

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

-----)
)
Miriam Edelman,)
 third-party complainant)
)
v.) Docket DOT-OST-2016-0107
)
American Airlines, Inc.)
)
-----)

SECOND AMENDED COMPLAINT OF MIRIAM EDELMAN

Comments with respect to this document should be addressed to:

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

Dated: June 28, 2016

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

-----)
)
Miriam Edelman,)
third-party complainant)
)
v.) Docket DOT-OST-2016-0107
)
American Airlines, Inc.)
)
-----)

I. Ticket, Check-In, and Airport Experience..... 4
II. Customer Service Correspondence 8
III. Improper Implementation of Changes to Check-In Time Requirements..... 11
 A. Period where AA Imposed More Restrictive Requirements than the COC
 Publicly Posted on AA.COM..... 11
 B. AA To This Day Imposes More Restrictive Check-In Requirements, Contrary to
 Requirements in Effect at the Time of Purchase 12
 C. American’s Continued Statements Contrary to COC and Airport Practice..... 15
 D. American’s International Check-In Requirements with No Basis in International
 Tariff, and Statements Contrary to International Tariff..... 18
 E. American To This Day Publishes Outdated Conditions of Carriage..... 21
 F. Passengers Are Harmed by AA’s Imposition of More Restrictive Terms..... 23
 G. AA Benefits by Imposing More Restrictive Terms 23
 H. Anticipated Defenses and Alternative Implementation 24
IV. Experience of Other Passengers..... 25
V. Violations 25
VI. Requested Resolution..... 31

SECOND AMENDED COMPLAINT OF MIRIAM EDELMAN

1. This amended complaint arises out of American’s refusal to transport passenger Miriam Edelman on a flight for which she had a ticketed and confirmed reservation, for which she presented herself for check-in within the period provided by American’s Conditions of Carriage (COC) as then published on American’s web site.¹ Nonetheless American denied her transport, by all indications because its airport staff—and even its customer service staff in subsequent email correspondence—misapplied and/or misrepresented the applicable check-in requirements contrary to the unambiguous requirements of the publicly-posted COC as it stood on the date of ticket purchase (and also, though irrelevant, on the date of travel). As a result, American provided Ms. Edelman with neither the compensation nor the written notice required by applicable regulation.

2. Moreover, available information suggests this was not a one-off error. By all indications, other passengers are similarly situated, including those traveling during a period when the posted COC did not match AA’s operating practices as well as those who purchased based on one COC but traveled after AA substituted a revised COC that purports to impose additional requirements.

¹ Pursuant to 14 CFR 302.404(b), Ms. Edelman submits this second amended complaint, prior to American’s service of its answer, in order to quote an email from American Airlines Customer Relations that was inadvertently omitted from prior complaints, and to discuss that document. The new material is in paragraphs 18-19, 21-22, and 63, as well as Attachment 3e. This second amended complaint also updates the dates on which relevant AA web pages were last checked for errors and inconsistencies and, where applicable, updates corresponding discussion. This second amended complaint also makes other small corrections and clarifications. A redline, filed along with this amendment, shows all changes.

Ms. Edelman previously submitted a first amended complaint to add relevant material mistakenly omitted from her initial complaint. The new material in the first amended complaint is in section III.C-E and paragraphs 60-62 and 65, as well as revised and additional Requested Relief in paragraph 67 items (6) through (14).

I. Ticket, Check-In, and Airport Experience

3. On February 14, 2016, Ms. Edelman’s brother Mr. Edelman used the AA.COM web site to redeem AAdvantage miles for her travel BOS-DCA on February 16 at 8pm.² On February 15, Mr. Edelman noted that the 4pm flight, Ms. Edelman’s preference, had become available. Because the AA.COM site cannot make changes to the date or time of an AAdvantage award, Mr. Edelman called the AA Executive Platinum desk to make the change. The ticket was reissued and Ms. Edelman was confirmed to travel on the 4pm flight.

4. Ms. Edelman arrived at Boston Logan airport on February 16 at approximately 3:00pm. She was traveling with only a carry-on bag. She attempted to check in at an AA kiosk but, for a reason unknown to her, was unable to do so.

5. Ms. Edelman then waited in line to speak with a check-in agent, ultimately reaching an agent shortly after 3:15pm.³ The agent handed her a piece of paper the size and shape of a boarding pass but which, Ms. Edelman learned later, was actually a “priority verification card” indicating that she was no longer confirmed to travel on the flight she had booked. She mistook the priority verification card for a boarding pass because it had the same general format as a boarding pass, including the same distinctive cardstock paper with the same color scheme (including white background and several blue stripes), same typeface and layout, the same barcode at top-center, and the same presentation of departure time, destination, gate, and associated information in the usual locations. See Attachment 1.⁴ Nothing on the paper explicitly indicated that it was not a

² Mr. Edelman also files this complaint as Ms. Edelman’s attorney.

³ American’s records indicate that Ms. Edelman attempted to check in with the agent at 3:19pm. See Attachment 3b. Ms. Edelman does not dispute this claim.

⁴ An experienced traveler might notice the lack of a seat assignment, denoted by the word “SEAT” with no seat indicated and by an empty white box labeled (in tiny print) “SEAT.” An experienced traveler might

boarding pass or that Ms. Edelman was no longer confirmed to travel. Notably, the check-in agent did not explain to Ms. Edelman that she was (purportedly) late to check in, nor did the agent indicate that she was at risk of being denied transport for (supposed) failure to comply with AA's check-in requirement.

6. Ms. Edelman proceeded through the security check to the designated gate, B19. She reached the gate while boarding was still in progress. Her contemporaneous notes indicate that she reached the gate at approximately 3:30 and that the agent was calling for "priority boarding" passengers. Seeing the word "priority" on her travel document, she thought she was among those requested to board. But when she reached the gate agent, the gate agent told her that she could not board because she did not have a seat assignment. At that time, she still did not understand that she was at risk of being denied transport.

7. Ms. Edelman watched as other passengers boarded the 4pm flight. She also heard announcements indicating that the flight was oversold and soliciting volunteers to take a later flight. Eventually the gate agent told her that all passengers had boarded, that the plane was full, and that she would not be able to travel on that flight.

8. The 4pm flight gate agent made an announcement that all passengers who were standing by for the 4pm flight would be automatically moved to the standby list for the 5pm flight. Ms. Edelman understood that this applied to her. She later spoke with a gate agent for that flight, Roberto, who told her that she was a "no-show" for the 4pm

know that "PRIORITYVERIFICATION" means that a passenger is on standby and can only board if the standby clears. But Ms. Edelman did not recognize these indications, and these indications are not obvious or explicit. Indeed, the dictionary definition of "priority verification" in no way indicates that a passenger is not confirmed to travel. American's word choice thus failed to put Ms. Edelman on notice of the problem, and indeed prevented her from taking timely action to learn her rights. Nor is the absence of a seat assignment so unusual as to alert a passenger to something amiss. Indeed, Southwest does not provide seat assignments, and historically neither did Delta Shuttle.

flight, had not been on standby for the 4pm flight, and was not on the standby list for the 5pm flight. Ms. Edelman responded that she had been at the 4pm flight's gate on time but that she understood that she was unable to board because she did not have a seat assignment or because the flight was overbooked. Ms. Edelman believes she was subsequently added to the standby list for the 5pm flight. Based on the inconsistency between what Roberto told her versus and what American Customer Relations later indicated (Attachment 3e: "she was taken off of the flight," described as something different from "standby"), versus what she is informed that a Priority Verification card ordinarily indicates, Ms. Edelman does not know whether she was in fact on standby for the 4pm flight.

9. In due course the 5pm flight boarded. Ms. Edelman's experience was much like the 4pm flight: Others filled the flight, and the gate agent did not call her to board.

10. At this point Ms. Edelman contacted her brother, a more frequent traveler (and her attorney for this complaint). He immediately called the American Executive Platinum desk which stated, incorrectly, that Ms. Edelman had been transported on the 4pm flight as ticketed. Mr. Edelman then instructed Ms. Edelman to approach the gate agent for the 6pm flight and hand her mobile phone to the agent so Mr. Edelman could speak with her. The agent refused, indicating that she could only speak with passengers in the airport. Mr. Edelman then instructed Ms. Edelman to tell the gate agent "involuntary denied boarding," and she did so. Ms. Edelman took a seat near the gate agent, and a few minutes thereafter, the gate agent provided her with a boarding pass to

travel on the 6pm flight.⁵ Ms. Edelman tentatively concluded that she was allowed to travel only because she had pointed out that she had been involuntarily denied boarding.

