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

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)
Benjamin Edelman,)
third-party complainant)
)
v.)
)
Virgin Atlantic)
)
	-)

Docket DOT-OST-2014-____

COMPLAINT OF BENJAMIN EDELMAN

Comments with respect to this document should be addressed to:

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

Dated: September 10, 2014

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

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COMPLAINT OF BENJAMIN EDELMAN

1. This complaint arises out of Virgin Atlantic mischaracterizing carrierimposed fees as "tax."

2. On September 9, 2014, I browed the Virgin Atlantic web site, virginatlantic.com. From the Virgin-Atlantic.com home page, I clicked the Flying Club entry on the top navigation bar (at top-right), then clicked "Reward Flights" in the section "Spend Miles." I received the screen shown in Attachment 1.

3. On Attachment 1, Virgin Atlantic describes an "Economy Reward Seat Sale" and, further down the page, a "Premium Economy Reward Seat Sale." Each listing gives a city destination (for travel to/from UK), the number of miles required, and the "Taxes*" associated with such travel. But the "taxes" quoted exceed any genuine government-imposed taxes or airport-imposed fees. Rather, on information and believe, the bulk of the specified amount is a carrier-imposed fee.

4. Virgin Atlantic's statement of "tax" is literally false.

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

6. Virgin Atlantic may claim that the false statement of "tax" is mitigated by the asterisk associated with the label. A reader who finds the explanation is told: "The 25% reduction in mileage must be booked between September 9, 2014 and September 23, 2014. Taxes, charges, fees and carrier-imposed surcharges are accurate as of September 8, 2014 and are subject to change. The exact amount will be advised at the time of booking either via our website or contact centre." The second sentence pertains to the charges at issue, but it in no way cures the false statement of "tax." Specifically, the quote only affirms that certain charges are accurate of a certain date. The quote does nothing to indicate that an amount presented as "tax" is actually a carrier-imposed fee, not an actual "tax" required by any government, airport, or similar authority.

7. Virgin Atlantic may claim that other statements, later in the booking process, cure the initial false statement of "tax." But the standard on-screen text, presented within the Virgin-atlantic.com booking process, does not separate the actual "tax" from carrier-imposed surcharges, nor does it otherwise affirmatively alert consumers that the initial statement of "tax" was false. See Attachment 2, presenting a "total price" "including taxes, fees, charges, and carrier imposed surcharges." Notably, this label leaves open the possibility that the entire \$470.40 is indeed "tax"—as Attachment 1 had stated, and as many consumers expect when redeeming frequent flier bookings that are widely understood to cover (and historically did cover) all charges

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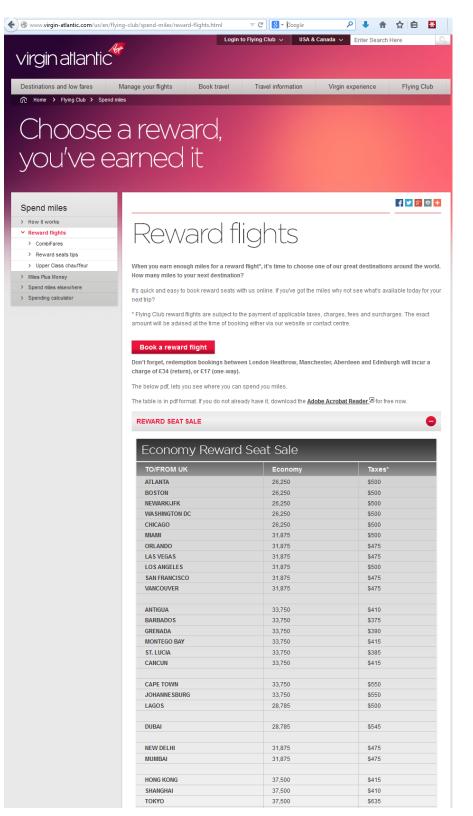
except bona fide government taxes. While the "fare breakdown" link would take users to a screen correctly disclosing the amount of actual tax versus carrier charge, this screen is outside the standard booking process. On information and belief few users view it.

