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September 2017

COMMERCIAL AVIATION

Information on Airline Fees for Optional Services

GAO-17-756

GAO Highlights

Highlights of GAO-17-756, a report to congressional requesters

September 2017

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Information on Airline Fees for Optional Services

Why GAO Did This Study

Since 2008, U.S passenger airlines have increasingly charged fees for optional services that were previously included in the price of a ticket, such as checked baggage or seat selection. Consumer advocates have raised questions about the transparency of these fees and their associated rules. In April 2011, DOT issued a final rule requiring, among other things, that certain U.S. and foreign airlines disclose information about optional service fees on their websites.

GAO was asked to review issues related to optional service fees in the U.S. aviation industry. This report describes: (1) how selected U.S. airlines have modified their offering and pricing of optional services since 2010, (2) the factors that selected U.S. airlines consider when determining whether and how much to charge for optional services, and (3) actions DOT has taken since 2010 to improve the transparency of optional service fees and views of selected aviation stakeholders about these actions.

GAO reviewed 2010 and 2017 airline data on optional services fees charged by the 11 largest U.S. passenger airlines; analyzed airline financial data from 2010 to 2016 reported to DOT; reviewed economic studies examining the effects of bag fees on fares; and reviewed applicable laws. GAO requested interviews with representatives of all the 11 selected U.S. airlines; 10 agreed to be interviewed and one airline declined. GAO also interviewed DOT officials, consumer advocates, and other aviation industry stakeholders. DOT reviewed a draft of this report and provided technical comments that GAO incorporated as appropriate.

View GAO-17-756. For more information, contact Gerald Dillingham, Ph.D., (202) 512-2834 or dillinghamg@gao.gov.

What GAO Found

Since 2010, selected U.S. airlines have introduced a variety of new fees for optional services and increased some existing fees. For example, each of the 11 U.S. airlines that GAO examined introduced fees for "preferred" seating, which may include additional legroom or a seat closer to the front of the economy cabin. Some of these airlines have also introduced new fees for other optional services, such as fees for carry-on baggage and priority boarding. Since 2010, many of the selected airlines have also increased existing fees for some optional services, including fees for checked baggage and for changing or cancelling a reservation. From 2010 to 2016, U.S. airlines' revenues from these two fees—the only optional service fees for which revenues are separately reported to the Department of Transportation (DOT)—increased from $6.3 billion in 2010 to $7.1 billion in 2016 (in constant 2016 dollars).

Airline officials cited competition from other airlines and customer demand, among other things, as factors they consider when deciding whether and how much to charge for optional services. According to officials from 9 of the 10 selected airlines GAO interviewed, the process of "unbundling" allows passengers to customize their flight by paying for only the services that they value. Airline officials said that charging fees for optional services allows the airlines to offer lower base airfares to customers. For customers traveling with bags, however, GAO's review of airline-related economic literature showed that on average customers who paid for at least one checked bag paid more in total for the airfare and bag fees than they did when airfares included checked baggage. Officials from the 10 airlines said they also consider customer demand and willingness to pay when setting prices for optional services, and officials from 8 of these airlines noted that competitors' prices for similar services are another factor used in determining the amount of fees.

Since 2010, DOT has taken or has proposed a range of actions to improve the transparency of airlines' fees for optional services. These actions include: (1) monitoring and enforcing airlines' compliance with existing transparency regulations; (2) collecting, reviewing, and responding to consumers' complaints; (3) collecting additional data on revenue generated from fees; and (4) educating airlines and consumers about existing regulations and consumer rights related to optional service fees. Consumer and industry stakeholders, such as online travel agents' representatives, told GAO that DOT's regulations requiring certain airlines to disclose optional service fees on their websites have improved consumer transparency. However, these stakeholders also told GAO that there are additional transparency challenges, such as when consumers search for and book flights through online travel agents. Because optional services are not always available for purchase and because fees for such services are not always disclosed through online travel agents, these stakeholders argue that consumers are not always able to determine the full cost of their travel and compare costs across airlines before they purchase their tickets. While transparency challenges still exist, DOT has ongoing regulatory proceedings, some in response to prior GAO recommendations that may resolve some of these issues.

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Abbreviations

A4A	Airlines for America
ACPD	Aviation Consumer Protection Division
BTS	Bureau of Transportation Statistics
DOT	Department of Transportation
EU	European Union
FKGL	Flesch-Kincaid Grade-Level
GDS	global distribution system
IATA	International Air Transport Association
OAEP	Office of Aviation Enforcement and Proceedings
UK	United Kingdom
UK CAA	United Kingdom Civil Aviation Authority

U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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September 20, 2017

The Honorable Bill Nelson
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Richard Blumenthal
Ranking Member
Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Edward Markey
United States Senate

Since 2008, U.S. passenger airlines have increasingly "unbundled" optional services, charging fees for a variety of services that were previously included in the price of the ticket. For example, optional service fees can include charges for such things as checked bags, early boarding, seat selection, meals, or other amenities. In addition to these services that were previously included in the ticket price, the airline industry has long charged fees for other optional services, such as unaccompanied minors, or changing or canceling a reservation. Optional service fees are an important source of revenue for airlines. According to the Department of Transportation's (DOT) Bureau of Transportation Statistics (BTS), from 2010 to 2016, U.S. airlines generated more than $44 billion in revenues from baggage fees, reservation-change fees and cancellation fees alone. Over the same period, the number of passengers traveling on U.S. airlines increased by 14 percent.