11. AA's denial of boarding of Ms. Edelman caused more than a two hour delay in her scheduled arrival to Washington. The 4pm flight, on which Ms. Edelman was ticketed and confirmed, was scheduled to reach Washington at 5:25pm. The 6pm flight was scheduled to reach Washington at 7:34pm, two hours and nine minutes later. As a result of this flight delay, Ms. Edelman missed an important social function.

12. Ms. Edelman was not provided with any IDB compensation, nor any pamphlet or printout of disclosures pertaining to denied boarding, rights, and compensation.

13. During subsequent visits to Boston Logan, Mr. Edelman noticed that gate B19—the gate where Ms. Edelman's 4pm flight departed—lacked the required disclosures pertaining to denied boarding. On February 19, just three days after Ms. Edelman was denied transport, Mr. Edelman checked gate B19 and noticed no such disclosures present. He spoke with an AA employee who appeared to be a manager (based on style of dress) and pointed out the absence of the disclosure at gate B19. The employee indicated that the disclosures on that gate had been removed and were slated to be replaced. Mr. Edelman photographed B19's counter from all relevant angles, showing that the disclosure was not present on the side of the counter where passengers approach the gate, nor elsewhere at the gate. See Attachment 2(1). On February 23, Mr. Edelman visited gate B19 again and again found no such disclosure. See Attachment 2(2). On March 31, Mr. Edelman's friend Shawn Cole visited gate B19 and again found no such

⁵ The boarding pass indicated that Ms. Edelman would travel in first class, and she did so. Ms. Edelman did not request any such accommodation. In particular, the first class travel was provided unsolicited and was not compensation or settlement for prior denied boarding of Ms. Edelman.

disclosure.⁶ See Attachment 2(3). Finally, on April 5, Mr. Edelman again checked B19 and found that the disclosure placard had been installed or reinstalled. In contrast, Attachment 2(4) shows the location of the disclosure as seen at adjacent AA gates. These observations indicate that the disclosure was missing at least from February 19 to March 31 but in all likelihood somewhat longer.

II. Customer Service Correspondence

14. As of the conclusion of Ms. Edelman's travel, neither she nor Mr. Edelman knew *why* she had been denied transport. AA's statements in its Conditions of Carriage suggested that she might have been selected due to travel on an award ticket, due to lack of a seat assignment, other factors, or a combination of factors. (Notably, no AA employee had indicated to Ms. Edelman that she had been late to check in.)

15. Mr. Edelman therefore contacted American customer relations to learn the reason for denial of transport to Ms. Edelman. See Attachment 3a. After confirming that Mr. Edelman was authorized to inquire about Ms. Edelman's travel, AA replied on February 29 as shown in Attachment 3b. Quoting in relevant part:

For travel within the U.S., recommended passenger check-in time is 90 minutes prior to departure if you have bags to check, 60 minutes if you have no luggage to process. For most airports, you must check your baggage 30 minutes prior to scheduled departure time (depending on the airport, baggage check-in cut-off time may be 45 minutes). In addition, you must be checked in and be present at the departure gate at least 15 minutes before scheduled departure time to retain your reservation and seat. ...

Our records show that Miss Edelman was not checked in on time for her departure and therefore was put on standby for subsequent flights. Our records show she arrived at the ticket counter at 3:19pm for a 4:00pm flight. Cutoff time was 3:15pm, therefore, she is not due involuntary denied boarding compensation. Also to be eligible for denied boarding

⁶ Mr. Cole is prepared to sign a declaration authenticating these findings if they are in dispute.

compensation she must be at the gate at the time of departure and she was not.

16. AA's reply suffers several important errors. For one, the first quoted paragraph discusses check-in timing requirements for passengers checking bags. But Ms. Edelman was not checking a bag. Moreover, the second quoted paragraph purports to apply a 45 minute check-in requirement. Such a requirement is without basis in the first quoted paragraph and most of all is specifically contrary to the AA Conditions of Carriage, as they stood on February 16 (the date of travel), February 17 (the date of Mr. Edelman's inquiry), and February 29 (the date of AA's reply) as posted to AA's web site. Rather, the AA Conditions of Carriage required only a 30-minute check-in for passengers at Boston Logan.⁷ Finally, the AA representative was in error in contending that Ms. Edelman was not at the gate at the time of departure; she was. (Video surveillance would confirm it.)

17. On March 3, Mr. Edelman replied to point out these errors. See Attachment 3c. Mr. Edelman pointed out that the posted Conditions of Carriage specified a 30-minute check-in requirement, not 45. Mr. Edelman pointed out that no Boston-specific exception applied, as the only Boston exception in the COC covered timing for passengers checking bags. Mr. Edelman specifically asked: "Is a 45 minute check-in requirement specified in some other contract of which we may be unaware? If so, please point me to it." Mr. Edelman also challenged AA's contention that Ms.

⁷ Ms. Edelman does not have a copy of the AA COC as preserved from AA.COM on those precise dates. However, Mr. Edelman checked the COC on March 3, as discussed in the next paragraph, and found that it specified a 30-minute check-in requirement, not 45, with no exception for Boston passengers not checking bags. Archive.org preserves historic versions of the AA COC and is in accord. See e.g. <http://web.archive.org/web/20160119024434/http://www.aa.com/i18n/customerService/customerCommitment/conditionsOfCarriage.jsp>, preserving the AA COC as posted to AA.COM as of January 19, 2016.

Edelman was not at the gate at the required time, and he asked what records indicate otherwise.

18. On March 19, Mr. Edelman noticed that AA had not responded to his March 3 reply. He also noticed that AA had modified the Conditions of Carriage posted to AA.COM to (purport to) require check in 45 minutes before departure, and due to that change he requested a copy of the Conditions of Carriage as they stood on March 3 (date of prior correspondence) and February 16 (date of travel). See Attachment 3d. AA replied on March 22. See Attachment 3e. Quoting in relevant part:

In going over the records regarding your sister's flight and in response to your inquiry, I verified that the Boston airport does have a cutoff time of 45 minutes prior to departure for checkin. This does not just apply to passengers with bags. If a passenger needs a boarding pass to get through security they will also need to be checked in at the ticket counter prior to the 45 minute cut off to receive their boarding pass. It appears that because she was late at the ticket counter she was taken off of the flight and then when she arrived at the gate and did not have a seat assignment she was rebooked for a later flight on standby. Therefore, she is not due denied boarding compensation.

Notably, AA's reply did not provide respond to Mr. Edelman's March 3 contention that the COC in effect as of the date of travel (not to mention the date of purchase) permitted check-in 30 minutes before travel, nor did AA's reply substantiate AA's disputed claim that Ms. Edelman was not at the departure gate at the required time. Neither did AA's reply provide the relevant COCs that Mr. Edelman requested on March 19. The AA representative indicates that she "verified that the Boston airport does have a cutoff time of 45 minutes prior to departure for checkin," but despite Mr. Edelman's careful identification of the apparent lack of a contractual basis for such a requirement and his request for any relevant contract provisions ("Is a 45 minute check-in requirement

specified in some other contract of which we may be unaware?”), the AA rep wholly failed to ground her reply in applicable contract.

19. On May 16, Mr. Edelman noticed that AA still had not provided the COC he had requested previously. He reiterated the outstanding questions including the need for a copy of the Conditions of Carriage that applied to Ms. Edelman’s travel. See Attachment 3f. To date, AA has not replied or provided the requested information or documents.

III. Improper Implementation of Changes to Check-In Time Requirements

A. Period where AA Imposed More Restrictive Requirements than the COC Publicly Posted on AA.COM

20. By all indications, AA recently changed its airport procedures, perhaps at some point in February 2016, to begin to require that passengers check in 45 minutes before scheduled departure. AA’s message in Attachment 3b specifically indicates a 45 minute requirement. Twitter user @SDYankee69 reports the same experience (albeit there with a gate agent advising that the change was made on March 1, which contradicts Ms. Edelman’s experience approximately two weeks earlier).⁸

21. Notably, as of March 3, the date of Mr. Edelman’s message in Attachment 3c, the version of the COC posted to AA.COM still specified that check-in 30 minutes before departure is sufficient. Thus, as Mr. Edelman pointed out in Attachment 3c, the COC posted as of the date of Ms. Edelman’s travel actually required check-in just 30 minutes before departure—yet AA airport staff and customer service staff both acted as if the 45 minute requirement was already in effect. Indeed, even when Mr. Edelman specifically highlighted the change in correspondence with AA Customer Relations staff,

⁸ <https://twitter.com/SDYankee69/status/711290884487127040> ,
<https://twitter.com/SDYankee69/status/711299146431344640>

AA's reply declined to consider Mr. Edelman's allegation that the relevant document had changed in the relevant period. See Attachment 3c through 3f.

