



McBreen & Kopko

10/31/2016

Aviation Group Client Update

Shelley A. Ewalt, Partner | sewalt@mklawnyc.com | +1 703 399 6078

DOT PUBLISHES REQUEST FOR INFORMATION (RFI) ON EXPLORING INDUSTRY PRACTICES ON DISTRIBUTION AND DISPLAY OF AIRLINE FARE, SCHEDULE, AND AVAILABILITY INFORMATION

On October 31, 2016, the DOT published [a Request for Information on Exploring Industry Practices on Distribution and Display of Airline Fare, Schedule, and Availability Information](#). Responses to this request should be filed by **December 30, 2016**.

Purpose. The DOT is requesting comments on the following: (1) whether airline restrictions on the distribution or display of airline flight information harm consumers and constitute an unfair and deceptive business practice and/or an unfair method of competition, (2) whether any entities are blocking access to critical resources needed for competitive entry into the air transportation industry, and (3) whether DOT action is unnecessary or whether DOT action in these areas would promote a more competitive air transportation marketplace or help ensure that consumers have access to the information needed to make informed air transportation choices.

Background. The DOT's RFI follows from concerns raised by various entities regarding airlines restricting the distribution or display of information on their flights. In May 2014, the Department issued a proposed rule, the Transparency of Airline Ancillary Fees and Other Consumer Protection Issues ("Consumer Rule III NPRM"), where the DOT sought information relating to a wide variety of distribution issues including information about the relationships between entities involved in the distribution of air transportation information. In that rule, the DOT's concern was whether carriers should be prohibited from restricting the information provided by ticket agents when those ticket agents do not sell air transportation directly to consumers but rather provide consumers with different airlines' flight information for comparison shopping. Since then, the DOT has received concerns from Online Travel Agencies (OTAs), representatives of metasearch sites focused on travel, and Congress, regarding airline restrictions on the distribution and display of flight information by third parties.

Pursuant to Executive Order 13725 issued on April 15, 2016, expressing the importance of a fair, efficient, and competitive marketplace and noting that consumers need both competitive markets and information to make informed choices, the DOT wants to identify any specific practices in connection with air transportation that may impede informed consumer choice.

For further information on this RFI, visit <https://www.federalregister.gov/documents/2016/10/31/2016-26191/exploring-industry-practices-on-distribution-and-display-of-airline-fare-schedule-and-availability>.

If you have any questions or would like further information, please contact Shelley Ewalt.

* * * * *

McBreen & Kopko's Aviation Group represents air carriers, fixed base operators (FBOs), airport managers, aviation service providers, and business aircraft owners and operators on a wide range of aviation issues including regulatory matters, commercial transactions, aircraft finance matters, and bankruptcy and creditors' rights.

