

Department of Transportation
Office of Aviation Enforcement and Proceedings

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American Airlines)	February 4, 2013
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Multiple Price Advertising Violations of)	
49 U.S.C. § 41712 and 14 CFR 399.84(a))	
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American Airlines staff and systems continue to mischaracterize carrier-imposed surcharges as “tax” and otherwise continue to violate DOT rules as to price advertising. Recall my complaint of January 14, 2012 in which I demonstrated AA making these mischaracterizations as early as March 2011 (and likely earlier). Recall also my complaint of June 17, 2012, in which I demonstrated AA mischaracterizing fuel surcharge as tax in telephone bookings of ordinary paid tickets, in telephone bookings of circle tickets, in telephone bookings of award tickets, in reaccommodation after cancellation, and in AA.COM fare quotes.

In this further complaint, I restate my outstanding complaints as to AA and provide evidence that these and other violations are ongoing.

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

Ongoing Misrepresentations by American Airlines Telephone Representatives: Ordinary Paid Bookings

On June 26, 2012, I booked a ticket by telephone with an American Airlines telephone representative. (Itinerary: CDG-BOS-JFK-SCL-JFK-BOS-LHR-CDG in business class.) After confirming the desired flights, discussion proceeded as follows:

Edelman: Could you review the fare and tax?

Agent: Certainly. OK, I'm showing that the fare in US dollars is 4828, and 708.20 taxes.

I have a digital recording of this call.¹ Contrary to the agent's statement, I believe the majority of the \$708.20 consists of carrier-imposed fees, not "taxes." (I reach that conclusion by cross-checking the itinerary with a near-identical itinerary quoted via the ITA Matrix site, which itemizes applicable taxes and carrier-imposed surcharges.) Note that this ticket includes only a single 216 mile segment on British

¹ Throughout, quotes are verbatim transcriptions from digital call recordings, except where otherwise indicated. AA's automatic answering system authorized me to record the calls: "this call may be recorded." All call recordings are posted to my public web site at <http://www.benedelman.org/airfare-advertising/americanairlines.html>.

Airways – countering any suggestion that AA’s mischaracterizing of carrier-imposed surcharges is limited to travel wholly or substantially on BA.

Nor is this the first instance in which AA representatives have overstated the amount of “tax” on a paid booking. In April 2011, I contacted an AA telephone representative to book paid business class travel BOS-LHR-CPH-LHR-DEL-MUM-BAH-LHR-CPH-LHR-BOS-ORD-SEA. The agent orally quoted “tax” of \$792.10. The e-ticket confirmation and receipt was in accord, listing “tax” of that amount. See Attachment 1. In fact, as best I can tell the majority of this amount is carrier-imposed surcharge, not any actual tax. (Attachment 9 indicates that there were \$502 of fuel surcharge at issue, albeit there mischaracterized by an AA representative as “fuel tax collection” as discussed in the subsequent section “AA Affirmatively Misrepresenting Its Practices In Response to Customer Inquiries.”)

No DOT rule has ever allowed an airline to mischaracterize carrier-imposed surcharge as “tax,” neither before purchase (e.g. in telephone fare quotes) or after the fact (in e-ticket confirmation and receipt). AA’s statements in this regard were at all times false and unlawful.

Ongoing Misrepresentations by American Airlines Telephone Representatives: Circle Tickets

On February 10, 2012, I purchased a first class Circle Pacific ticket from the AA Around The World Desk for my colleague D [REDACTED] M [REDACTED]. The agent quoted the fare and “tax.” Mindful of the prospect of carrier-imposed surcharges mischaracterized as tax, I specifically asked the agent “Are those genuine taxes, or fees?” The agent replied: “Taxes.” (These quotes are my recollections. I was unable to record this call, but I was thinking about taxes versus carrier-imposed surcharges and I therefore noted the agent’s statements with extra care.) Via a subsequent written inquiry to AA Customer Relations, I learned that the amount characterized as “tax” actually included \$364 of “fuel surcharge.”

To obtain further documentation of AA Around The World Desk staff mischaracterizing carrier-imposed surcharges as tax, on March 21, 2012 I requested a new ticket following the same itinerary Mr. M [REDACTED] booked. On March 22 I called back (as instructed) to receive a fare quote. (Circle fares require next-day fare quotes.) The March 22 agent told me: “The base fare is 15204 even, the taxes are 669.03.” Based on my correspondence with AA Customer Relations as to the pricing of Mr. M [REDACTED]’s ticket, I am confident that the quoted \$669.03 of “taxes” included a fuel surcharge of more than \$350. I have a recording of this call. I made a digital call recording of this agent’s misrepresentation.

Ongoing Misrepresentations by American Airlines Telephone Representatives: Award Bookings

My January 14, 2012 complaint to DOT flagged the problem of AA mischaracterizing as “tax” certain carrier-imposed surcharges AA collects for award travel on BA. My recollection is that AA telephone representatives consistently mischaracterized these fees as “tax” (including in my personal bookings of March 17, 2011 (“tax” of \$311.50 per passenger on a ticket for JFK-LHR-SIN with the second segment on BA) and May 30, 2011 (“tax” of \$383.50 on BRU-LHR-DXB). The contemporaneous AA receipts in each instance list these amounts as “tax” (not “tax and carrier-imposed surcharge” or the like). See Attachment 2. I recall AA representatives in each instance using the simple word “tax” in the course of quoting each of these fares.

I brought these historic award bookings to the attention of AA General Counsel Gary Kennedy and requested a refund for the amounts wrongfully charged to me. See Attachment 3. In his letter of January 11, 2012, Mr. Kennedy claimed that AA never made such misrepresentations prior to consumers' purchase; he argued that any misrepresentations occurred only after purchase (e.g. in passenger receipts) and therefore could not influence customers' decisions to book. See Attachment 4. Mr. Kennedy's claim was inconsistent with my personal experience. To rebut his claim, I made a series of recorded test calls including calls of January 14, 2012, March 21, 2012, and July 13, 2012. In each call, AA telephone representatives falsely quoted "tax" that was actually a carrier-imposed surcharge. Below, I quote verbatim from these calls (with emphasis added to mark agents' false statements):

January 14, 2012:

AA recording: Welcome to the Advantage Executive Platinum Desk! This call may be recorded.

Agent: American Airlines, Executive Desk.

Edelman: Yes, wanted to make a reservation for new award travel.

Agent: Alright, where would you like to go?

Edelman: From Boston to London, Heathrow.

Agent: On what date?

...

Edelman: March 13th

Agent: March 13th, okay.

Edelman: I'd like to do it on First class, so it'll be on BA please.

Agent: All right. ... It's for how many? Two?

Edelman: Just for me.

Agent: And what's your return date?

Edelman: March 13th for the outbound.

Agent: Right.

Edelman: And March 20th for the return.

Agent: All right, round trip in first class. It's going to be a total of 125 thousand miles and it's giving me **taxes of \$938.80**.

March 21, 2012:

AA recording: Welcome to the Advantage Executive Platinum Desk! This call may be recorded.

Agent: American Airlines.

Edelman: Yes, for a new award travel.

Agent: Yes, I can help you Mr. Edelman.

Edelman: From Boston to London.

Edelman: Date of travel, May 22nd.

Agent: 22nd May, how many passengers?

Edelman: Just one, myself.

Agent: What cabin?

Edelman: First class please.

...

Agent: Okay, from Boston to London, I have the economy and business, unless you are looking at the BA flights. They have First class on them.

Edelman: BA would be great, thank you!

Agent: Is this for oneway or roundtrip?

Edelman: One way.

Agent: Okay, so we are looking at 62,500 miles one way, taxes \$347.70. And is this going to be for yourself?

Edelman: Yes for me.

Agent: All right.

July 13, 2012:

AA recording: This call may be recorded.

Agent: American Airlines, Executive Platinum Desk ...

Edelman: Yes, for new award travel, from Boston to London.

Agent: Travel on what day?

Edelman: On August 9th, in First please.

Agent: So you've (inaudible) First? Hold on. How many passengers traveling?

Edelman: Just one.

Agent: And return?

Edelman: Just the one way would be great.

...

Agent: You're looking at \$347.70 in taxes, which credit card did you want to use?

To confirm that these misrepresentations are ongoing, I performed a further test call on January 19, 2013:

AA recording: Welcome to the Advantage Executive Platinum Desk! This call may be recorded.

Agent: American Airlines, Executive Platinum

Edelman: Yes, for a new award travel for myself.

Agent: Umm-hmm.

Edelman: From Boston to London, in First class please.

Agent: Okay, for which day please?

Edelman: September 1st.

Agent: September 1st, First class award ticket. One moment.

Edelman: I think BA has the non-stop there, so that would be great.

Agent: Okay, no problem sir.

Agent: When are you planning to come back from London to Boston?

Edelman: September 5th please.

Agent: And also, with the BA flight also?

Edelman: Yes, please.