22. It is grossly unfair for AA to publish one requirement on its web site, then impose more restrictive requirements to passengers' detriment. Such a practice has obvious harm to passengers, who rely, to their detriment, on AA's unambiguous statement of applicable requirements—and who face penalties and forfeitures as detailed in paragraph 49. There is no plausible proper purpose for AA's practice in this regard. Nor is there any proper purpose to AA modifying its web site to remove all trace of the historic COC, to decline to provide that document to passengers upon their specific request, and to deny (in customer relations correspondence) that a change occurred. This combination of practices makes it particularly unlikely that customers will get the benefit of the contract provisions that actually applied.

**B. AA To This Day Imposes More Restrictive Check-In Requirements,
Contrary to Requirements in Effect at the Time of Purchase**

23. Although AA eventually updated the COC on AA.COM to indicate the requirement of checking in 45 minutes before travel, it purported to apply the change to passengers who had already booked tickets (contrary to standard notions of contract) and it provided no affirmative notice to passengers (making it virtually certain that most passengers would not learn about the change until it was too late).

24. Consider a passenger who bought a ticket prior to the COC change, perhaps even checking COC check-in requirements as of the date of purchase, and in any event agreeing to be bound by the COC in all its particulars including check-in time. Unbeknownst to that passenger, AA moved the goalposts, requiring that the passenger

check in at a time earlier than previously agreed and early than specified in the contract the passenger accepted.

25. Tellingly, Department regulations specifically prohibit airlines from changing the applicable COC in this way. As part of the Final Rule on Enhancing Airline Passenger Protections, the Department sought comment on retroactive applicability of amendments to contracts of carriage. The Department concluded that consumers have the right to receive accurate information at the time of purchase about the terms to which they will be held, and the Department creates a new rule 14 CFR 253.9 which precisely speaks to this situation: “An air carrier may not retroactively apply to persons who have already bought a ticket any material amendment to its contract of carriage that has significant negative implications for consumers.” The changes at issue are plainly material, in that they lead to forfeiture of ticketed and confirmed reservations as well as the additional harms listed in paragraph 49. 253.9 specifically disallows AA from applying such a change to tickets that passengers have already purchased.

26. Traditional contract principles similarly disallow AA’s attempt to impose more restrictive terms. Check-in time is a material element of a passenger’s contract with an airline, as failure to check in on time entails a forfeiture of confirmed travel with attendant losses and penalties. Moreover, AA specifically requires customers to accept its Conditions of Carriage during the process of buying a ticket on AA.COM, and every AA e-ticket confirmation email includes the sentence “Air transportation on American Airlines and the American Eagle carriers® is subject to American's conditions of carriage” (hyperlinking to the COC on AA.COM). These actions cause the COC to be incorporated by reference into each passenger’s contract with AA. It is a fundamental

principle of contract law that one party to a contract cannot change the contract, to its benefit and to the other party's detriment, after the contract is executed. Such a change would make a mockery of the contract established at the time of purchase.

27. The change to check-in time requirements is particularly harmful to passengers because it violates longstanding expectations and continuing industry practice. Passengers reasonably expect to be able to check in for domestic flights, when traveling with carry-on bags only, as little as 30 minutes before travel based on years, indeed decades of doing so. Moreover, AA's key competitors similarly allow check-in a little as 30 minutes before travel.⁹ AA errs in deviating from this practice with no announcement to affected passengers.

28. Indeed, Ms. Edelman is among the passengers on specific notice of AA's prior 30 minute check-in requirement. During a November 2015 trip, an AA representative told Ms. Edelman that she needed to be checked in 30 minutes before departure. Had Ms. Edelman known that this requirement had been changed to 45 minutes, she would have attempted to bypass the check-in line (discussed in paragraph 5) when she realized that she was at risk of checking in less than 45 minutes before scheduled departure. Instead, believing that 30 minutes was permissible because an AA employee had previously personally and specifically told her so, Ms. Edelman thought that she had plenty of time.

⁹ See United: <https://www.united.com/web/en-US/content/travel/airport/process/default.aspx> ("The minimum check-in time requirement for customers without checked baggage is 30 minutes prior to departure"). Delta: http://www.delta.com/content/www/en_US/traveling-with-us/check-in/requirements.html ("You must be checked in at least 30 minutes before your scheduled departure time."). Southwest: http://www.seatguru.com/airlines/Southwest_Airlines/checkin.php ("The minimum time to check-in for a Southwest Airlines (WN) flight is: 30 minutes before scheduled departure time for US domestic flights").

29. On information and belief, in the unlikely event that a passenger noticed the revision in COC and called AA to request a penalty-free change or refund, AA would decline in that no rule provides for the requested benefits. It is particularly unlikely that a passenger would notice the revision to COC because the old version is not posted and because AA staff do not provide it upon request. (Note AA’s failure to provide the historic COC, or even discuss its existence and its terms, despite Mr. Edelman’s specific request, repeated in the messages of Attachment 3c, 3d, and 3f.)

30. AA has not taken steps to notify affected passengers. AA knows which passengers are affected: Those who 1) booked domestic travel 2) before the change in requirements was announced in COC on AA.COM, 3) for travel after the change in requirements took effect. Via information in reservations and in AAdvantage membership records, AA has contact information for most or all passengers. But AA has not taken affirmative steps to notify passengers to the change. In addition, although the AA.COM web site has the ability to provide announcements to passengers, AA has not used the announcement feature to alert passengers to this new requirement.

C. American’s Continued Statements Contrary to COC and Airport Practice

31. As of June 21, 2016, the date of Ms. Edelman’s first amended complaint, AA.COM specifically advised passengers that the American Airlines Shuttle has a reduced check-in requirement for certain flights including the flight on which Ms. Edelman was booked. On a page entitled “American Airlines Shuttle” (described as covering flights “between Boston, New York, and DC”),¹⁰ American touts “Convenient

¹⁰ See <https://www.aa.com/i18n/urls/shuttle.jsp> . This page is easily found by passengers. It is the first result on Google when searching for “American Shuttle”. See Attachment 5. It is also both the second and the third result when searching on AA.COM for “shuttle”. See Attachment 6. It is also the first result on Google when searching for “American Airlines Boston to New York,” “American Boston to La Guardia,” “American Boston to Washington,” “American Boston to Reagan,” and similar. It is also reached from

check-in” whereby passengers “can check in online or up to 20 minutes before departure without checked baggage and up to 30 minutes before departure when you check bags.”

See Attachment 4. These provisions are contrary to the current COC. On information and belief, AA removed this page in response to Ms. Edelman’s complaint.

32. In June 2016 remarks, American’s Senior Manager of Corporate Communications Ross Feinstein indicated that shorter check-ins are actually permitted.

Travel blogger Gary Leff summarized Mr. Feinstein’s remarks as follows¹¹:

The rules say 45 minutes, because they want you to get to the airport earlier. You might have to wait in line for a check-in kiosk or manual assistance, and you may have to wait in line at security.

American’s computers are set to a 30 minute deadline with 3 minute grace period.

What this means in practice is that American can check you in 27 minutes prior to scheduled departure

Now, if you have checked bags the rule is 45 minutes minus that same 3 minute grace period for a domestic flight.

For an international flight the ‘real’ check-in cutoff (including grace period) is 45 minutes without a checked bag, or 57 minutes with a checked bag.

33. Mr. Feinstein’s statements contradict the COC. Consider a passenger who, like Ms. Edelman, attempts to check in for a domestic flight 41 minutes before departure, without checked baggage. Mr. Feinstein’s message indicates that this is permitted, whereas the COC indicates that it is not. Passengers who notice the conflict have little information with which to determine which is accurate. Passengers reasonably

AA.COM, click on Travel Information, then Planes, then scroll to the heading captioned American Airlines Shuttle and click the link in that section.

¹¹ See Gary Leff, “I Learned Something New and Useful about American Airlines Check-In,” June 18, 2016, available at <http://viewfromthewing.boardingarea.com/2016/06/18/learned-something-new-useful-american-airlines-check/> .

rely on a statement from American’s Senior Manager of Corporate Communications,¹² and a passenger who reads such a statement has little reason to research further—and thus risks relying on a statement that does not have the force of contract. Indeed, American’s COC specifically provides that “No agent, employee or representative of American has authority to alter, modify or waive any provision of the Conditions of Carriage unless authorized in writing by a corporate officer of American.” Mr. Feinstein’s statement to Mr. Leff gives no indication of written authorization by a corporate officer. On information and belief, American airport staff do not accept passenger attestations that an American communications manager approved a later check-in, even if passengers manage to produce evidence of a blogger’s article reporting Mr. Feinstein’s statement.