- 8. I ask that the Department of Transportation:
 - Exercise its authority under 49 USC 41712 to open an investigation of Virgin Atlantic for having engaged in, and continuing to engage in, the unfair and deceptive practices described above;
 - (2) Pursuant to such investigation, order Virgin Atlantic to refund to ticket purchasers all monies represented to ticket purchasers as "tax" or government-imposed fees, but not actually remitted to governments;
 - (3) Impose appropriate civil penalties on Virgin Atlantic; and
 - (4) Refer this matter to appropriate US and foreign tax collection agencies for investigation of possible tax fraud or other violations of tax law in non-payment to governments of monies collected as "taxes" or government-imposed fees.

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

> Respectfully submitted, /s/ Benjamin Edelman

Attachment 1



Attachment 1 (continued)

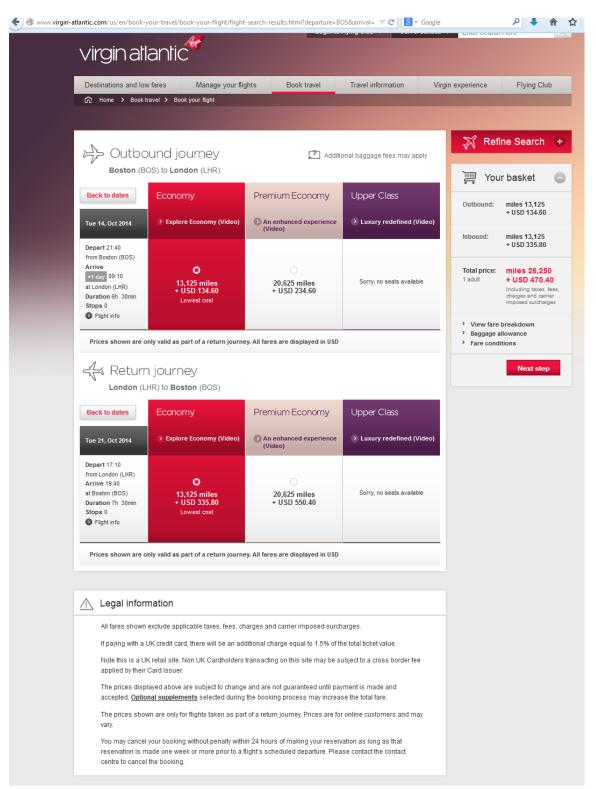
TOKYO	37,500	\$635
MANCHESTER**	5,625	\$165
EDINBURGH**	5,625	\$165
ABERDEEN**	5,625	\$165
Premium Econor	my Reward Seat S	Sale
TO/FROM UK	Economy	Taxes*
ATLANTA	41,250	\$810
BOSTON	41,250	\$810
NEWARK/JFK	41,250	\$810
WASHINGTON DC	41,250	\$810
CHICAGO	41,250	\$810
MIAMI	52,500	\$810
ORLANDO	52,500	\$810
LAS VEGAS	52,500	\$810
LOS ANGELES	52,500	\$810
SAN FRANCISCO	52,500	\$810
VANCOUVER	52,500	\$745
ANTICUA	50 500	6730
ANTIGUA	52,500	\$730
BARBADOS	52,500	\$690
GRENADA	52,500	\$710
MONTEGO BAY	52,500	\$740
ST. LUCIA CANCUN	52,500	\$700 \$720
CANCON	52,500	9720
JOHANNE SBURG	56,250	\$830
LAGOS	45,500	\$825
DUBAI	45,000	\$700
NEW DELHI	52,500	\$775
MUMBAI	52,500	\$775
HONG KONG	60,000	\$810
SHANGHAI	52,500	\$800
TOKYO	52,500	\$810
Taxes, charges, fees and carrier-in to change. The exact amount will b ** Members redeeming miles betw	ust be booked between September 9, mposed surcharges are accurate as o e advised at the time of booking eithe ween North America and the above de redeem flights for the same miles as	f September 8, 2014 and are subject r via our website or contact centre. stinations will not be charged
Reward Seat Sale Terms & Co	nditions	0
Upgrades table		0
Spend miles table		0
Companion miles table		Θ
CombiFares		
CombiFares Get the most from your miles. Combin flight reward with a one-way publisher like that, you're there.		

A sum

Upgrades

Fancy upgrading yourself? Don't mind if you do. Use

Attachment 2



Certificate of Service

I hereby certify that I have, this 10th day of September, 2014 caused a copy of the foregoing Complaint to be served by electronic mail on the following persons:

Blane Workie Anita M. Mosner blane.workie@dot.gov anita.mosner@hklaw.com

/s/

Benjamin Edelman