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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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November 19, 2023

VIA ELECTRONIC MAIL [REDACTED]

Mr. Edward M. Christie III
President and Chief Executive Officer
Spirit Airlines, Inc.
2800 Executive Way
Miramar, Florida 33025

Dear Mr. Christie:

U.S. airlines increasingly charge ancillary fees that obscure the actual cost of air travel. The practice of separating the cost of checked and carry-on bags, seat selection, ticket changes, and many other options and services from airfare advertised to customers is often referred to as “unbundling.”¹ These itemized fees are often not disclosed to customers until well into the ticket purchasing process or after a ticket has been purchased, making it difficult for customers to know the true, total cost of a ticket and comparison shop prior to purchase.² In fact, airlines charge many of these fees for unavoidable aspects of flying, often for services that were once included in the price of a ticket, such as carrying-on a small bag or sitting next to a minor child.³ Further, it is not always clear how airlines justify certain fees—such as fees imposed on a reservation change made well in advance of the flight.

Ancillary fees are a significant and growing source of revenue for U.S. airlines. For example, between 2018 and 2022, across major U.S. airlines, total reported revenue from

¹ Stacey Mumbower, Susan Hotle, & Laurie A. Garrow, *Highly debated but still unbundled: The evolution of U.S. airline ancillary products and pricing strategies*, J. OF REVENUE AND PRICING MANAGEMENT, May 18, 2022, <https://doi.org/10.1057/s41272-022-00388-5>; Enhancing Transparency of Airline Ancillary Service Fees, 87 FR 63718, Oct. 20, 2022, <https://www.federalregister.gov/documents/2022/10/20/2022-22214/enhancing-transparency-of-airline-ancillary-service-fees>.

² Brian X. Chen, *Watch Out for ‘Junk’ Fees When Booking Travel Online*, N.Y. TIMES, June 15, 2023, <https://www.nytimes.com/2023/06/15/technology/personaltech/travel-booking-junk-fees.html>; see Enhancing Transparency of Airline Ancillary Service Fees, 87 FR 63718, Oct. 20, 2022, <https://www.federalregister.gov/documents/2022/10/20/2022-22214/enhancing-transparency-of-airline-ancillary-service-fees>.

³ Mumbower, Hotle, & Garrow, *supra* note 1; see U.S. DEP’T OF TRANSPORTATION, Airline Customer Service Dashboard, <https://www.transportation.gov/airconsumer/airline-customer-service-dashboard> (comparing ten major airlines’ policies on guaranteed adjacent seats for a child 13 or under and an accompanying adult at no additional cost).

baggage fees increased from \$4.9 billion to \$6.8 billion.⁴ According to one report, eight leading U.S. airlines collected an estimated \$4.2 billion in seat selection fees in 2022.⁵

Pursuant to its authority under Senate Resolution 59 (118th Cong.), the U.S. Senate Permanent Subcommittee on Investigations (“the Subcommittee”) is reviewing matters relating to how fees imposed on goods and services affect American consumers, including how airlines charge fees for specific options and services apart from the advertised price of airfare. To assist the Subcommittee, please provide the following information and documents by December 11, 2023. Unless specifically stated, the time period covered by this request is January 1, 2018 to the present. For the purposes of this request, the term “Spirit” or “the Airline” includes, but is not limited to, Spirit Airlines, Inc., and any other subsidiaries, divisions, partnerships, properties, affiliates, branches, groups, special purpose entities, joint ventures, predecessors, successors, or any other entity in which Spirit Airlines, Inc. had or has a controlling interest.

1. State the amount of the fee (or, if the fee amount is dynamic, the range and average amount of the fee⁶) for each of the following products and services:
 - a. Carry-on personal item;⁷
 - b. Carry-on bag;
 - c. First checked bag;
 - d. Second checked bag;
 - e. Preferred seat;⁸
 - f. Seat with extra leg room in any cabin including, but not limited to, exit row seats and bulkhead row seats;
 - g. Advanced seat selection;
 - h. Flight change or cancellation;
 - i. Same-day flight change with confirmed seat;
 - j. Same-day flight change on standby;
 - k. Redeeming frequent flyer miles or points for air travel; and
 - l. Redepositing frequent flyer miles or points.