34. In any event, Ms. Edelman’s experience reveals that in practice, American follows neither the policy specified on the American Shuttle page, nor Mr. Feinstein’s statement of check-in policy, but rather the more restrictive requirements currently posted in AA’s COC (albeit not posted there as of the date of Ms. Edelman’s ticket purchase or her date of travel). By American’s own admission, Attachment 3b, Ms. Edelman attempted to check in 41 minutes before scheduled departure. That is amply more than the 20 minutes specified on the American Shuttle page and also more than the 27 minutes specified in Mr. Feinstein’s statement. Nonetheless AA issued her a priority verification card rather than a boarding pass, denied her transport without IDB compensation or disclosures, and in customer relations correspondence repeatedly contended that she missed the applicable check-in requirement.

35. American’s diverse and contradictory statements impede passengers’ attempt to determine requirements of applicable contract. A passenger who reads the

¹² See Mr. Feinstein’s LinkedIn profile, <https://www.linkedin.com/in/rossfeinstein>.

American Shuttle page or Mr. Feinstein’s statement, and relies on those materials, unknowingly breaches the COC and/or International Tariff and thus faces the risks detailed in paragraph 49.

D. American’s International Check-In Requirements with No Basis in International Tariff, and Statements Contrary to International Tariff

36. American’s international check-in requirements, as implemented by airport staff, are also inconsistent with relevant contracts and further with Mr. Feinstein’s statement.

37. American’s International General Rules Tariff provides, in relevant part:

RULE: 0060

TITLE/APPLICATION – 70 RESERVATIONS ...

CHECK IN TIME LIMITS - 75

(F)CHECK-IN TIME LIMITS {X} AA RECOMMENDS, FOR ALL PASSENGERS DEPARTING FROM THE STATE OF HAWAII, A 180 MINUTE CHECK-IN TIME. FOR ALL OTHER INTERNATIONAL TRAVEL, AA RECOMMENDS A 2 HOUR ADVANCE CHECK-IN TIME.AA WILL CANCEL THE RESERVATIONS OF ANY PASSENGER WHO FAILS TO PRESENT HIMSELF FOR CHECK-IN AT THE BOARDING PASS LIFTING POINT WITH THE APPROPRIATE BOARDING PASS AT LEAST {X} 30 MINUTES FOR A DEPARTURE TO OR FROM AN INTERNATIONAL DESTINATION, NOTWITHSTANDING THAT SUCH PASSENGER MAY HAVE CHECK-IN FOR THE SAME FLIGHT AT ANOTHER LOCATION DESIGNATED FOR SUCH PURPOSE. AA WILL CANCEL THE RESERVATION AND SEAT ASSIGNMENT OF ANY PASSENGER WHO IS NOT ON BOARD AND IN THE ASSIGNED SEAT OF THE AIRCRAFT {X} AT LEAST 10 MINUTES PRIOR TO SCHEDULED OR OR REVISED-POSTED DEPARTURE TIME.

NOTE 1:FOR THE PURPOSE OF THIS RULE, THE BOARDING PASS LIFTING POINT IS AT THE POINT WHICH THE PASSENGER'S BOARDING PASS IS LIFTED AND RETAINED BY THE CARRIER.

NOTE 2:PASSENGERS MUST ARRIVE AT THE AIRPORT SUFFICIENTLY IN ADVANCE OF A FLIGHT DEPARTURE TIME TO PERMIT COMPLETION OF GOVERNMENT FORMALITY ANDDEPARTURE PROCEDURES. DEPARTURES WILL NOT BE

DELAYED FOR PASSENGERS WHO ARE EITHER IMPROPERLY DOCUMENTED, OR ARE NOT READY TO TRAVEL AT TIME OF SCHEDULED DEPARTURE. CARRIER IS NOT LIABLE TO THE PASSENGER FOR LOSS OR EXPENSE DUE TO PASSENGER'S FAILURE TO COMPLY WITH THIS PROVISION.

...

RULE: 0116

TITLE/APPLICATION - 70 BAGGAGE REGULATIONS ...

(E)CHECKED BAGGAGE ...

3. BAGGAGE MUST BE CHECKED AT THE AIRPORT LOCATION DESIGNATED BY AA AND IN ADVANCE OF FLIGHT DEPARTURE TIME AS PRESCRIBED BY AA. ADVANCE TIME LIMIT FOR BAGGAGE CHECK-IN FOR FLIGHTS ORIGINATING IN AIRPORTS OUTSIDE THE UNITED STATES OR FLIGHTS DEPARTING THE UNITED STATES FOR AND INTERNATIONAL DESTINATION IS 60 MINUTES PRIOR TO SCHEDULED FLIGHT DEPARTURE TIME EXCEPT THE FOLLOWING DEPARTURE CITIES:

DEPARTURE FROM CUTOFF TIME FOR BAGGAGE CHECK-IN

BUENOS AIRES, ARGENTINA (EZE) 75 MINUTES

CARACAS, VENEZUELA (CCS) 90 MINUTES

DUBLIN, IRELAND (DUB) 75 MINUTES

MARACAIBO, VENEZUELA (MAR) 90 MINUTES

38. On information and belief, American airport staff require that all passengers must check in for international flights 60 minute before scheduled departure. For example, in Twitter, user @danielglemz inquired about check-in time for a flight from Mexico City to Miami. American's official account @AmericanAir replied "Cut-off time is 60 minutes."¹³ On information and belief, American regularly denies check-in to international passengers who attempt to check after the cutoff American imposes.

¹³ <https://twitter.com/AmericanAir/status/731909777702277121>

39. Remarkably, check-in time requirements appear nowhere in the International Tariff. Indeed, American’s International Tariff imposes no requirement that international passengers without bags check in at any particular time, requiring only that they present themselves at “the boarding pass lifting point” (defined in the Tariff to mean the boarding gate) 30 minutes prior to scheduled departure. If a passenger seeks to check in 35 minutes before scheduled departure, at an airport with a compact layout and no security line, that passenger is well positioned to be at the gate within five minutes and would fully comply with the Tariff and all other relevant contract provisions.

40. To defend international check-in time requirements, American may attempt to rely on its COC, which specifies “Check-in times - In most locations, you must be checked in: ... At least 60 minutes before scheduled departure, for flights to or from airports outside of the United States” as well as listing five cities where longer check-in is required. But the first sentence of the COC specifically indicates that the COC applies only to domestic transport: “Your ticket and the following Conditions of Carriage constitute the contract between you, the passenger, and American Airlines, Inc. and apply to all transportation provided by American between points in the United States” (internal parentheticals omitted; emphasis added) whereas the next sentence notes that “Foreign air transportation is governed by applicable tariffs on file with the Department of Transportation” with a link to the International Tariff excerpted on the preceding page.

41. Mr. Feinstein compounds this discrepancy by indicating that international passengers without checked bags must check in 45 minutes before scheduled departure. Mr. Feinstein styles his remarks as a loosening of applicable requirements. While Mr. Feinstein’s statement may be less restrictive than requirements AA articulates in the

COC, the COC does not actually apply to international passengers, and Mr. Feinstein is in fact adding requirements beyond those present in the governing International Tariff.

42. Mr. Feinstein also indicates that passengers on an international journey with checked baggage may check in as little as 57 minutes before scheduled departure. But, American's International Tariff indicates that the check-in requirement for baggage is 60 minutes save for four specific cities where 75 or 90 minutes is required. Consider a passenger who follows Mr. Feinstein's guidance and tries to check in in, say, Buenos Aires just 57 minutes before departure. On information and belief, American airport staff in Buenos Aires do not accept passenger attestations that an American communications manager approved such a check-in; rather, they enforce the 75 minute requirement specified in the tariff. Mr. Leff indicates that he has quoted Mr. Feinstein accurately, and as a communications professional, Mr. Feinstein is amply knowledgeable of the methods of correcting an incorrect statement of his position (such as contacting the blogger-author or using the blog's Comment feature to post an immediate response), but he has not done so.

43. On the whole, American's check-in requirements for international tickets are thus also thoroughly muddled. The authoritative contract, the International Tariff, lacks key requirements that American appears to impose in practice. American's effort to clarify, through Mr. Feinstein's statement, instead serves to further muddy the waters.