Agent: And I do have a mile saver. It is sixty two and a half [thousand] each way, so total miles would be 125,000, and you do have, you know, paying some **tax on this, it is \$1156.20.**

As best I can tell, in each test call, agents falsely quoted “tax” that was actually a carrier-imposed surcharge. For example, in the January 19, 2013 test call, AA seeks to collect a fuel surcharge of \$414 in each direction (for BOS-LHR travel in business class or first class). Thus, \$828 of the \$1156.20 is not genuine “tax” but carrier-imposed surcharge – fully 71.6% of the specified “tax.” The prior test calls were similar in agents’ falsely quoting “tax” that was actually a carrier-imposed surcharge.²

Ongoing Misrepresentations by American Airlines Telephone Representatives: Reaccommodation After Cancellation

My June 17, 2012 complaint reported numerous consumers reporting AA telephone representatives mischaracterizing carrier-imposed surcharges as “tax” in the course of providing reaccommodation after flight cancellation. I subsequently interviewed some of these consumers by email and telephone. They systematically report AA staff using the word “tax” to describe the additional amounts payable.

Since my June complaint, there have been additional cancellations and downgrades in the AA network, giving rise to further cancellations and recommendation on BA. For example, during fall 2012, AA cancelled all of its flights to Belgium. Multiple consumers report that AA telephone representatives have sought to collect additional “tax” when reaccommodating affected passengers on BA. For example, in a public message posted in September 2012, one consumer reported that AA representatives “want[ed] to charge me the BA taxes even though they [AA] cancelled the flights.” This consumer’s message specifically indicates that AA representatives used the exact word “tax” in describing the additional amount payable.

Similarly, during fall 2012, AA permanently downgraded an ORD-LHR flight from 777 to 763, removing the First Class cabin of service. For a First Class passenger seeking reaccommodation on a BA flight ORD-LHR in the same class of service that AA originally ticketed and confirmed, AA representatives (both an initial agent and a supervisor) told the passenger that additional “tax” was payable for travel on BA. I interviewed this passenger and specifically confirmed that AA representatives used the exact word “tax” in describing the additional amount payable.

Recall also the multiple similar reports, from multiple independent consumers, that I conveyed in my complaint of July 17, 2012, including passengers affected by cancellation of service ORD-DEL, JFK-BUD, and MAD-JNB, in each instance reaccommodated on British Airways but in each instance required by AA to pay a substantial “tax” for that alternative routing. I interviewed various affected consumers and found experiences similar to that described above.

² Recordings of all of these calls are posted to my public web site at <http://www.benedelman.org/airfare-advertising/americanairlines.html> .

I do not know whether AA would be within its rights to require that a customer pays a carrier-imposed surcharge when a customer is rebooked on British Airways as a result of a flight cancellation or removal of the class of service for which the customer holds a ticket and confirmed reservation. But I am confident that AA may not mischaracterize BA-imposed surcharges as “tax” in the course of a reaccommodation.

Ongoing Misrepresentation by Around-The-World Booking of Carrier-Imposed Surcharges as “Tax” – for Tickets Issued by AA

AA advertises around-the-world air travel via the tool at <http://rtw.oneworld.com/>. This tool systematically mischaracterizes carrier-imposed surcharges as “tax.” These amounts can be substantial – regularly more than \$1000 on a single ticket, and I believe in some instances more than \$2000.

If a passenger chooses an itinerary with the first segment on AA, AA charges the customer’s credit card and issues the entire ticket. According to a statement within the booking tool, AA also serves as the ticketing airline if the first segment is on JL, JO, RJ, or S7. (See <http://www.oneworld.com/flights/plan-book-online/?faqOnly=1> at heading “FAQ” – “Who is my ticketing airline?”)

I have quoted a variety of around-the-world tickets using this tool. For example, on January 21, 2013, I quoted a coach ticket JFK-LHR-DXB-LHR-ARN-LHR-SIN-HKG-NRT-HKG-YVR with the first segment on AA. Taxes were quoted at \$1222.16 USD. See Attachment 5. I clicked the “Proceed” button and received the lengthy itinerary and fare quote shown in Attachment 6, reiterating the \$1,222.16 quote of “Taxes.” There, the word “Taxes” appeared as a hyperlink. I clicked this link, receiving the itemization in Attachment 7. The top three lines of that itemization report “Tax description unavailable (YRVB)” of \$200, “Airline Fuel Surcharge” of \$559, and “Multiple Surcharges” of \$213,

As best I can tell there are no actual government taxes totaling the \$1222.16 “tax” charged on this itinerary. Rather, I believe the majority of the \$1,222.16 “tax” – specifically, the \$200, \$559, and \$213 characterized as “tax description unavailable” and “surcharge” – are actually carrier-imposed surcharges. Thus, 79.5% of the \$1,222.16 “tax” is not actually tax but rather carrier-imposed surcharge.

Crucially, the initial disclosures (as shown in Attachments 5 and 6) mischaracterize the amounts at issue as “taxes”, not “taxes and surcharges” or the like. Moreover, every user using this booking tool must see the screens in Attachments 5 and 6; in contrast, the information in Attachment 7 is shown only if users specifically click the “Taxes” hyperlink to view details. Thus, even though Attachment 7 describes the surcharges within a page entitled “taxes and surcharges information”, most users are unlikely to see this screen. Moreover, the “and surcharges” label appears only in HTML title, not in page text – insufficiently prominent to cure the false statements made previously. Indeed, at the same time that the “taxes and surcharges” label appears at the top of the page (indicating that some of the listed charges are “surcharges” rather than taxes), the wording “TaxBreakdownPopUp” appears immediately below (in the popup’s URL bar), again falsely indicating that everything in the listing is a “tax.” Even more galling, the top line item “tax description unavailable” indicates that the \$200 there at issue is a “tax” when in fact it is a carrier-imposed surcharge – compounding and furthering the misrepresentation. Finally, even on the most favorable view, the statements in Attachment 7 still fall short of applicable DOT rules: Note the absence of the crucial words “carrier-imposed” as well as the

failure to include statements substantiating the surcharge amounts (“On average our passengers paid...” or similar). These omissions are in sharp contrast to the requirements of Additional Guidance on Airfare/Air Tour Price Advertisements (<http://airconsumer.dot.gov/rules/Notice.Taxes.fees.sam.dl.13.website.pdf>).

Fuel Surcharges of Impermissible Amounts and Not Supported with Required Calculations

Historically, to the extent that AA has accurately characterized carrier-imposed surcharges associated with travel on British Airways, AA has called these amounts “fuel surcharges.” See e.g. the web page quoted within Gary Kennedy’s January 11, 2012 letter to me (Attachment 4): “How much is the British Airways fuel surcharge?”, “Is the British Airways fuel surcharge refundable if I cancel my plans?”, “The U.S. government has determined that collection of a fuel surcharge makes award tickets subject to certain taxes” (emphasis added). But the surcharge at issue was not a reasonable estimate of the per-passenger fuel costs incurred by the carrier above some baseline. See the evidence in my companion complaint, “complaint as to price advertising violations by British Airways.”

The DOT has instructed that airlines must substantiate fuel surcharges with statements supporting the surcharge amounts. Specifically, the DOT instructs: “For example, descriptions such as the following would be acceptable: ‘Fare includes a fuel surcharge. On average our passengers paid \$xx.xx more for fuel during 2011 in their ticket price than they did in 2000;’ or ‘Fares include a charge for fuel. On average in 2011 our passengers paid \$xx.xx for fuel as a part of their ticket price.’” See Additional Guidance on Airfare/Air Tour Price Advertisements (available at <http://airconsumer.dot.gov/rules/Notice.Taxes.fees.sam.dl.13.website.pdf>).

At present, it seems AA sometimes characterizes the surcharge at issue as “carrier-imposed fees” without a comment as to the reason for such fees (i.e. no reference to “fuel”). However, at any time when AA used the label “fuel surcharge” to describe these fees, I believe even that term was impermissible in that the fees at issue were not reasonable estimates of per-passenger fuel costs above a baseline. I believe that term was further impermissible in that AA has never provided the required calculation as to the basis of the calculation. Furthermore, as I present in the section “Ongoing Misrepresentation by Around-The-World Booking of Carrier-Imposed Surcharges as “Tax” – for Tickets Issued by AA”, in some instances (including around-the-world bookings), AA continues to use the label “airline fuel surcharge” to characterize a portion of the carrier-imposed surcharges at issue.

AA Affirmatively Misrepresents Its Practices In Response to Customer Inquiries

I am particularly alarmed to see AA staff affirmatively misrepresenting the carrier’s practices vis-à-vis carrier-imposed surcharges in response to customer inquiries. These misrepresentations have the inevitable and intended effect of deterring consumers from uncovering and pursuing valid claims against AA.

I began my investigation of AA surcharge collection by contacting AA Customer Relations. In an electronic inquiry through AA.COM, I noted unexpectedly large tax on several recent tickets. (See Attachment 8.) An AA customer service representative replied with an itemization of “fuel tax collection by British Airways” on the specified itineraries. See Attachment 9. Of course there was never any “fuel tax” in that amount; instead, the AA representative gave this false designation to a carrier-imposed

surcharge. The natural effect of this misrepresentation, and I believe the intended effect, was to deter a customer from further investigating a violation by AA.

