

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-2013-____
)
S.C. Compania Nationala de Transporturi)
Aeriene Romane TAROM S.A.)
)
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COMPLAINT OF BENJAMIN EDELMAN

Comments with respect to this document should be addressed to:

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

Dated: December 16, 2013

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1. This complaint arises out of Tarom mischaracterizing fees as “tax” and thereby failing to comply with applicable DOT requirements.

2. On December 13, 2013, I used the Tarom web site, Tarom.ro, to quote ordinary paid coach travel from New York JFK to Bucharest, Romania. I found that the Tarom site misrepresented carrier-imposed surcharge as “tax.”

3. Specifically, Tarom provided the fare quote shown in Exhibits 1-3. Tarom quoted a “flight” cost of 265 EUR plus “tax” of 300.70 EUR, for a total of 565.70 EUR.

4. On information and belief, there is no “tax” of 300.70 EUR on this route. ITA Matrix indicates that there exists a “YQ” surcharge of \$255.60, which I believe is impermissibly included in the “tax” section of the fare quote.

5. Tarom’s statement of “tax” is literally false.

6. The bottom of the fare quote includes an admission that “The price of your ticket is composed of the air tariff and taxes, fees and charges which are imposed by the airline (fuel/insurance surcharge) and/or government authorities. These taxes, fees and charges are either included in the ?FARE?, or shown separately in the ? TAX? box(es) of your ticket.” The final sentence affirmatively admits that the Tarom site may list “fees and charges” within “the TAX box” of a ticket or, by all indications, a fare quote. This sentence gives an affirmative admission of Tarom’s unlawful inclusion, within the “tax” box, of charges that are not taxes. This sentence does not serve as disclosure or disclaimer of the contents of the “tax” box because DOT rules do not allow airlines to redefine or disclaim the meaning of the word “tax” in this way. Furthermore, the placement of this sentence – well below the “tax” box, without any reference (such as a footnote marker or asterisk) on or adjacent to the “tax” box, and in a location where most consumers would overlook it – is not reasonably or prominently associated with the statement purportedly clarified.

7. It is unfair and deceptive to characterize a charge as “tax” when it is set by a carrier of its own volition and need not be remitted to any government, airport, or similar authority. Such false statements provide consumers with inaccurate information as to the actual cost of their travel.

8. I previously found that the Tarom web site made the same false statement of “tax” in April 2013. I retain appropriate screenshot proof which I can provide upon request. On information and belief, the false statements at issue occurred continuously throughout this period. I do not know when these false statements began.

9. I ask that the Department of Transportation:

- (1) Exercise its authority under 49 USC 41712 to open an investigation of Tarom for having engaged in, and continuing to engage in, the unfair and deceptive practices described above;
- (2) Pursuant to such investigation, order Tarom to refund to ticket purchasers all monies represented to ticket purchasers as “tax” or government-imposed fees, but not actually remitted to governments;
- (3) Impose appropriate civil penalties on Tarom; and
- (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.

Pursuant to Title 18 United States Code Section 1001, I certify that I have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the pleading. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

Respectfully submitted,

/s/
Benjamin Edelman

Attachment 1

review your flight details

Legend: = e-ticket option, EUR = Euro

New York to Bucharest

Flight 1 Wednesday, February 12, 2014
 Departure: 19:15 New York, USA - John F Kennedy International, terminal 1
 Arrival: 08:30 +1 day(s) Paris, France - Charles De Gaulle, terminal 2E
 Airline: TAROM RO9526 Aircraft: Boeing 777-200/200ER
 Operated by Air France
 Fare type: SuperSpecials@TAROM/Economy
 Baggage: 1 piece(s) per traveller (23 kgs/piece)

Change of plane required. Time between flights : 1h55m.

Flight 2 Thursday, February 13, 2014
 Departure: 10:25 Paris, France - Charles De Gaulle, terminal 2E
 Arrival: 14:15 Bucharest, Romania - Henri Coanda
 Airline: TAROM RO9384 Aircraft: Airbus Industrie A318/A319/A320/A321
 Operated by Air France
 Fare type: SuperSpecials@TAROM/Economy
 Baggage: 1 piece(s) per traveller (23 kgs/piece)

Bucharest to New York

Flight 1 Wednesday, February 19, 2014
 Departure: 07:15 Bucharest, Romania - Henri Coanda
 Arrival: 09:30 Paris, France - Charles De Gaulle, terminal 2E

Attachment 2

Bucharest to New York

Flight 1 Wednesday, February 19, 2014
 Departure: 07:15 Bucharest, Romania - Henri Coanda
 Arrival: 09:30 Paris, France - Charles De Gaulle, terminal 2E
 Airline: TAROM RO9385 Aircraft: Airbus Industrie A318/A319/A320/A321
 Operated by Air France
 Fare type: SuperSpecials@TAROM/Economy
 Baggage: 1 piece(s) per traveller (23 kgs/piece)

Change of plane required. Time between flights : 4h40m.

Flight 2 Wednesday, February 19, 2014
 Departure: 14:10 Paris, France - Charles De Gaulle, terminal 2E
 Arrival: 16:25 New York, USA - John F Kennedy International, terminal 1
 Airline: TAROM RO9527 Aircraft: Boeing 777-200/200ER
 Operated by Air France
 Fare type: SuperSpecials@TAROM/Economy
 Baggage: 1 piece(s) per traveller (23 kgs/piece)

Legend: = e-ticket option, EUR = Euro

price

travellers	flights	taxes		
1 adult(s) x	(265.00	-	300.70) =	565.70 EUR
total for all travellers				565.70 EUR

Cancellation and Rebooking conditions

Attachment 3

The screenshot shows a Firefox browser window with the URL <https://www.tarom.ro/en/reservations/>. The page content includes:

price

travellers	flights	taxes	
1 adult(s) x	(265.00 +	300.70) =	565.70 EUR
total for all travellers			565.70 EUR

[Cancellation and Rebooking conditions](#)
[fare basis information](#)

fare notes

SuperSpecials@TAROM: Fare conditions? Rebooking of journey? Upgrade? Please click here for [more details](#)

flight notes

- This fare is bilaterally agreed between TAROM and the selected airline(s).
- To ensure that you get this fare, the reservation should be made now.
- Specific rules and restrictions may apply to this fare.
- Taxes are included.
- The price of your ticket is composed of the air tariff and taxes, fees and charges which are imposed by the airline (fuel/insurance surcharge) and/or government authorities. These taxes, fees and charges are either included in the FARE, or shown separately in the TAX box(es) of your ticket.
- Refund of unused fees and taxes permitted unless applicable OW/RT fare plus taxes for actual travel is higher than whole original ticket. In this case, no tax or fee refund will be permitted.
- If the air fare is nonrefundable, the Fuel Surcharge coded YQ/YR will not be refunded.

The final sum to be paid is shown in this page; no additional sums will be required at ticketing or check-in time, except for additional baggage weight charges

Certificate of Service

I hereby certify that I have, this 16th day of December, 2013 caused a copy of the foregoing Complaint to be served by electronic mail on the following persons:

Daniela Eugenia Chiriac	dana.chiriac@tarom.ro
Samuel Podberesky, Esq.	sam.podberesky@dot.gov

/s/

Benjamin Edelman