E. American To This Day Publishes Outdated Conditions of Carriage

44. American web sites to this day publish old versions of the COC that give outdated statements about passengers' rights. For example, both https://www.americanairlines.jp/intl/jp/footer_en/conditionsOfCarriage.jsp and https://www.aa.com/intl/jp/footer_en/conditionsOfCarriage.jsp at this moment provide a

copy of the COC that appears to be from 2008 or 2009 and specifies baggage acceptance cutoff times that are correspondingly out of date. Similarly, <https://www.aa.com/intl/es/footer/conditionsOfCarriage.jsp> provides another outdated version of the COC (from an unknown date, but still repeating the check-in and baggage acceptance requirements no longer in effect). Web search readily reveals additional outdated copies at https://www.aa.com/intl/es/footer_en/conditionsOfCarriage.jsp and <https://www.aa.com/intl/jp/footer/conditionsOfCarriage.jsp>. (All pages rechecked, and outdated contents confirmed, on June 28, 2016.)

45. Customers reasonably rely on these pages. They appear on the official AA.COM web site or on other official American sites such as americanairlines.jp, all sites that consumers know and trust. The color scheme, style, and overall appearance of the pages all match the style of other official American documents.

46. American may argue that customers should recognize that these pages are intended for certain international customers (e.g. Japanese consumers based on the .jp in the domain name or the /intl/jp in the URL). But international customers are entitled to accurate information about both domestic and international check-in requirements and other contract terms. Moreover, some web browsers (including those widely used on phones and tablets) do not show domain names and URLs at all, and others show domain names and URLs only in small type or in an area that is easily overlooked.

47. The appearance of text in other languages (on some of these pages) does nothing to dull the appearance of authenticity; serving international routes, American is reasonably expected to provide contracts in multiple languages. Nor does the word

“Japan” even appear in the body of either of the Japan-targeted documents, nor “Spain” in the Spain-targeted document.

48. Because American publishes these documents on its official web sites, customers find them using standard search terms. Indeed, Mr. Edelman found one of the Japan documents when using Google to search for phrases such as “American Conditions of Carriage.” Customers who stumble onto these pages have no reason to suspect that they are out of date.

F. Passengers Are Harmed by AA’s Imposition of More Restrictive Terms

49. AA’s more restrictive COC, requiring check-in further in advance, harms passengers: Passengers who seek to check in 31 to 44 minutes before travel are now unable to do so. Such passengers thereby lose confirmed space—potentially requiring travel on another flight or even another day. Passengers confirmed in a premium class of service may be accommodated only in a lower class, and AA will likely contend that passengers on restricted tickets who are downgraded in this way are due no compensation. Passengers also lose preferred seating, whether provided based on prepayment of a fee or due to elite status or fare type. Passengers also lose access to priority boarding, whether based on prepayment of a fee or due to elite status or fare type. Passengers may be charged a change fee and/or fare difference to resume travel or may be deemed no-shows and may even face forfeiture of their tickets. AA’s change clearly makes passengers worse off.

G. AA Benefits by Imposing More Restrictive Terms

50. Whatever the purpose of AA’s changes, they yield direct pecuniary benefits to AA. Consider AA’s response to an oversold flight, such as Ms. Edelman’s 4pm flight. By declaring some passengers to be late check-ins, AA can remove them

from the flight without paying IDB or VDB compensation—yielding significant operational flexibility and direct cost-savings. A second benefit to AA comes from the prospect of additional opportunities to collect change fees and/or fare differences. AA's tariffs require passengers to pay change fees and/or fare difference when they miss flights due to late check-in. On information and belief, AA has charged some passengers change fees and/or fare differences when passengers missed flights even when passengers complied with the check-in time posted on AA.COM as of the date of ticket purchase.

H. Anticipated Defenses and Alternative Implementation

51. AA is likely to argue that it revised its COC for proper reasons, perhaps in response to increased TSA wait times at some security checks. But the plain language of 253.9 offers no exception even for exigent circumstances. Moreover, many passengers—such as experienced passengers, passengers at small airports, passengers with TSA Pre, and passengers who happened to find short TSA lines—could check in less than 45 minutes before departure and nonetheless reach their gates on time (as Ms. Edelman did).

52. If AA's operations truly require a longer check-in time than that provided in the COC at the time of purchase, AA should have provided explicit notification to each affected passenger as well as an opportunity for passengers to accept or reject (yielding a full refund to the original form of payment). Notably, AA already has such a mechanism in its schedule change system.

53. No matter the difficulties of TSA wait times or other unexpected circumstances, those problems cannot excuse AA changing check-in requirements without even updating its web site (as in section III.A), nor silently making a change to a web page passengers infrequently check without any efforts to put passengers specifically

on notice (section III.B), not to mention continuing to disseminate false or contradictory information through AA’s web site and official spokesperson (sections III.C-E).

IV. Experience of Other Passengers

54. Other passengers report similar denials of transport by AA based on supposed failure to comply with check-in timing requirements that were recently and silently changed.¹⁴ For example, Twitter user @SDYankee69 (who describes himself in his Twitter name as “John”) remarked on March 19, 2016: “@AmericanAir: it would have been nice to email or notify your customers of the new check-in cutoff times (as of 3/1) to 45min. #missedflight.”¹⁵ On Flyertalk, Bobert24 reported: “Add me to the list of people who missed a flight due to this. ... [S]ome kind (any kind) of notification of this change would have prevented it. ... AA, there are informed, properly prepared travelers who usually aimed for sometime around that 45 minute timeframe. Notification on this kind of thing really is required.”¹⁶

V. Violations

55. Ms. Edelman was involuntarily denied boarding in violation of 14 CFR 250. For one, she was not provided with the written explanation required by 14 CFR 250.9 or the compensation required by 14 CFR 250.5. Furthermore, AA entirely missed the window to provide such compensation: 14 CFR 250.8(a) requires that such compensation be provided on the day and at the place where boarding was denied. The improper selection of Ms. Edelman to be denied boarding constituted a violation of 14

¹⁴ Note that the passengers discussed in this paragraph were denied boarding after the increased check-in time requirement was posted to the COC on AA.COM, the problem discussed in section III.B, whereas Ms. Edelman was denied boarding during a period when the COC on AA.COM continued to state that 30 minutes was sufficient (the problem discussed in III.A).

¹⁵ <https://twitter.com/SDYankee69/status/711281304315125760>

¹⁶ <http://www.flyertalk.com/forum/26403260-post64.html>

CFR 250.3, requiring that carriers establish and follow boarding priority rules, whereas in this case AA denied boarding to Ms. Edelman contrary to those rules.

56. AA's denial of boarding of Ms. Edelman also violated AA's Conditions of Carriage. At section Oversales, the COC commits AA to follow certain procedures and provide certain compensation in case of denied boarding. AA breached this contract when it denied boarding to Ms. Edelman without following those procedures and without providing that compensation.

57. Furthermore, Ms. Edelman was denied boarding at a gate that lacked the disclosures required by 14 CFR 250.11(a).

58. Additional violations result from AA's failure to provide the applicable Conditions of Carriage upon Mr. Edelman's request, contrary to 14 CFR 221.100, "Public Notice of Tariff Information." That provision gives a carrier a choice of two methods of distributing information about tariffs, but American followed neither method. American did not comply with the first method because, among other reasons, its employees refused to provide assistance to Mr. Edelman when he sought information in tariffs (specifically, the applicable contemporaneous Conditions of Carriage). See Attachments 3d, 3e, and 3f. That failure constitutes a violation of 221.102 and thus establishes noncompliance with the first method. American also did not comply with the second method because American refused to provide to Mr. Edelman, acting on behalf of Ms. Edelman, a copy of the relevant portions of the applicable contract, specifically the applicable contemporaneous Conditions of Carriage, in violation of 221.107(a)(2) and (4). See again Attachments 3d, 3e, and 3f.

59. Pursuant to 14 CFR 259.5, American adopted a Customer Commitment and made it available on its website. In this Customer Commitment, American affirmed that with few exceptions, persons denied boarding involuntarily are entitled to compensation under federal law. American's failure to adhere to this commitment, as described herein, not only violates 14 CFR 250, but also 14 CFR 259.5.

60. American's continued provision of contradictory information is manifestly unfair and deceptive. There is no proper reason for American's web site to continue to provide information that is, at best, outdated—including COC's that are by all indications nearly a *decade* old. There is no proper reason for a senior American spokesperson to provide information specifically contrary to the COC and the International Tariff. These contradictory statements, to passengers' detriment, violate 49 USC §41712. It is equally unfair and deceptive for AA to fail to honor the most favorable statement it has made, including anywhere on the AA web site and through any official spokesperson, in the relevant time period.