My colleague S [REDACTED] C [REDACTED] recently redeemed AA miles for award travel in part on British Airways. Aware of the issue flagged in this complaint based on his personal discussions with me, Mr. C [REDACTED] objected when the AA telephone agent characterized a large charge as “tax.” Specifically, Mr. C [REDACTED] recalls making roughly the following statement to the agent: “You should clarify to customers that only a portion of those charges are a tax, while most of them are discretionary charges that BA/AA elects to collect from its members. I imagine you have weekly meetings during which you speak with your supervisors about customer feedback, you might warn them that this may be putting AA at risk of a lawsuit.” Mr. C [REDACTED] is confident that he was polite and nonconfrontational in this remark. Mr. C [REDACTED] reports that the agent replied roughly “I can’t talk to you with this attitude” and disconnected his call without assisting him further.

Even routine discussions with AA telephone representatives include misrepresentations of carrier surcharge as “tax” in response to customer inquiries. For example, in section “Ongoing Misrepresentations by American Airlines Telephone Representatives: Circle Tickets” above, I noted a large “tax” quote on a circle ticket; I asked the agent “Are those genuine taxes, or fees?” and the agent replied: “Taxes.” Of the consumers I interviewed who had suffered cancellations and reaccommodation on BA, at least one had spoken with a supervisor, and affected consumers tell me that AA representatives and supervisors universally used the word “tax” in characterizing the fees at issue.

AA Telephone Representatives Fail to Disclose All Applicable Fees in the First Fare Quote

AA telephone representatives are failing to comply with the DOT’s requirement that “the first price quote presented must be the full price, including all taxes, fees and all carrier surcharges” (emphasis added). See “Additional Guidance on Airfare/Air Tour Price Advertisements” (<http://airconsumer.ost.dot.gov/rules/Notice.Taxes.fees.sam.dl.13.website.pdf>), restating and clarifying 14 CFR 399.84 which was amended, effective January 26, 2012, to allow only those airfare quotes where “the price stated is the entire price to be paid” (emphasis added) and disallowing any quotes where additional compulsory charges are omitted.

On or about May 15, 2012, I called AA telephone reservations (Executive Platinum desk) to make an award reservation for award travel for relatives. At the conclusion of that call, an agent advised me of the required miles and applicable taxes (\$5 per person). The agent mentioned no ticketing fee or other required fees. When I later called back to ticket the reservation, the agent noted a compulsory telephone ticketing fee of \$25 per passenger. Unfortunately I do not have recordings of these calls.

In subsequent correspondence with AA, I flagged the DOT rules noted above, noted that the telephone ticketing fee was invalid because it was not disclosed in the first price quote, and asked that the ticketing fee be refunded. See Attachment 10. In a written reply, AA declined to refund the fee and attempted to recast the dispute as whether or not I was “made aware of the ticketing charge prior to the issuance of the ticket.” See Attachment 11. It is true that the second AA representative mentioned the fee, so the fee was made known prior to my purchase of the ticket (as AA argues), but that is

irrelevant under DOT rules: Under the authority cited in the preceding paragraph, AA must disclose applicable required fees in the *first* fare quote.

AA has never denied that the first telephone agent said nothing of any telephone booking fee. Under the new regulation, any fees not included in the first fare quote are impermissible and unlawful – a point which I capably conveyed to AA, including with a full document title, relevant verbatim quote, publicly-available URL, and concise summary. Nonetheless, to date AA has refused to refund this fee.

(Irrelevant for present purposes, but apparent in Attachments 10 and 11: This dispute arises out of a redemption of miles from my wife's AA frequent flier account. But I made the booking myself, with her authorization. I report the relevant facts of the booking, including AA's statements and omissions, based on my personal first-hand knowledge.)

AA Counsel Mischaracterize Applicable DOT Requirements

I initially alerted AA to these violations in a December 31, 2011 letter to Gary Kennedy (Attachment 3). My further correspondence with AA consists of Mr. Kennedy's reply of January 11, 2012 (Attachment 4), my reply of March 25, 2012 (Attachment 12), a reply from AA Associate General Counsel Carl Nelson of June 26, 2012 (Attachment 13), and my final reply of June 29, 2012 (Attachment 14).

Mr. Nelson's letter is particularly notable in that it affirmatively mischaracterizes applicable DOT policy. In response to my showing of AA staff mischaracterizing carrier-imposed surcharges as "tax," prior to purchase, Mr. Nelson cites DOT February 21, 2012 guidance and argues that this guidance became effective after my March 25 letter – attempting to use the DOT guidance (and its delayed effective date) as a barrier to liability to a consumer for AA's prior unlawful actions.

AA's reliance on the DOT's February 21 guidance is misplaced. Nothing in that guidance permitted AA to mischaracterize carrier-imposed surcharges as "tax" at any time -- neither before nor after the effective date of the February 21 guidance. Indeed, the DOT's February 21 notice explicitly confirms the impropriety of the practices that prompted me to write: "Such displays were deceptive and in violation of section 41712" (emphasis added) – indicating that the false statements were unlawful when made, not that the statements would become unlawful only as of some future date. Mr. Nelson also mischaracterizes the 60-day period referenced in the DOT's notice. The notice clearly indicates that the delay applies only to commencement of DOT enforcement action: "The office will provide ... 60 days [delay] ... before instituting enforcement action." In particular, the 60-day period in no way cures liability for prior unlawful conduct. A consumer with a valid claim, as to unlawful practices occurring before or after April 21, simply is not hindered from bringing that claim by reason of the DOT's decision not to institute enforcement action until that date. AA should not have argued anything the contrary.

Resolution

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 refund to ticket purchasers all monies represented to ticket purchasers as "taxes" or government-imposed fees, but not actually remitted to governments;

(3) Impose appropriate civil penalties on American Airlines;

(4) Refer this matter to appropriate US and foreign tax collection agencies for investigation of possible tax fraud or other violations of tax law in non-payment to governments of monies collected as "taxes" or government-imposed fees; and

(5) Issue any guidance or revised regulations needed to clarify to other airlines and ticket agents, and to preclude any future claim of ambiguity, that these practices are unfair and deceptive in violation of 49 USC 41712.

Aggravating Factors

In setting a penalty against American Airlines for this conduct, I urge the Department to consider the following aggravating factors, each of which calls for a larger penalty:

a) The sophistication and size of American Airlines.

b) The nature and extent of the violations, specifically that AA has mischaracterized fuel surcharge as "tax" for at least 22 months (starting in March 2011, per Attachment 1 to my December 31, 2011 complaint to Gary Kennedy, or perhaps earlier; continuing through the present).

c) The fact that AA continued to mischaracterize fuel surcharge as "tax" even 11 months after the DOT's February 21, 2012 notice specifically reminded carriers that they must never do so.

d) The scope of AA's misrepresentations spanning the full gamut of AA's customer-facing operations including telephone bookings of ordinary paid tickets, telephone bookings of circle tickets, telephone bookings of award tickets, reaccommodation after cancellation, AA.COM fare quotes, and online around-the-world fare quotes.

e) Intentional concealment, in that multiple AA representatives mischaracterized fuel surcharge as "tax" in multiple inquiries by individual consumers.

f) The fact that AA counsel falsely claimed that the misrepresentations at issue occurred only after a consumer made a purchase (Kennedy letter of January 11, 2012).

g) The fact that AA counsel mischaracterized the DOT's February 21, 2012 notice as in some way permitting carriers to mischaracterize fuel surcharge as "tax" until 60 days after that notice (Nelson letter of June 26, 2012).

h) AA's repeated refusal to refund amounts mischaracterized to me, despite my specific written request supported by compelling documentation and proof.

Submitted February 4 2013,

/s/

Benjamin Edelman

From: [REDACTED]
Sent: Wednesday, April 20, 2011 4:29 PM
To: [REDACTED]
Subject: E-Ticket Confirmation-[REDACTED]



Date of Issue: 20APR11

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.

Record Locator: [REDACTED] L

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 by using 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. For information regarding American Airlines checked baggage policies, please visit www.aa.com/baggageinfo. **For faster check-in at the airport, scan the barcode at any AA Self-Service machine.**

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



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[Buy trip insurance](#)

Budget
Save up to
30%.

AVIS
Save up to
35%.

PERSONAL
ONE-ON-ONE
AIRPORT
ASSISTANCE.

FIVE-STAR
SERVICE

TRAVEL
BIG.
NO
MATTER
WHAT
SIZE
YOUR
BUSINESS IS.