⁴ BUREAU OF TRANSP. STATISTICS, *Baggage Fees by Airline 2018*, <https://www.bts.gov/baggage-fees-airline-2018>; BUREAU OF TRANSP. STATISTICS, *Baggage Fees by Airline 2022*, <https://www.bts.gov/topics/airlines-and-airports/baggage-fees-airline-2022>.

⁵ Jay Sorensen & Eric Lucas, *Airlines Assign Big Revenue Priority to Seat Selection 5*, IdeaWorksCompany, May 23, 2023, <https://ideaworkscompany.com/wp-content/uploads/2023/05/Airlines-Assign-Big-Revenue-Priority-to-Seat-Selection.pdf>.

⁶ “Dynamic fee” means a fee generated whenever the Airline “charge[s] different customers different prices for the same set of products, as a function of an observable state of nature. . .” Mumbower, Hotle, & Garrow, *supra* note 1. This includes, but is not limited to, a fee for which the amount is determined in whole or in part by algorithms, machine learning, artificial intelligence, or any combination thereof.

⁷ “Personal item” means a small carry-on bag including, but not limited to, a purse, bookbag, briefcase, or other carry-on item capable of being stored in under-seat storage.

⁸ “Preferred seat” means a seat in economy class that does not have extra legroom but is located in a desirable area of the aircraft or cabin, including, but not limited to, a window or aisle seat or a seat near the front of the aircraft or cabin.

2. For each fee listed pursuant to Request 1 above, please provide:
 - a. The reason for the fee;
 - b. How the fee amount was determined;
 - c. The total cost or average cost per passenger incurred by the Airline for providing the service or product for which the fee is charged; and
 - d. Whether the product or service for which the fee is charged was at any previous time included in the cost of airfare, and, if so, the date when the Airline began charging a separate fee.

3. For each dynamic fee listed pursuant to Request 1 above, please also provide:
 - a. Whether and the extent to which the amount of the fee is determined by algorithms, machine learning, artificial intelligence, or any combination thereof;
 - b. Any factors that influence the amount of the fee for a specific flight segment or itinerary; and
 - c. What information a customer must provide during the ticket purchasing process before being informed of the fee amount for their specific itinerary.

4. For each fee listed pursuant to Request 1 above, please provide:
 - a. The point in time at which the fee is disclosed to the customer during the ticket-booking process;
 - b. Whether the fee is disclosed through and whether a customer may pay the fee when purchasing a ticket through a third-party travel agent using a global distribution system;
 - c. The circumstances under which the fee may be waived or refunded to the customer, including, but not limited to, whether and the extent to which seat selection fees are waived to accommodate adjacent seats for a child 13 or under and an accompanying adult; and
 - d. Whether and the extent to which the Airline pays a commission, incentive, or other per-fee compensation to any Airline personnel for assessing or collecting the fee.

5. State the Airline's total annual revenue, and for each fee listed pursuant to Request 1 above, please provide:
 - a. The total annual revenue from the fee; and
 - b. The percentage of total annual revenue derived from the fee.

6. All internal policies, memoranda, guidance, decision documents, presentations, business strategy documents, reviews, analyses, and studies referring or relating to decisions on:
 - a. Whether to charge a fee for a product or service that was previously included in the cost of airfare.
 - b. Whether, when, and how much to increase or decrease fees.
 - c. Maximizing ancillary fee revenue generally and by use of dynamic pricing.

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7. All internal policies, memoranda, guidance, decision documents, presentations, business strategy documents, reviews, analyses, and studies referring or relating to the disclosure or marketing of fees to customers, including, but not limited to, when and how to disclose fees and fee-related changes to customers and website and mobile application user interface design.
8. All reviews, analyses, or studies conducted or relied upon by the Airline to ensure the Airline's marketing practices, disclosures, and customer interactions related to fees are transparent—or reasonably known and understood by the average customer—and free from unfair and deceptive practices.

To expedite the Subcommittee's review, I ask that you submit the material responsive to this request as it becomes available, rather than waiting to provide it all at once. To avoid any unnecessary delays in connection with this production, I ask that you carefully review the attached *Procedures for Transmitting Documents to the Permanent Subcommittee on Investigations*. Please contact [REDACTED] with any questions. Thank you for your attention to this request.

Sincerely,



Richard Blumenthal
Chairman
Permanent Subcommittee on Investigations

cc: The Honorable Ron Johnson
Ranking Member

Attachment