61. American's spokesperson made public statements about its check-in time limit that are contrary to those in its International Tariff. These contradictions violate 49 USC § 41510(a)(3), which requires carriers to always adhere to the rules and regulations specified in their tariff.

62. By all indications, American regularly disallows international passengers from checking in, with carry-on baggage only, based on a supposed minimum check-in time of 60 minutes or 45 minutes, when in fact no such restriction appears in the International Tariff or any other relevant contract. American's failure to accept these passengers breaches its contract and violates any number of DOT regulations including

14 CFR 250, 14 CFR 259.5, 14 CFR 221.40, and more, and is an unfair and deceptive practice in violation of 49 USC §41712.

63. The combination of these AA practices epitomizes unfairness. Contrary to applicable DOT regulations including 253.9, AA purported to change its COC retroactively. But rather than admit that this was a change, and debate on the merits whether such change was permissible, AA instead made the change secretly (without so much as an announcement on its web site, not to mention email to passengers) and subsequently removed the old COC. To compound the secrecy, AA staff even denied that a change had occurred even when passengers so alleged (including in Attachment 3c-3e). Moreover, by all indications AA in fact bungled the job of changing the posted COC – beginning to impose the new COC requirements before the new COC was even posted to AA.COM, the precise period in which Ms. Edelman traveled, such that even if AA had the right to change its COC retroactively (notwithstanding 253.9), passengers still would not be on notice of the new requirements. AA then compounded this confusion by retaining old versions of the contract in places where customers would find them and would reasonably rely on them. In addition to imposing fees and penalties on customers tricked by this morass, AA staff simultaneously denied making changes in response to inquiries from the few customers who managed to figure it out, and in parallel AA declined passenger requests for the historical contracts necessary to support their claims. While most or all of these practices are violations individually, in combination they are the pinnacle of unfair and deceptive conduct in violation of 49 USC §41712.

64. These violations are more than mere technicalities. To wit, Ms. Edelman was prejudiced by American's failure to alert her to the denial of boarding or the

supposed basis for that denial. Had American told her that she was denied boarding because she had not checked in on time, she would have called Mr. Edelman immediately, and he would have checked the COC to confirm that in fact she did check in on time. But at the airport, American failed to make any such statement to Ms. Edelman, delaying her efforts to determine her rights and preventing her from effectively arguing her position.

65. These violations are egregious because AA staff misapplied the then-applicable COC as posted to AA.COM; because AA completely failed to provide the required compensation or indeed any compensation; because AA failed to provide the required disclosures; because the required gate disclosure placard was missing; because AA continued to provide false information in response to customer correspondence; because AA failed to correct its position after Mr. Edelman explicitly pointed out key errors; because AA purported to change its COC retroactively, despite the specific prohibition in 253.9; because the American Shuttle web page continued to specify less restrictive requirements until Mr. Edelman flagged the error in a filing in this docket; because American's Senior Manager of Corporate Communications provided a statement contradicting the applicable COC; and because American allowed outdated information to remain on its web site for an exceptional duration. These violations are particularly serious because the ink is not yet dry on the Department's most recent enforcement action against American for improper handling of oversales. See Order 2015-9-10, issued less

than one year ago, a matter in which the Department also found American’s conduct to be “egregious.”¹⁷

66. American’s actions also provided false information to the Department and to the interested public. 14 CFR 250.10 requires carriers to file quarterly reports with the Department’s Bureau of Transportation Statistics (BTS Form 251) listing, among other things, the number of passengers denied boarding involuntarily and the number of passengers who volunteered to give up their seats. These numbers are then published and made available to the public in the Department’s monthly Air Travel Consumer Report (ATCR), which ranks carriers according to their rate of involuntarily denied boardings. ATCR data may be used by members of the traveling public when choosing among transportation options and by carriers as a basis for composing advertising materials regarding the quality of their service compared to other carriers. It is imperative, therefore, that the ATCR data be accurate. On information and belief, when American misclassified Ms. Edelman as a purported late check-in rather than a denied boarding, it did not report her as either an IDB or VDB and she thus was not included in American’s submissions to the Department. Moreover, given the likelihood that numerous other passengers are similarly situated, the total extent of AA’s inaccurate information could be substantial and thus particularly likely to affect passenger decisions. This inaccurate information, in violation of section 250.10, also constitutes a violation of 49 U.S.C. § 41708, which authorizes the Department to require airlines to file reports in the form prescribed by the Department.

¹⁷ It would be unusual for the DOT to bring two enforcement actions in two years as to a single carrier. Compare Docket OST 2013-0004, as to Delta Airlines, finding “serious concern” based on two separate dockets as to oversale violations during a *five*-year period.

VI. Requested Resolution

67. 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 to provide Ms. Edelman with the applicable historic Conditions of Carriage as they stood as of the date of travel and each revision throughout the period covered in this complaint; and order American to post such historic documents to its public web site, or otherwise make them available to the public, so that passengers can review the contract terms that actually apply based on their respective dates of ticket purchase;
- (3) Order American to provide Ms. Edelman with a corrected statement of its position as to her denial of transport, including an admission that she was incorrectly denied transport (and then to provide any IDB compensation required by law and/or contract); or, if American continues to contend that Ms. Edelman was correctly denied transport, all documents and records supporting that contention;
- (4) Find that it is an unfair and deceptive practice, in violation of 49 USC §41712 and specifically contrary to 14 CFR 253.9, for an airline to change check-in time requirements to a passenger's detriment after a passenger has booked a ticket;
- (5) Order American to honor its Conditions of Carriage check-in time requirements for all passengers, based on the requirements present on AA.COM, and incorporated into the contract by reference, at the time of the passengers' respective ticket purchases;

- (6) Order American to honor the check-in time requirements specified on the American Shuttle web page for all passengers traveling on the American Shuttle;
- (7) Order American to honor the Most Favorable Check-In Time Requirement specified in writing anywhere on the AA.COM site or any other official American site or provided to the public by an American spokesperson with apparent authority, or to impose no check-in time requirement if no such requirement was actually implemented in the relevant contracts applicable to a passenger's itinerary;
- (8) For this and any future changes to check-in time requirements, to the extent that such changes are permitted under 253.9, require that American prominently alert affected passengers to such changes via personal contact (such as email, text message, and/or phone call) and via a statement on the home page of AA.COM;
- (9) Order American to search its airport system records (including searching records of the time of attempted check-ins) to identify other passengers who were denied boarding or converted to standby when in fact they had satisfied the Most Favorable Check-In Time Requirements; require that AA report to the Department the details and quantities of such occurrences; require that AA amend any inaccurate filings previously provided to the Department; and require that American pay IDB compensation to each such passenger;
- (10) Order that American refund passengers who were charged a fare difference or change fee, who were downgraded to a lower class of service, or who were denied the premium seating, priority boarding, or other benefits they had paid for, based

on failure to satisfy purported changed check-in times when in fact they had satisfied the Most Favorable Check-In Time Requirement;

- (11) Order American to search its customer correspondence for other passengers similarly situated; require that American provide all such correspondence to the Department; and require that American reply to each such passenger to provide accurate information about the check-in requirement actually in effect as of the passenger's ticket purchase and to correct any inaccurate or misleading information in American's prior messages to such passengers;
- (12) Investigate whether American has reported inaccurate IDB data to DOT, including omitting passengers from IDB and VDB reports due to their supposed failure to comply with check-in time requirements, when in fact they satisfied the Most Favorable Check-In Time Requirement;
- (13) Require American to report to the Department the full circumstances surrounding the absence of required disclosures from Boston Logan gate B19, including the date and time when the disclosure was removed, the reason for removal, the date and time of restoration, the number of passengers who were voluntarily and involuntarily denied boarding from that gate during that period, and the number of passengers who were denied boarding from that gate during that period but not classified as such due to the practices detailed in this complaint;
- (14) Require American to report to the Department the circumstances that led outdated COC's to remain on official American web sites; and require American to implement new procedures to avoid such errors in the future;

- (15) Order American to provide additional compensation to each passenger who was denied boarding, voluntarily or involuntarily, at gate B19 during this period;
- (16) Impose appropriate civil penalties in light of the above;
- (17) 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