American Airlines
BUSINESS SUITE™
Travel product for select airlines and elite status members












American Airlines
Vacations.
AAVacations.com

DEALS & OFFERS
Around the World
BOOK NOW





Record Locator: [REDACTED]





Itinerary

Carrier	Flight Number	Departing		Arriving		Booking Code
		City	Date & Time	City	Time	
 American Airlines	■	BOSTON	■	LONDON HEATHROW	■	D
	Benjamin Edelman		Business		Seat 2E	Dinner/Continental
 British Airways	■	LONDON HEATHROW	■	COPENHAGEN	■	D
	Benjamin Edelman		Club Exc			
 British Airways	■	COPENHAGEN	■	LONDON HEATHROW	■	D
	Benjamin Edelman		Club Exc			
 British Airways	■	LONDON HEATHROW	■	DELHI	■	D
	Benjamin Edelman		Club Exc			
 Kingfisher	■	DELHI	■	MUMBAI	■	D
	Benjamin Edelman		Business			Breakfast
 Jet Airways	■	MUMBAI	■	BAHRAIN	■	I
	Benjamin Edelman		Business			Dinner
 British Airways	■	BAHRAIN	■	LONDON HEATHROW	■	D
	Benjamin Edelman		Club Exc			
 British Airways	■	LONDON HEATHROW	■	COPENHAGEN	■	D
	Benjamin Edelman		Club Exc			
 British Airways	■	COPENHAGEN	■	LONDON HEATHROW	3:00 PM	D
	Benjamin Edelman		Club Exc			
 American Airlines	■	LONDON HEATHROW	■	BOSTON	■	D
	Benjamin Edelman		Business		Seat 3B	Dinner/Snack
	■	BOSTON	■	CHICAGO OHARE	■	A

Attachment 1 (continued)

American Airlines	Benjamin Edelman			First Cl	Seat 4B	Breakfast
 American Airlines		CHICAGO OHARE		SEATTLE TACOMA		A
American Airlines	Benjamin Edelman			First Cl	Seat 4B	Breakfast

Receipt

PASSENGER	TICKET NUMBER	FARE-USD	TAX	TICKET TOTAL
BENJAMIN EDELMAN		6463.00	792.10	7255.10
Payment Type: 			Total: \$7255.10	

From: [REDACTED]
Sent: Monday, May 30, 2011 8:26 AM
To: [REDACTED]
Subject: E-Ticket Confirmation-[REDACTED]



Date of Issue: 30MAY11

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.

Record Locator: [REDACTED]

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 by using 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. For information regarding American Airlines checked baggage policies, please visit www.aa.com/baggageinfo. **For faster check-in at the airport, scan the barcode at any AA Self-Service machine.**

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



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30%.

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35%.



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ONE-ON-ONE
AIRPORT
ASSISTANCE.
FIVE-STAR
SERVICE

MULTIPLY
your miles
With
Mileage
Multiplier
LEARN MORE >

Record Locator: [REDACTED]

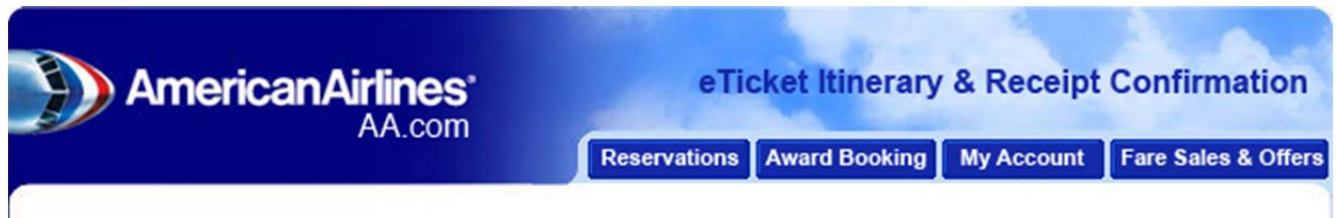
**Itinerary**

Carrier	Flight Number	Departing		Arriving		Booking Code
		City	Date & Time	City	Time	
 British Airways	[REDACTED]	BRUSSELS	[REDACTED]	LONDON HEATHROW	[REDACTED]	U
	Benjamin Edelman		FF#: [REDACTED] EXP	Club Exc		
 British Airways	1 [REDACTED]	LONDON HEATHROW	[REDACTED]	DUBAI	[REDACTED]	U
	Benjamin Edelman		FF#: [REDACTED] EXP	Club Exc		

Receipt

PASSENGER	TICKET NUMBER	FARE-USD	TAX	TICKET TOTAL
BENJAMIN EDELMAN	[REDACTED]	0	383.50	383.50
Payment Type: [REDACTED]				Total: \$383.50

From: [REDACTED]
Sent: Thursday, March 17, 2011 5:30 AM
To: [REDACTED]
Subject: E-Ticket Confirmation-[REDACTED]



Date of Issue: 17MAR11

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.

Record Locator: [REDACTED]

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 by using 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. For information regarding American Airlines checked baggage policies, please visit www.aa.com/baggageinfo. **For faster check-in at the airport, scan the barcode at any AA Self-Service machine.**

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



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[Buy trip insurance](#)



A vertical sidebar on the right side of the page containing several promotional banners. From top to bottom: a blue banner for Budget saying "Save up to 30%"; a red banner for Avis saying "Save up to 35%"; a white banner for "PERSONAL ONE-ON-ONE AIRPORT ASSISTANCE" with a red suitcase icon; a white banner for "FIVE STAR SERVICE" with a "LAPIN" logo; a blue banner for "AAdvantage Car and Hotel Awards" with a "GO" button; and a white banner for "Book Activities" showing a scuba diver and "5,500 Events & Tours".

Record Locator: [REDACTED]



Attachment 2 (continued)

Itinerary

Carrier	Flight Number	Departing		Arriving		Booking Code
		City	Date & Time	City	Time	
 American Airlines	■	NEW YORK JFK	■	LONDON HEATHROW	■	T
		Benjamin Edelman	FF#: ■ EXP	Economy	Seat 22H	Breakfast/Snack
		S ■ K ■	FF#: ■ PLT	Economy	Seat 22J	Breakfast/Snack
 British Airways	■	LONDON HEATHROW	■	SINGAPORE	■	Z
		Benjamin Edelman	FF#: ■ EXP	First CI		
		S ■ K ■	FF#: ■ PLT	First CI		

Receipt

PASSENGER	TICKET NUMBER	FARE-USD	TAX	TICKET TOTAL
BENJAMIN EDELMAN	■	0	311.50	311.50
S ■ K ■	■	0	311.50	311.50
Payment Type: ■				Total: \$623.00

December 31, 2011

Gary F. Kennedy
Senior Vice President and General Counsel, American Airlines
by email: [REDACTED]

RE: carrier-imposed fuel surcharges listed as "tax" on AA Electronic Ticket Receipts

Mr. Kennedy,

I recently noticed unexpectedly large amounts in the "tax" section of some of my AA Electronic Ticket Receipts. See Attachment 1 for three examples.

Curious at the basis of these large taxes, I inquired with American Airlines customer service via email. I was provided with an itemization of the amounts in the respective "tax" boxes. See Attachment 2. As that correspondence indicates, the agent told me I had been charged "fuel tax collection by British Airways" of \$309.60, \$251 (for each of two passengers), and \$502.

I am not familiar with any bona fide government tax called a "fuel tax collection." I believe the specified amounts are ordinarily known as "fuel surcharges" (not "fuel tax"). I understand that fuel surcharges are set by carriers and are not required by, nor remitted to, any government, regulator, or airline. Whatever the merits of fuel surcharges, I believe these charges are not "tax" and may not permissibly be described to customers as "tax," nor may they be listed in the "tax" section of a ticket receipt.

I have carefully reviewed disclosures, on AA.COM and in the electronic receipts, in search of any mention that AA intends the word "tax" to include carrier-imposed surcharges. (Of course I question whether any such disclosure would be valid, but I wanted to see whether such disclosure even exists.) I found none. I did find the popup shown in Attachment 3, but notice its distinction between "Fares" (which are said to include "Base fare and carrier-imposed surcharges") versus "Additional government-imposed taxes and fees." I believe the fuel surcharge here at issue is a perfect example of a carrier-imposed surcharge that should have been listed in the "fare" section, not in the "tax" section. Meanwhile, AA's International Tariff (section AA1-0040AA) is in accord, describing tax as "Any tax or other charge imposed by government authority and collectable from a passenger" – a definition not satisfied by a carrier-imposed fuel surcharge.

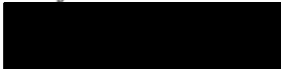
I believe it would be an unfair and deceptive practice, within the meaning of 49 USC §41712, to label as "tax" a fee that is not required by any law or regulation, and that is not remitted to any government, airport, or similar authority. I believe the proper course of action in such a circumstance is, at the least, to provide a refund to any affected consumer upon that consumer's written request. This letter constitutes my request. You may send a refund check to the address shown above. Alternatively, if you believe the charge is lawful, I look forward to the reasoning supporting that view.

Regards,

Benjamin Edelman
[REDACTED]

American Airlines

Gary F. Kennedy
Senior Vice President and
General Counsel

Via FedEx
Benjamin Edelman


January 11, 2012

Dear Mr. Edelman:

Thank you for your letter of December 29, 2011 concerning how American Airlines reflects British Airways fuel surcharges in AAdvantage flight awards and AA.com ticket purchases.

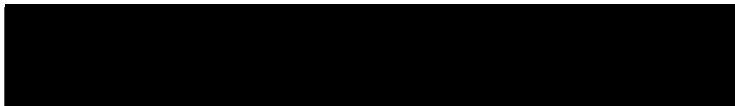
You attached itineraries and receipts for three trips you took in 2011. The first two are AAdvantage redemptions for travel on British Airways. Under **TAX**, one receipt showed \$383.50 and the other showed \$311.50. As you have been advised by Customer Relations, these figures included BA fuel surcharges (which they mistakenly called “fuel tax collection by British Airways”) of \$309.60 and \$251 respectively.

We agree that a carrier surcharge is not tax. Last year we changed the **TAX** heading on such receipts to **TAX/FEE/CHARGE**. Even so, we do not believe that customers were deceived in making mileage redemption decisions by the old format of the receipt.

