of the first unused coupon or the ticket has no value. If the fare allows changes, a fee may be assessed for changes and restrictions may apply.

Attachment 2 (continued)

CHANGE OF AIRCRAFT NOTICE FOR AT LEAST ONE OF YOUR FLIGHTS, YOU MUST CHANGE AIRCRAFT EN ROUTE EVEN THOUGH YOUR TICKET MAY SHOW ONLY ONE FLIGHT NUMBER AND HAVE ONLY ONE FLIGHT COUPON FOR THAT FLIGHT. FURTHER, IN THE CASE OF SOME TRAVEL, ONE OF YOUR FLIGHTS MAY NOT BE IDENTIFIED AT THE AIRPORT BY THE NUMBER ON YOUR TICKET, OR IT MAY BE IDENTIFIED BY OTHER FLIGHT NUMBERS IN ADDITION TO THE ONE ON YOUR TICKET. AT YOUR REQUEST, THE SELLER OF THIS TICKET WILL GIVE YOU DETAILS OF YOUR CHANGE OF AIRCRAFT, SUCH AS WHERE IT WILL OCCUR AND WHAT AIRCRAFT TYPES ARE INVOLVED.

Electronic tickets are NOT TRANSFERABLE. Tickets with nonrestrictive fares are valid for one year from original date of issue. If you have questions regarding our refund policy, please visit [www.aa.com/refunds](http://www.aa.com/refunds).

To change your reservation, please call [1-800-433-7300](tel:1-800-433-7300) and refer to your record locator.

Check-in lines will vary by departure location. In order to determine the time you need to check-in at the airport, please visit [www.aa.com/airportexpectations](http://www.aa.com/airportexpectations).

If you are traveling internationally, please ensure that you have the proper documentation. All necessary travel documents for the countries being visited must be presented at airport check-in. Check with the consulate of these countries to determine the documents required. Additional information can be found at [International Travel](#).

Many international airports in the Caribbean, Central and South America inhibit the transport of boxes and excess or overweight baggage. Please confirm the baggage allowance and charges for your destination before you travel. For more information, please visit [www.aa.com/BoxEmbargo](http://www.aa.com/BoxEmbargo).

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NOTICE OF INCORPORATED TERMS OF CONTRACT

Air Transportation, whether it is domestic or international (including domestic portions of international journeys), is subject to the individual terms of the transporting air carriers, which are herein incorporated by reference and made part of the contract of carriage. Other carriers on which you may be ticketed may have different conditions of carriage. International air transportation, including the carrier's liability, may also be governed by applicable tariffs on file with the U.S. and other governments and by the Warsaw Convention, as amended, or by the Montreal Convention. Incorporated terms may include, but are not restricted to: 1. Rules and limits on liability for personal injury or death, 2. Rules and limits on liability for baggage, including fragile or perishable goods, and availability of excess valuation charges, 3. Claim restrictions, including time periods in which passengers must file a claim or bring an action against the air carrier, 4. Rights on the air carrier to change terms of the contract, 5. Rules on reconfirmation of reservations, check-in times and refusal to carry, 6. Rights of the air carrier and limits on liability for delay or failure to perform service, including schedule changes, substitution of alternate air carriers or aircraft and rerouting.

You can obtain additional information on items 1 through 6 above at any U.S. location where the transporting air carrier's tickets are sold. You have the right to inspect the full text of each transporting air carrier's terms at its airport and city ticket offices. You also have the right, upon request, to receive (free of charge) the full text of the applicable terms incorporated by reference from each of the transporting air carriers. Information on ordering the full text of each air carrier's terms is available at any U.S. location where the air carrier's tickets are sold or you can click on the Conditions of Carriage button below.

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Attachment 3

----- Forwarded message -----  
 From: American Airlines@aa.com <notify@aa.globalnotifications.com>  
 Date: Tue, May 26, 2015 at 7:52 AM  
 Subject: E-Ticket Confirmation: [REDACTED] 27MAY  
 To: [REDACTED]

Itinerary

Carrier	Flight #	Departing	Arriving	Fare Code
American	288	SHANGHAI PUDONG WED 27MAY 4:10 PM	CHICAGO OHARE 5:00 PM	C
[REDACTED]	Seat 10H	Business	FF#: 02W1MJ4	Dinner/Snack
American	288	CHICAGO OHARE WED 27MAY 6:38 PM	BOSTON 10:09 PM	A
[REDACTED]	Seat 5B	First	FF#: 02W1MJ4	Dinner

Receipt

Passenger	Ticket #
[REDACTED]	[REDACTED]
[REDACTED] - Additional Fare Collection 10.10	
[REDACTED] Exchange, Visa	

You have purchased a NON-REFUNDABLE fare. The itinerary must be canceled before the ticketed departure time of the first unused coupon or the ticket has no value. If the fare allows changes, a fee may be assessed for changes and restrictions may apply.

Attachment 3 (continued)

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**Certificate of Service**

I hereby certify that I have, this 6th day of July, 2015 caused a copy of the foregoing Reply to be served by electronic mail on the following persons:

Robert Silverberg, Esq.  
Blane Workie

rsilverberg@sbgdc.com  
blane.workie@dot.gov

/s/

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Benjamin Edelman