Attorney at Law

Attorney for Complainant

Attachment 1

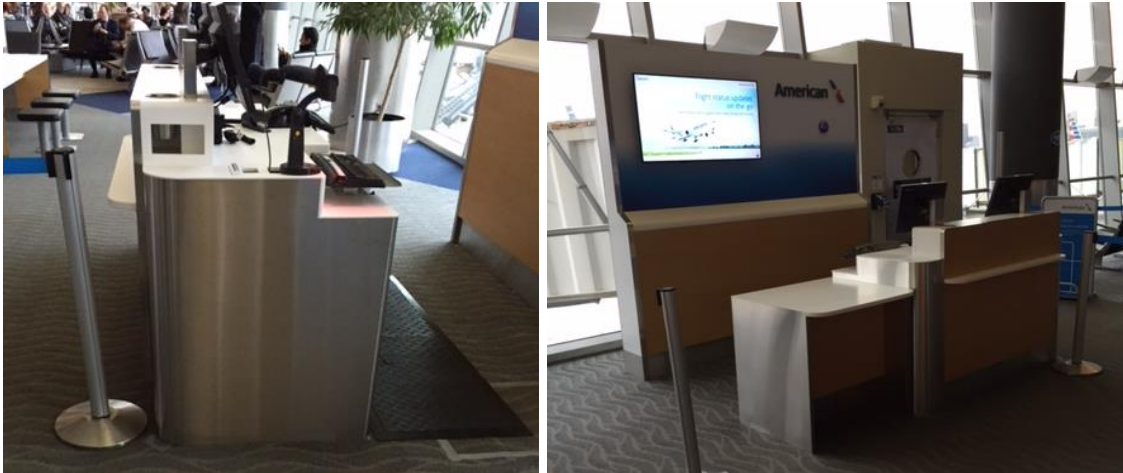


Attachment 2

(1) Mr. Edelman's photos of Boston Logan gate B19 on February 19, 2016
(showing no placard on either side of the B19 podium)

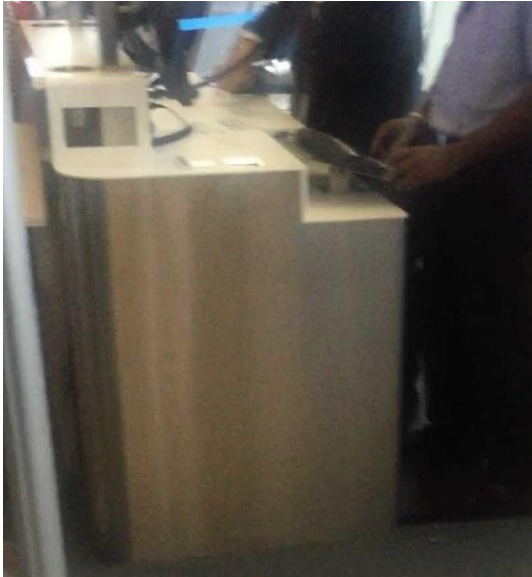


(2) Mr. Edelman's photos of Boston Logan gate B19 on February 23, 2016
(showing no placard on either side of the B19 podium)



Attachment 2 (continued)

(3) Shawn Cole photographed Boston Logan gate B19 on March 31
(showing no placard in the expected position on the B19 podium; photo taken from a
video confirming the location shown)



(4) Comparison photos of Boston Logan gate B17 on February 19, 2016
(showing the standard placard on the side of the podium facing the boarding lane)
(and similarly on all other gates in this area)



Attachment 3a

Submitted via AA.COM on February 17, 2016

[PNR and ticket number omitted] was ticketed and confirmed award travel with miles from my account, for travel by my sister Miriam on the 4pm flight BOS-DCA on 16 Feb. For reasons I do not yet fully understand, Miriam was not permitted to board the 4pm flight; she was apparently put on standby, involuntarily and against her wishes, and she did not clear. Apparently she was then put on the standby list for the 5pm flight and did not clear that either. She eventually managed to get onto the 6pm flight only when I instructed her to tell the gate agent "involuntary denied boarding" at which point she was accommodated in the front cabin.

Please check your records and tell me why your records indicate that she did not travel on the flight on which she was ticketed and confirmed. If she was involuntarily denied boarding, please confirm that she was provided with the information and benefits required by regulation, and tell me by whom and in what form. Please also indicate what factors led her to be the person selected for involuntary denied boarding. If you believe that she was denied boarding in some other way or for some other reason, please send details of what occurred according to your records.

My tentative conclusion, based on interviewing Miriam and reviewing her notes, is that she was IDB'ed. I do not believe she received the information or benefits required by 14 CFR 250.2b(b). I do not know whether gate staff followed the priority required by 14 CFR 250.3(a). She did not receive compensation on the day and place where the denied boarding occurred, contrary to 250.8(a). She did not receive a written explanation of denied boarding compensation or priorities, contrary to 250.9(a)-(b). I do not know whether the disclosures required by 250.11 were provided. I appreciate your attention to these requirements and to figuring out what went wrong here and what needs to be done now.

Attachment 3b

February 29, 2016

Dear Mr. Edelman:

Thank you for the information you sent. We're glad you took the time to contact us, allowing us to respond to your concerns and clarify some of our policies.

We are working hard on the consistent on-time departures of our flights because we know the importance our customers place on this particular element of our service.

Accordingly, to ensure that our flights depart on time, we have established minimum passenger and baggage check-in requirements.

For travel within the U.S., recommended passenger check-in time is 90 minutes prior to departure if you have bags to check, 60 minutes if you have no luggage to process. For most airports, you must check your baggage 30 minutes prior to scheduled departure time (depending on the airport, baggage check-in cut-off time may be 45 minutes). In addition, you must be checked in and be present at the departure gate at least 15 minutes before scheduled departure time to retain your reservation and seat.

For international flights, we recommend you arrive at the airport at least 2 hours prior to scheduled departure to allow sufficient time to complete all necessary international requirements. You must check-in at least 60 minutes before scheduled departure time and be present at the departure gate 30 minutes prior to scheduled departure to retain your reservation and seat.

Our records show that Miss Edelman was not checked in on time for her departure and therefore was put on standby for subsequent flights. Our records show she arrived at the ticket counter at 3:19pm for a 4:00pm flight. Cutoff time was 3:15pm, therefore, she is not due involuntary denied boarding compensation. Also to be eligible for denied boarding compensation she must be at the gate at the time of departure and she was not.

There are some exceptions to these check-in times; for check-in information specific to your airport of departure, please visit AA.com or click on the following link: www.aa.com/arrivaltimes.

Mr. Edelman, thanks for this opportunity to expound upon some of our policies and procedures with the hope that your sister's future travel will proceed more smoothly. We look forward to welcoming your sister aboard again soon, and thank you for choosing American.

Sincerely,
Heather Land
Customer Relations
American Airlines

AA Ref#1-5543630005

Attachment 3c

From: Ben Edelman

Sent: Thursday, March 03, 2016 11:00 AM

To: 'AACustomerRelations@aa.com' <AACustomerRelations@aa.com>

Subject: RE: Your Response From American Airlines

Ms. Land,

Thanks for getting back to me.

Ms. Edelman was traveling with carry-on baggage only. Reviewing AA's Conditions of Carriage, <http://www.aa.com/i18n/customerService/customerCommitment/conditionsOfCarriage.jsp?anchorLocation=DirectURL&title=conditionsofcarriage>, I believe the only relevant requirements are that a passenger must check in 30 minutes before departure and must be present at the gate 15 minutes prior departure. In contrast, you specify a 45 minute check-in requirement which I do not see in the COC. The COC does specify a 45 minute bag check cutoff for Boston, but that's irrelevant as Ms. Edelman was traveling with carry-on baggage only. Is a 45 minute check-in requirement specified in some other contract of which we may be unaware? If so, please point me to it.

Despite difficulty at the check-in kiosk and a queue to speak with a check-in agent, you indicate that Ms. Edelman did attempt to check in (and receive a priority verification card) at 3:19. That is broadly consistent with her contemporaneous notes. Her notes then indicate entering the security queue at 3:23 and reaching the gate at 3:30, times that make sense given the size and layout of the terminal and prevailing security lines at that checkpoint at that time of day. She reports that she attempted to board during ordinary boarding but was turned away for lack of a seat assignment. She says she then spoke with a gate agent, was advised to sit at the gate to wait for a seat assignment, and did so, all as boarding continued and completed. This is contrary to your contention that she was not present at the departure gate at the required time, 15 minutes before boarding. What records indicate that she was not at the gate at the required time? Is that in fact indicated in her PNR?

My contention remains that Ms. Edelman complied with the requirements for check-in and arrival at the gate. I look forward to any further evidence supporting your arguments to the contrary.

Thanks,

Ben Edelman

[quotation of prior messages omitted]

Attachment 3d

From: Ben Edelman

Sent: Saturday, March 19, 2016 9:42 PM

To: 'AACustomerRelations@aa.com' <AACustomerRelations@aa.com>

Subject: RE: Your Response From American Airlines

Ms. Land,

I have not received a response from you, or anyone else from AA, as to my message below. If you have anything further to say, I would enjoy learning your views. Note my contention that the applicable check-in requirement, as of the date of travel, was 30 minutes which you indicated the passenger complied with. Note also my request for any records indicating that the passenger was not at the gate at the required time, which the passenger disputes.