The AAdvantage tab on AA.com clearly discloses that flight awards are subject to fuel surcharges, both in general and in particular reference to British Airways.

The **AAdvantage All-Airline Award Chart** states: “AAdvantage flight awards are subject to, and the passenger is responsible for, the September 11th Security Fee, applicable departure taxes, federal inspection fees, passenger facility charges, and any other taxes and fees imposed by a government entity (U.S. or foreign), as well as any fees or surcharges (including fuel surcharges) imposed by the carrier.”

In addition, the link **NEW: Redeem Miles For Travel On All British Airways Flights, FREQUENTLY ASKED QUESTIONS** states:



“Q. How much is the British Airways fuel surcharge?”

A. The British Airways fuel surcharge varies by origin, destination, cabin etc. At the time of booking the reservation agent will be able to provide you with the amount of the fuel surcharge that applies to the itinerary you've chosen.

Q. Is the British Airways fuel surcharge refundable if I cancel my plans?

A. Yes, the British Airways fuel surcharge is refundable.

Q. Why are there additional governmental taxes on my award ticket when I travel on British Airways?

A. The U.S. government has determined that collection of a fuel surcharge makes award tickets subject to certain taxes.”

Accordingly, AAdvantage customers are provided with ample disclosure that fuel surcharges apply to flight awards with segments operated by British Airways.

The third itinerary attached to your letter is a 12-segment trip you booked on AA.com last April. This trip originated in Boston and terminated in Seattle with stops in Europe, the Middle East, and India. The receipt showed **FARE** as \$6,463 and **TAX** as \$792.10. As you have been advised by Customer Relations, **TAX** included BA fuel surcharges of \$502.

Receipts are issued **after** the booking and purchase process has been completed. Throughout that process, fares shown to the customer include applicable surcharges.

Here's a brief summary of the AA.com booking path for a multi-segment trip. Based on initial input (city-pairs and travel dates) from customers using the **MULTI-CITY** function, **Step 2** displays specific itineraries with flight numbers and departure/arrival times. If the customer asks for **PRICE**, the fare for each itinerary is also shown in **Step 2**. If the customer asks for **SCHEDULE**, the fare is first shown in **Step 3** after the customer has selected a flight-specific itinerary. Fares displayed in **Step 2** and **Step 3** (and in subsequent steps) include applicable fuel surcharges. For the multi-segment itinerary you chose, the fare displayed would have been \$6,965 (\$6,463 + \$502).

Step 3 prominently discloses the total price in a large box labeled **YOUR TRIP COST** with the notation “taxes and fees included.” Clicking **TRIP DETAILS** calls up a screen display of **AVERAGE FARE** and **TAXES & FEES**. Clicking the link **PRICE AND TAX INFORMATION** produces a pop-up defining **FARE** as “base fare and carrier-imposed surcharges.”

The receipt for the ticket you purchased had three components: **FARE**, **TAX**, and **TICKET TOTAL**. As with the AAdvantage receipts discussed earlier, the **TAX** heading on receipts for purchased tickets was changed last year to **TAX/FEE/CHARGE**.

Again, we do not believe that customers were deceived by the previous version of the receipt. Fares shown in the booking path include fuel surcharges, and customers make their purchase decision on that basis. The fact that at one time AA.com receipts had the heading

TAX rather than **TAX/FEE/CHARGE** had no effect on the fares displayed in the booking path (which include surcharges), no effect on the customer's decision to purchase, and no effect on the total price paid.

For these reasons, we do not believe that the refund you have requested is warranted.

We hope that this explanation is helpful. We very much appreciate your business and look forward to serving you on future flights.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen", with a large, stylized flourish at the end.

Attachment 5

Firefox | oneworld planner | rtw.oneworld.com

Plan and Book a Round-the-World Itinerary | Rules & Restrictions | Privacy Policy | Help | FAQ

Start | New Itinerary | Save Itinerary | Download PDF | Print | Email

My Itinerary

Add City to Itinerary

1. New York
Show Details | 14 Mar 13
2. Dubai
Show Details | 19 Mar 13
3. Stockholm
Show Details | 23 Mar 13
4. Singapore
Show Details | 27 Mar 13
5. Tokyo
Show Details | 30 Mar 13
6. Hong Kong
Show Details | 05 Apr 13
7. Vancouver
Show Details

Your itinerary is complete

Accurate price for all travellers

Fare Component:	3,740.00 USD
Taxes:	1,222.16 USD
Service Charge:	0.00 USD
Total:	4,962.16 USD

Please ensure your credit card issuer will authorize a charge for the above amount.

Cancel | Proceed

10/16 allowances used

Legend:
No flight chosen
Flight chosen
Surface sector
Direct flights
Single connections
Multiple connections
Rule prohibited

Itinerary Status:
Review... | Book Now

Attachment 6

Firefox

oneworld - American Airlines - review

+

americanairlines.eu/amadeus.com/plnxt/oneworldRTW3/Override.action?SO_SITE_PASS_1W_SERVER=194.156.171.20&SO_SITE_PASS

Google

New York, NY to Dubai

Thursday, March 14, 2013

Departure: 23:55

New York, NY, USA - John F Kennedy

Arrival: 10:50 +1 day(s)

London, United Kingdom - Heathrow

Airline: American Airlines AA6145

Boeing 777-200/300

Operated by British Airways

Fare type: Economy Restricted

Change of plane required. Time between flights : 9:45.

Friday, March 15, 2013

Departure: 20:35

London, United Kingdom - Heathrow

Arrival: 07:45 +1 day(s)

Dubai, United Arab Emirates - Dubai Intl

Airline: British Airways BA105

Boeing 777-200/300

Fare type: Economy Restricted

Dubai to Stockholm

Tuesday, March 19, 2013

Departure: 02:55

Dubai, United Arab Emirates - Dubai Intl

Arrival: 06:40

London, United Kingdom - Heathrow

Airline: British Airways BA106

Boeing 747-400

Fare type: Economy Restricted

Change of plane required. Time between flights : 3:55.

Tuesday, March 19, 2013

Departure: 10:35

London, United Kingdom - Heathrow

Arrival: 14:10

Stockholm, Sweden - Arlanda

Airline: British Airways BA778

Airbus Industrie A321

Fare type: Economy Restricted

Stockholm to Singapore

Saturday, March 23, 2013

Departure: 15:00

Stockholm, Sweden - Arlanda

Arrival: 16:40

London, United Kingdom - Heathrow

Airline: British Airways BA779

Airbus Industrie A321

Fare type: Economy Restricted

Change of plane required. Time between flights : 3:50.

Saturday, March 23, 2013

Departure: 20:30

London, United Kingdom - Heathrow

Arrival: 17:05 +1 day(s)

Singapore, Singapore - Changi

Airline: British Airways BA11

Boeing 747-400

Fare type: Economy Restricted

Singapore to Tokyo

Wednesday, March 27, 2013

Departure: 10:05

Singapore, Singapore - Changi

Arrival: 14:05

Hong Kong, Hong Kong (SAR of China) - Hong Kong International

Airline: Cathay Pacific CX736

Boeing 777-300

Fare type: Economy Restricted

Change of plane required. Time between flights : 1:15.

Wednesday, March 27, 2013

Departure: 15:20

Hong Kong, Hong Kong (SAR of China) - Hong Kong International

Arrival: 20:20

Tokyo, Japan - Narita International

Airline: Cathay Pacific CX500

Boeing 777-300

Fare type: Economy Restricted

Tokyo to Hong Kong

Saturday, March 30, 2013

Departure: 09:15

Tokyo, Japan - Narita International

Arrival: 13:20

Hong Kong, Hong Kong (SAR of China) - Hong Kong International

Airline: Cathay Pacific CX509

Boeing 777-300

Fare type: Economy Restricted

Hong Kong to Vancouver

Friday, April 05, 2013

Departure: 00:30

Hong Kong, Hong Kong (SAR of China) - Hong Kong International

Arrival: 21:25 -1 day(s)

Vancouver, Canada - Vancouver International

Airline: Cathay Pacific CX888

Boeing 777-300ER

Fare type: Economy Restricted

Legend: ■ = e-ticket option, USD = U.S. Dollar

Price

Travellers

Fare

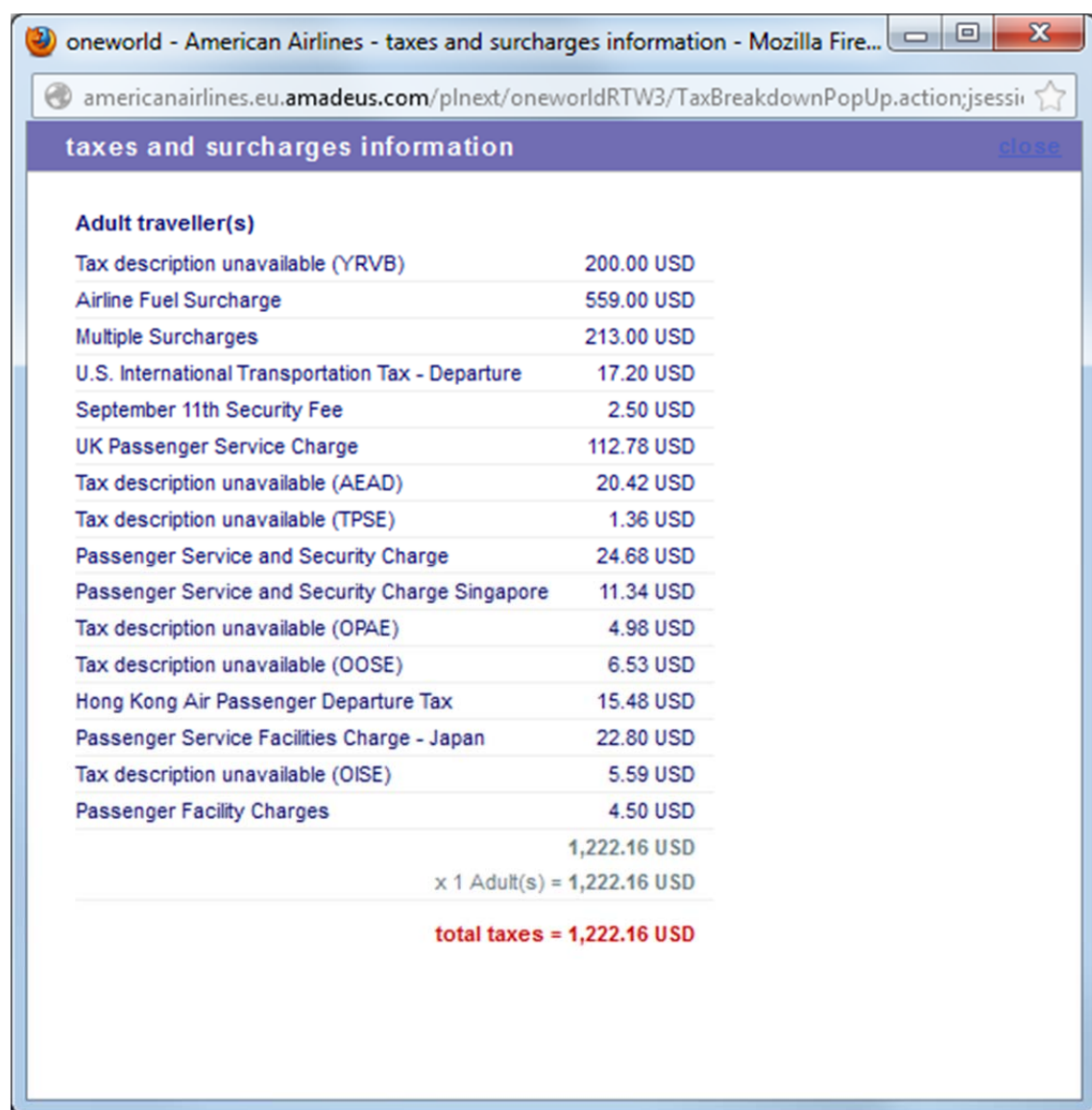
Taxes

1 Adult(s) x (3,740.00 + 1,222.16) = 4,962.16 USD

total price for all travellers 4,962.16 USD

[oneworld Explorer Product Information](#)

24



taxes and surcharges information		close
Adult traveller(s)		
Tax description unavailable (YRVB)	200.00 USD	
Airline Fuel Surcharge	559.00 USD	
Multiple Surcharges	213.00 USD	
U.S. International Transportation Tax - Departure	17.20 USD	
September 11th Security Fee	2.50 USD	
UK Passenger Service Charge	112.78 USD	
Tax description unavailable (AEAD)	20.42 USD	
Tax description unavailable (TPSE)	1.36 USD	
Passenger Service and Security Charge	24.68 USD	
Passenger Service and Security Charge Singapore	11.34 USD	
Tax description unavailable (OPAE)	4.98 USD	
Tax description unavailable (OOSE)	6.53 USD	
Hong Kong Air Passenger Departure Tax	15.48 USD	
Passenger Service Facilities Charge - Japan	22.80 USD	
Tax description unavailable (OISE)	5.59 USD	
Passenger Facility Charges	4.50 USD	
	1,222.16 USD	
	x 1 Adult(s) = 1,222.16 USD	
	total taxes = 1,222.16 USD	

Attachment 8

Greetings,

Reviewing my recent electronic ticket receipts from AA, I noticed three itineraries with unexpectedly large entries in the "tax" box: [REDACTED] (\$383.50 of tax on an award ticket), [REDACTED] (\$311.50/person tax on two award tickets) and [REDACTED] (\$792.10 of tax on a paid business class ticket).

Unfortunately, AA electronic ticket receipts do not itemize the taxes charged, making it difficult for me to confirm that the billed amounts are in fact correct. Please provide a breakdown of the "taxes" listed above – which governments, airports, or other authorities charged which amounts.

Thank you,

Ben Edelman

Attachment 9

From: [REDACTED]
Sent: Tuesday, December 27, 2011 8:13 AM
To: [REDACTED]
Subject: Your Response From American Airlines

December 27, 2011

Dear Mr. Edelman:

Thank you for contacting Customer Relations. We are pleased to provide details regarding the tax collections on your tickets.

Ticket [REDACTED] has a \$309.60 fuel tax collection by British Airways, a \$36.90 tax collected by Belgium which they refer to as a Passenger Service and Security Charge and a \$37 Great Britian International Departure Tax for London's Heathrow.

Ticket [REDACTED] has a \$251 fuel tax collection by British Airways, a \$16.30 United States International Transportation Tax, a \$2.50 United States APHIS tax and a \$37.20 Great Britian International Departure Tax for London's Heathrow and a \$4.50 Passenger Facility Surcharge collected by New York's Kennedy airport.

Ticket [REDACTED] has a \$502 fuel tax collection by British Airways, an \$8.40 United States segment tax, \$41.10 United States International Transportation Tax, \$7.50 United States APHIS tax, \$128 Great Britian International Departure Tax for London's Heathrow, \$57.60 Denmark International Passenger Surcharge, \$11.40 India Passenger Surcharge, \$18 India User Development Fee, \$5.50 United States User Customs Fee, \$7 United States Federal Inspection fee, \$5 United States APHIS tax, \$9 Passenger Facility Surcharge collected by Boston's Logan airport.

Should you require additional information, personnel in our accounting office can provide such details. The address and phone number are:

American Airlines Inc.
Passenger Refund Services



We do appreciate your business and look forward to welcoming you aboard soon.

Sincerely,
Tawnya M. Hendricks
Customer Service
American Airlines
[REDACTED]

Ticket [REDACTED]

Ref: [REDACTED]

I write to reply to Tracy Freeman's May 25 message offering reasons why Executive Platinum passengers should be charged award ticketing fees for redemptions they make for others. I found Tracy's arguments unpersuasive, and surely we could discuss that subject at length. But there is an entirely separate reason why the ticketing fee should be refunded: the ticketing fee was not mentioned by the AA reservations representative when I put this itinerary on hold. As you know, new DOT rules require that all applicable fees be included in the first price quote presented to a customer. Because AA failed to mention this fee in its initial price quote, the fee is impermissible under law.

See Additional Guidance on Airfare/Air Tour Price Advertisements, Department of Transportation, February 22, 2012, at <http://airconsumer.dot.gov/rules/Notice.Taxes.fees.sam.dl.13.website.pdf>: "[T]he first price quote presented must be the full price, including all taxes, fees and all carrier surcharges."

If AA has a recording of the call in which I made this reservation and put it on hold (several days before ticketing), you will notice that the initial rep never mentioned any ticketing fee -- only the miles required and \$5/passenger of tax. I hope this additional information and authority facilitates a prompt refund of the fee mistakenly charged to me. Thank you.

Attachment 11

Dear Ms. K [REDACTED]

Thank you for your follow-up message.

We waive ticketing service charges for Executive Platinum members traveling on revenue or award tickets, as well as for traveling companions who are booked in the same reservation record. As I understand it, the ticketing service charge in question was appropriately charged for an award ticket redeemed from your account for your husband's travel.

However, I am asking our Customer Relations staff to look into your comments regarding the processing of the transaction itself - specifically, the allegation that you were not made aware of the ticketing charge prior to the issuance of the ticket. Our Customer Relations staff follows up internally to improve American's service to our customers, and they keep our senior executives apprised of passenger perception. Ms. Koo, please allow up to a few weeks for a response to the allegations contained in your email message.

Thank you, again, Ms. K [REDACTED]

Regards,

Mark Williams
Executive Liaison
AAAdvantage Customer Service
American Airlines

Dear Ms. K [REDACTED],

I understand a representative from our Customer Relations staff replied to your inquiry, via email, on 9 July. I'm sorry you didn't receive that message. I have asked that Customer Relations contact you again, Ms. Koo, but I must tell you that our Customer Relations staff has reaffirmed our decision that the ticketing service charges were properly collected. I am sorry that I cannot satisfy your request to refund these charges.

Respectfully,

Mark Williams
Executive Liaison
AAAdvantage Customer Service
American Airlines

March 25, 2012

Gary F. Kennedy
Senior Vice President and General Counsel, American Airlines
by email: [REDACTED]

RE: carrier-imposed surcharges systematically mischaracterized as "tax"

Mr. Kennedy,

Recall my letter of December 31, 2011, flagging (and providing copies of) multiple American Airlines receipts which mischaracterized carrier-imposed surcharge as "tax." In your reply of January 11, 2012, you argued that these inaccurate statements "had no effect on the fares displayed in the booking path [and] no effect on the customer's decision to purchase" because receipts arrive only after a transaction has occurred and because, you argued, accurate information was provided prior to booking.