I see that

<http://www.aa.com/i18n/customerService/customerCommitment/conditionsOfCarriage.jsp?anchorLocation=DirectURL&title=conditionsofcarriage> has changed since my message on March 3, now specifying a 45 minute check-in requirement. Please send me a copy of the Conditions of Carriage as they stood on March 3, and as they stood as of the passenger's travel on February 16.

Thanks,

Ben Edelman

[quotation of prior messages omitted]

Attachment 3e

March 22, 2016

Dear Mr. Edelman:

Thank you for contacting Customer Relations.

I've received your most recent correspondence and am happy to respond to your further questions regarding your sister's situation. I'm glad you provided us with additional comments -- it gives us another chance to review the situation. Please be assured, all your concerns about this situation have been taken very seriously. Please accept my apologize for the delayed response as I have been out of the office ill.

In going over the records regarding your sister's flight and in response to your inquiry, I verified that the Boston airport does have a cutoff time of 45 minutes prior to departure for checkin. This does not just apply to passengers with bags. If a passenger needs a boarding pass to get through security they will also need to be checked in at the ticket counter prior to the 45 minute cut off to receive their boarding pass. It appears that because she was late at the ticket counter she was taken off of the flight and then when she arrived at the gate and did not have a seat assignment she was rebooked for a later flight on standby. Therefore, she is not due denied boarding compensation.

I hope that this has answered your questions regarding the checkin policy and the situation regarding your sister's checkin. You may locate information regarding what you should expect when traveling with American Airlines and our related responsibilities on AA.com. Simply visit www.aa.com/conditionsofcarriage.

Mr. Edelman, at American Airlines we are truly dedicated to making certain that our customers have a pleasant experience when flying with us. Your constructive criticism will help us meet that objective.

Sincerely,

Heather Land
Customer Relations
American Airlines

AA Ref#1-5661194121

Attachment 3f

From: Ben Edelman

Sent: Monday, May 16, 2016 5:20 PM

To: 'AACustomerRelations@aa.com' <AACustomerRelations@aa.com>

Subject: RE: Your Response From American Airlines

Ms. Land,

Recall our March discussion below and my outstanding request, now two months pending, for a copy of the Conditions of Carriage as they stood on March 3 and February 16. I have received no reply from you. Are you able to provide that information?

It seems to me that a passenger should be able to receive the COC and other contract terms that apply to their travel. But so far as I know, this information is not currently available on aa.com due to the substitution of a new version.

Thanks,

Ben Edelman

[quotation of prior messages omitted]

Attachment 4

Shuttle flights - American ...

American Airlines, Inc. (US) | https://www.aa.com/18n/urls/shuttle.jsp

Home Login English Search aa.com

American Airlines Plan Travel Travel Information AAdvantage

Home > American Airlines Shuttle

American Airlines Shuttle

Experience the best shuttle between Boston, New York and D.C.

When being on time is the only option, our shuttle service is the right choice for your travel between Boston (BOS), New York LaGuardia (LGA) and Washington Reagan (DCA).

Enjoy:

- Dedicated check-in, departure gates and baggage carousels
- Quick deplaning from either the front or rear door
- 500 AAdvantage® miles for each segment flown
- Workstations at gate areas in Boston
- Free snack basket, beer, wine and spirits in First Class
- Free snacks, beer and wine in the Main Cabin
- Assigned seats with the opportunity to purchase Preferred Seats
- Weekday flights on modern Airbus A319 or Embraer 190 planes

[Book your flight »](#)

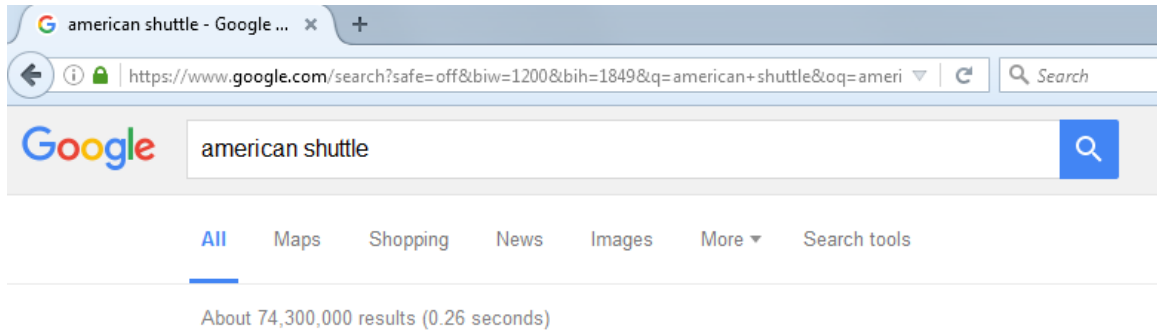
Convenient check-in

You can check in online or up to 20 minutes before departure without checked baggage and up to 30 minutes before departure when you check bags.

[Check in online »](#)

(Screenshot prepared June 18, 2016)

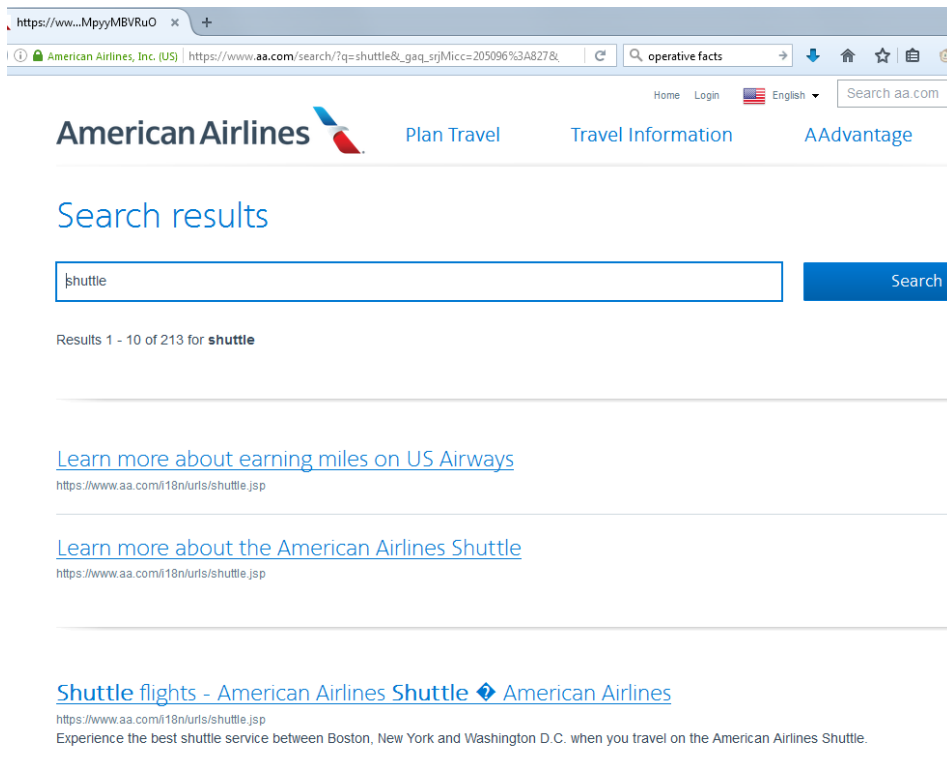
Attachment 5



Shuttle flights - American Airlines Shuttle – American Airlines
<https://www.aa.com/i18n/urls/shuttle.jsp> American Airlines
Experience the best shuttle between Boston, New York and D.C. When being on time is the only option, our shuttle service is the right choice for your travel between Boston (BOS), New York LaGuardia (LGA) and Washington Reagan (DCA). ... Weekday flights on modern Airbus A319 or Embraer ...

(Screenshot prepared June 18, 2016)

Attachment 6



(Screenshot prepared June 18, 2016)

Certificate of Service

I hereby certify that I have, this 28th day of June, 2016 caused a copy of the foregoing Complaint to be served by electronic mail on the following persons:

Howard Kass	howard.kass@aa.com
Robert Silverberg, Esq.	rsilverberg@sbgdc.com
Blane Workie	blane.workie@dot.gov
Robert Gorman	robert.gorman@dot.gov
Kimberly Graber	kimberly.graber@dot.gov
Sohum Karia	sohum.karia@dot.gov
Airline Info	info@airlineinfo.com

/s/

Benjamin Edelman