I write to continue our discussion by providing multiple examples, including recent and ongoing examples, in which AA staff provided inaccurate information prior to booking – mischaracterizing carrier-imposed surcharge as "tax" when customers are deciding whether to purchase a given ticket.

AA Reservations Agents Mischaracterizing Carrier-Imposed Surcharge as "Tax" in Award Bookings

In my experience, AA telephone representatives systematically characterize carrier-imposed surcharges as "tax" when customers book awards that include travel on British Airways. I made two such bookings during 2011 (the first two receipts shown in Attachment 1 to my December 31, 2011 letter). To the best of my recollection, AA Reservations staff characterized the amount to be charged to my credit card as "tax." If you have access to recordings of the phone calls during which I made these bookings, perhaps you can review. In that case, I hope you'll also provide me with a copy of those recordings.

To confirm my recollection, I made three test calls to AA Reservations staff. In separate phone calls of January 14, March 20, and March 21, 2012, three AA Reservations agents characterized as "tax" the surcharges AA collects for award travel on British Airways. For example, on January 14, 2012, I made a test booking with AA Reservations for award travel BOS-LHR-BOS on British Airways in First Class. After I specified desired dates, flights, carrier, and class of service, I was advised of the number of miles and money payment that would be required. Referring to the quote presented on his computer screen, the agent told me: "it's giving me a total of 125000 miles, and taxes of 938.80." He made that statement without any prompting whatsoever from me, nor any special request from me. Similar statements occurred in my subsequent test calls. The March 20 agent advised me of "the BA taxes" and the March 21 agent told me "taxes are 347.70" (for a one-way BOS-LHR booking). As you know, each of these statements was false: the amounts at issue consist primarily of carrier-imposed fuel surcharge, not tax.

Recall that AA's standard telephone auto-attendant grants customers permission to record a call. (It says "this call may be recorded.") With that permission, I made high-quality digital recordings of each of the above-listed calls.

In your letter of January 11, you noted that a page on AA.COM mentions the possibility of surcharges on award travel (the underlined language at the bottom of your page 1). You also noted that a "Frequently

Asked Questions” page mentions “the British Airways fuel surcharge.” These statements do not cure the agents’ misstatements. For one, award travel on other carriers can only be booked by telephone, not via AA.COM or, to the best of my knowledge, in any other way. As a result, customers have little reason to look to AA.COM for information about surcharges on award travel. Furthermore, when an AA Reservations agent provides a personalized fare quote to a customer, with specific flights in response to the customer’s request, the provisions of oral quote necessarily supersede any general statements on AA.COM to the extent that the materials conflict. That supersession is particularly clear when the statements on AA.COM are so vague (“varies”) while the agent’s statement is specific (“tax” of a precise dollar amount).

Meanwhile, the information on AA.COM is at best inconsistent. For example, while looking for the pages you cited, I found the “Making Award Reservations” page at <http://www.aa.com/i18n/AAAdvantage/redeemMiles/makingAwardReservations.jsp> which at heading “Making Flight Award Reservations on the oneworld Airlines or other AAdvantage Participating Carriers” mentions only “applicable taxes and security fees” but says nothing about fuel surcharges or other carrier-imposed surcharges. So even a customer who diligently reviews AA.COM is told, incorrectly, that the applicable charges on award travel are genuine government/airport “taxes and security fees” without mention of any carrier-imposed surcharges.

On Certain Paid AA Tickets, AA Staff Continue to Mischaracterize Carrier-Imposed Surcharges as Tax

On February 10, 2012, I purchased a Circle Pacific ticket from the AA Around The World Desk for my colleague D [REDACTED] M [REDACTED]. The agent quoted the fare (more than \$12,000) and “tax.” Mindful of the prospect of carrier-imposed surcharges mischaracterized as tax, I specifically asked the agent “Are those genuine taxes, or fees?” The agent replied: “Taxes.” (These quotes are my recollections. I was unable to make a recording of this call, but I was thinking about taxes versus carrier-imposed surcharges and I therefore noted the agent’s statements with extra care. Perhaps you can obtain a recording.) Via a subsequent written inquiry to AA Customer Relations, I learned that the amount characterized as “tax” actually included \$364 of “fuel surcharge.” Had I known that the quoted price included carrier-imposed surcharges, I would have considered another routing, carrier, or fare in order to reduce or avoid such surcharges.

To obtain further documentation of AA Around The World Desk staff mischaracterizing carrier-imposed surcharges as tax, on March 21 I requested a new ticket following the same itinerary Mr. M [REDACTED] booked. On March 22 I called back (as instructed) to receive a fare quote. (OneWorld circle fares require next-day fare quotes.) The March 22 agent told me: “The base fare is 15204 even, the taxes are 669.03.” Based on my correspondence with AA Customer Relations as to the pricing of Mr. M [REDACTED] ticket, I am confident that the quoted \$669.03 of “taxes” included a fuel surcharge of more than \$350. Because AA’s telephone auto-attendant granted me permission to record the call, I did so, and I have this recording on file.

Paid Tickets Previously Booked by Telephone with AA Reservations

In your letter of January 11, you describe the messages that might have appeared on screen had I used AA.COM to purchase certain travel to India. But in fact I was unable to purchase this ticket on AA.COM due to its complexity and my desired routing. I therefore ticketed this itinerary via AA telephone

reservation agents. The agents systematically told me of “fare” and “tax” but rarely if ever used the words “fuel surcharge,” “surcharge,” or any other label suggesting that a portion of the quoted “tax” was actually carrier-imposed surcharge. Your analysis of information that could have appeared on AA.COM is therefore inapplicable to this booking.

When AA’s telephone agents quoted amounts to me as “tax,” I believe those amounts included carrier-imposed surcharges in the amounts detailed in our prior correspondence. This belief is supported by my general recollection that tax seemed high on that ticket. This belief is also supported by the contemporaneous receipt (provided with my December 31 letter to you) which indicated “tax” of \$792. On this complicated ticket, I reviewed my e-ticket receipt with great care, and I believe I would have noticed had AA the receipt shown an amount of “fare” and “tax” substantially different from what I had been quoted by telephone.

I do not have a recording of the call at issue. If you have access to recordings of the phone call during which I made this booking, perhaps you can review. In that case, I hope you’ll also provide me with a copy of that recording.

Separately, I continue to doubt whether AA.COM price advertisements at all times on all itineraries included carrier-imposed surcharges within “fare” and never within “tax” (as you claimed in your January 11 letter to me). My prior letter to you shows that AA electronic ticket receipts and Customer Relations correspondence both made errors in this regard. It would be remarkable if ticket receipts and Customer Relations staff made these errors (often or, in some time periods, always), but AA.COM was always accurate on the very same questions. In any event, I am continuing to search for alternative sources of screenshot proof – screenshots that I did not ordinarily have reason to retain, but that I believe others retained.

AA Staff Continue to Mischaracterize Carrier-Imposed Surcharges as Tax when Handling Cancellations

I have been in touch with multiple customers who have conveyed to me, in specificity, their experience of AA telephone representatives mischaracterizing carrier-imposed surcharges as “tax” in the course of providing reaccommodation after flight cancellation. They have experienced these problems on both paid and award tickets.

As you know, there have recently been multiple significant cancellations in the AA network (including ORD-DEL and JFK-BUD) and in OneWorld (such as MAD-JNB). In each instance, a natural alternative routing includes transportation in whole or in part on British Airways.

I do not know whether AA would be within its rights to require that a customer pays a carrier-imposed surcharge when a customer is rebooked on British Airways as a result of a flight cancellation. But I am confident that AA may not mischaracterize British Airways surcharges as “tax” in the course of a rebooking or a proposed rebooking.

Because multiple independent customers have told me of inaccurate statements by AA telephone agents in this regard, and because AA telephone agents have mischaracterized fuel surcharge as “tax” in multiple other contexts (as detailed above), I find the customers’ reports credible.

I have a means to contact some customers who have reported these problems. I can provide these customers' contact information if AA agrees that refunds are required in this circumstance.

AA E-Ticket Confirmations Continue to Separate Carrier-Imposed Surcharge from Fare

AA's web site now presents carrier-imposed surcharges as part of the "fare." Indeed, in the AA.COM screenshot I showed in Attachment 3 to my December 31 letter, AA specifically affirms that "Fares include base fare and carrier-imposed surcharges." The best interpretation of this statement is that the quoted definition of "fares" applies – by all indications, the standard meaning of that term according to AA (as well as DOT) – applies across AA's communications with passengers, including web site statements as well as e-ticket confirmations. Nonetheless, AA's standard e-ticket confirmations continue to place carrier-imposed surcharges in a box labeled "tax/fee/charge." For example, for a recent transatlantic ticket I booked for a colleague on AA.COM, AA.COM quoted "fare" of \$1311.00 and "taxes & fees" of \$160.40 – but the e-ticket confirmation email specified "fare" of \$815.00 and "tax/fee/charge" of \$665.40.

Having affirmatively promised (in the manner shown in my prior Attachment 3) that fares "include ... carrier-imposed surcharges" and having quoted the fare in that way on AA.COM, I believe AA ought not separate the carrier-imposed surcharge into a separate box for purposes of a e-ticket confirmation. Rather, the e-ticket confirmation should match the statements provided in the purchase process and should comply with all the commitments AA provided during the purchase process (including AA's affirmative representation that "fares include base fare and carrier-imposed surcharges").

I credit that most customers do not ordinarily rely on e-ticket receipts when making purchases. But AA should characterize all charges accurately, both before and after purchase. Furthermore, because an e-ticket receipt is a customer's official written record of a purchase, it is important that these documents be accurate. Finally, I believe the difference may be significant for some purposes, including purposes that are difficult to anticipate.

My Recent Correspondence with the Department of Transportation

Disheartened by your January 11 message, I elected to alert the Department of Transportation to my concerns. In a January 14 complaint to DOT, I flagged AA and three other OneWorld carriers mischaracterizing carrier-imposed surcharges as tax (along with two non-OneWorld carriers and several online travel agents engaging in similar practices). I believe my complaint was the impetus for the DOT's February 21, 2012 notice on these and related subjects.

My January 14 complaint to DOT also flagged unusual intermediate price advertising on AA.COM. In particular, I showed AA.COM regularly advertising one-way transatlantic fares as low as "\$41" while the return segment was systematically quoted at \$450 or more. Meanwhile, I pointed out, transatlantic travel originating Europe quoted the originating westbound segment at low prices like \$41 – particularly strange since those same segments had been presented at \$450+ for US-originating customers. I now believe these price quotes resulted from a carrier-imposed surcharge being bundled with the return fare quote. No doubt you noticed the DOT's response critiquing these practices as "intend[ing] to bait the passenger with an unrealistically low outbound fare" which the DOT said is "unfair and deceptive."

The DOT has indicated that it remains concerned about carrier practices in this area. Because I consider this an important subject of public policy, I am considering a further complaint to DOT (on the matters detailed herein as well as other AA practices pertaining to price advertising, fees, and charges without proper disclosure or any disclosure). However, I would prefer to achieve resolution directly with AA. I regret that we were unable to reach such resolution in January. Perhaps the additional information provided herein will help you better understand the scope and import of the practices at issue.

Resolution

I have offered compelling evidence that AA staff have mischaracterized carrier-imposed surcharges as “tax” on both paid and award tickets. I have further shown that these mischaracterizations permeate AA’s operations, including telephone reservations for both paid and award travel, receipts for both paid and award travel, reaccommodation subsequent to flight cancellation, customer relations correspondence, and statements on AA.COM. I have also shown that these mischaracterizations are ongoing. In response to the claim in your January 11 letter that the mischaracterizations occurred only after purchase, I have shown that these mischaracterizations occur both before and after ticket purchase. In light of this additional information, I think it is clear that the problem is larger than your January 11 letter claimed. Now that I have demonstrated mischaracterizations occurring before ticket purchase, it is also clear that I was harmed by these mischaracterizations.

I believe it would be an unfair and deceptive practice, within the meaning of 49 USC §41712, to characterize (prior to purchase and/or after purchase) as “tax” a fee that is not required by any law or regulation, and that is not remitted to any government, airport, or similar authority. When such a mischaracterization occurred prior to purchase (or in another circumstance where a customer plainly relies on the quoted amount, such as during the course of reaccommodation after a flight cancellation), I believe the proper course of action is, at the least, to provide a refund to any affected customer upon that customer’s written request. This letter constitutes my request. You may send a refund check to the address shown above.

Regards,

Benjamin Edelman

[REDACTED]

From: [REDACTED]
Sent: Tuesday, June 26, 2012 9:00 PM
To: [REDACTED]
Cc: Kennedy, Gary
Subject: Your 3/25/12 letter to Gary Kennedy at American Airlines

Dear Professor Edelman:

Gary Kennedy asked me to respond to your letter of March 25, 2012.

Concerning your refund request, Mr. Kennedy advised you by letter dated January 11, 2012 that a refund is not warranted.

Concerning surcharges, the Department of Transportation issued guidance to carriers on February 21, 2012 (see attached). The guidance became effective on April 21, 2012, nearly a month after your letter on March 25.

We believe that we are in compliance with the Department's guidance.

We do not intend to engage in further correspondence on this matter.

Sincerely,



Carl B. Nelson
Associate General Counsel
American Airlines

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

June 29, 2012

Carl B. Nelson
Associate General Counsel, American Airlines
by email: [REDACTED]
CC: Gary Kennedy

RE: carrier-imposed surcharges systematically mischaracterized as "tax"

Mr. Nelson,

Thanks for getting back to me. I appreciate your taking the time to clarify AA's position on this matter.

You suggest that Mr. Kennedy's January 11 reply adequately addresses my concern about carrier-imposed surcharges mischaracterized as "tax." But note the important factual errors in Mr. Kennedy's message, as detailed in my March 25 reply. For example, Mr. Kennedy claimed that the false statements at issue were made only after ticketing. I capably demonstrated that false statements occurred before ticketing. Hence my continued view that refunds are required in this circumstance.

Your reliance on the DOT's February 21 guidance is misplaced. Nothing in that guidance permitted AA to mischaracterize carrier-imposed fuel surcharge as "tax" at any time -- neither before nor after the effective date of the February 21 guidance. Indeed, the DOT's February 21 notice explicitly confirms the impropriety of the practices that prompted me to write: "Such displays were deceptive and in violation of section 41712" (emphasis added) -- indicating that the false statements were unlawful when made, not that the statements would become unlawful only as of some future date. You also mischaracterize the 60-day period referenced in the DOT's notice. The notice clearly indicates that the delay applies only to commencement of DOT enforcement action: "The office will provide ... 60 days [delay] ... before instituting enforcement action." In particular, the 60-day period in no way cures liability for prior unlawful conduct. A consumer with a valid claim, as to unlawful practices occurring before or after April 21, simply is not hindered from bringing that claim by reason of the DOT's decision not to institute enforcement action until that date.

Your reply is particularly timely because earlier this week (before I received your reply), I happened to find further evidence of AA staff and systems mischaracterizing carrier-imposed surcharges as tax. In particular, before I purchased a \$5000+ long-haul premium ticket from an AA Executive Platinum Desk representative by telephone, the agent mischaracterized carrier-imposed fuel surcharges. I quote verbatim:

Me: "Could you review the fare and tax?"

Agent: "Certainly. OK, I'm showing that the fare in US dollars is 4828, and 708.20 taxes."

In fact, contrary to the agent's statement, I believe the majority of the \$708.20 consists of carrier-imposed fees, not "taxes." So AA continues, to this day, to misrepresent carrier-imposed surcharges as "tax." Note that AA's automatic answering system stated "This call may be recorded" so I recorded it, and I retain a high-quality digital copy.

During my pre-purchase research on aa.com, I also happened to find numerous examples in which the amount shown as “tax” exceeded the actual amounts I believe American is required to pay to governments and similar authorities. Rather, in each instance, I believe the quoted “tax” consisted primarily of carrier-imposed surcharges. If I am correct about the actual tax associated with these itineraries, AA’s practices are directly contrary to the DOT’s February 21 notice, contrary to your claim of compliance with that notice, and also contrary to AA’s affirmative commitments as presented to consumers at <http://www.aa.com/i18n/disclaimers/ipIDisclaimerRevenue.jsp> (“International ... Fares include: Base fare and carrier-imposed surcharges”). I retain appropriate screenshot evidence. Notably, the misrepresentations of tax now affect itineraries for travel solely on AA – a significant broadening relative to the BA issues that prompted my initial message to Mr. Kennedy.

I credit that these are difficult times, and I know that recent developments have required many changes to AA's fares and procedures. No doubt rapid industry and partnership changes have increased the complexity of correctly characterizing all carrier-imposed fuel surcharges. But these factors do not excuse false statements about fare and tax, or attempts to retain the fruits of prior or ongoing unlawful conduct. If AA staff and systems made false statements prior to purchase, I see no alternative but to refund the amounts subject to those misrepresentations.

Your message indicates unwillingness to discuss this matter further. I’m disappointed to hear that. As a courtesy, I will wait ten business days in order to give you time to consider the additional information provided in this letter and, if you like, conduct your own investigation of current practices of AA staff and systems. After ten business days, I will send a full complaint to DOT Aviation Consumer Protection Division, Office of Aviation Enforcement and Proceedings, including the substance of my concern, our correspondence, and top-quality call transcript and screenshot evidence of AA staff and systems continuing to mischaracterize carrier-imposed surcharges as "tax."

Separately, one of my students seeks to publish my evidence on the web in order to inform and assist other consumers similarly situated. I had been inclined to decline, as I preferred to bring this matter directly to Mr. Kennedy’s attention in order to avoid burdening American with a public dispute during this difficult period. But if you are unwilling to discuss this matter, I will support that student’s effort as time permits.

I’ve spent a decade admiring AA, both as a passenger and as a business academic. I regret that we have reached this unfortunate juncture.

Respectfully,
/s/
Benjamin Edelman