With airlines' increased practice of charging fees for optional services, consumer advocacy groups have raised concerns about the lack of transparency regarding optional service fees and the full price of airline tickets. In July 2010, we reported that information about airlines' optional service fees and their associated rules are not fully disclosed to consumers, making it difficult for consumers to compare the total cost of flights across different airlines.[1] We made four recommendations to DOT to improve the transparency of information on airline-imposed fees, including that DOT require airlines to disclose certain airline-imposed optional service fees, and disclose applicable government-imposed fees that may be eligible for refunds on unused nonrefundable tickets. DOT has implemented both of these recommendations but has not yet implemented our recommendations to require airlines to disclose baggage fees and policies along with fare information across all sales channels used by the airline, and to separately report to DOT the revenues from all optional service fees paid by passengers.[2] However, DOT has initiated several rulemakings that may address these open recommendations.[3]

You asked us to review issues related to optional service fees in the U.S. aviation industry. This report describes: (1) how selected U.S. airlines have modified their offering and pricing of optional services since 2010; (2) the factors that selected U.S. airlines consider when determining whether and how much to charge for optional services; and (3) the actions DOT has taken since 2010 to improve the transparency of optional service fees and views of selected aviation stakeholders about these actions.

To determine how U.S. airlines have modified their offering and pricing of optional services, we selected the 11 largest U.S. passenger airlines (in terms of reported revenue and number of passengers) that fly under their

[1]GAO, *Commercial Aviation: Consumers Could Benefit from Better Information about Airline-Imposed Fees and Refundability of Government-Imposed Taxes and Fees*, GAO-10-785 (Washington, D.C.: July 14, 2010).

[2]In total, we made six recommendations. One recommendation was to the Department of Homeland Security to issue guidance regarding the refundability of the customs and immigration inspection fees to U.S. and foreign airlines collecting these fees. Another recommendation was to the Department of Agriculture to determine whether a passenger is eligible for a refund of the animal and plant health-inspection fee and convey this determination to U.S. and foreign airlines collecting these fees. Both of these recommendations were implemented. We also included a matter for congressional consideration regarding amending the Internal Revenue Code to make mandatory the taxation of certain or all airline imposed fees and to require that the revenue be deposited in the Airport and Airway Trust Fund. Congress has not yet taken action regarding this matter.

[3]Transparency of Airline Ancillary Service Fees, 82 Fed. Reg. 7536 (Jan. 19, 2017) and Reporting Ancillary Airline Passenger Revenues, 76 Fed. Reg. 41726 (July 15, 2011).

own brand.[4] These airlines transported over 80 percent of U.S. domestic passengers in 2016.[5] We obtained 2010 and 2017 airline data and analyzed how these fees have changed since 2010. Specifically, we took screen captures of airlines' webpages listing optional services and fees on March 31 and April 1, 2017. We then compared this information to the 2010 optional services and fee information that we collected as part of our 2010 review of airline fees. We requested interviews with representatives of all the 11 selected U.S. airlines; 10 airlines agreed to be interviewed and one airline declined.[6] We interviewed these airline officials about their optional service fees and bundled fare products introduced since 2010 and obtained related documentation.[7] We obtained 2010 through 2016 data from BTS on airlines' revenues from baggage and reservation change and cancellation fees and analyzed how this revenue has changed since 2010. We determined that these data were sufficiently reliable to report on airlines' revenues from baggage and reservation-change fees since 2010 by reviewing quality control documentation and interviewing BTS officials. We also reviewed available economics literature on the extent to which baggage fees, introduced by U.S. airlines around 2008, affected ticket prices.

To determine the main factors that airlines consider when determining whether and how much to charge for optional services, we asked representatives from the 10 airlines that agreed to be interviewed about the factors their airline considers when deciding to charge separately for an optional service. To determine what actions DOT has taken since

[4]We originally selected 12 U.S. passenger airlines for our review: Alaska Airlines (Alaska), Allegiant Air (Allegiant), American Airlines (American), Delta Air Lines (Delta), Frontier Airlines (Frontier), Hawaiian Airlines (Hawaiian), JetBlue Airways (JetBlue), MN Airlines LLC dba Sun Country Airlines (Sun Country), Southwest Airlines (Southwest), Spirit Airlines (Spirit), United Airlines (United), and Virgin America. During the course of our audit, Alaska Air Group, which owns Alaska Airlines, purchased Virgin America. As a result, we eliminated Virgin America from our selection.

[5]We used DOT T-100 data on U.S. airlines to determine the share of passengers on the 11 airlines in our selection. The share of passengers on these 11 airlines does not include passengers who flew on flights marketed by one of the selected airlines but operated by another airline. For example, SkyWest Airlines, the largest airline excluded from our selection, flew over 31 million passengers in 2016 on flights marketed by Alaska, American, Delta, and United.

[6]Sun Country declined our request for an interview; however, we included relevant information about Sun Country in parts of the report that relied on publicly available information, such as information from the airline's website.

[7]Delta provided written responses to our interview questions.

2010 to improve the transparency of optional service fees, we reviewed DOT regulations and proposed rules, along with DOT policies, directives, guidance, and other documentation related to monitoring, investigating, and enforcing airline compliance with optional service fee regulations. We interviewed DOT officials and selected aviation stakeholders—including three airline trade associations, four consumer groups, and six other industry stakeholders—about DOT's actions. We interviewed BTS officials about their guidance and process for collecting optional service revenue data from airlines. We also discussed DOT's actions and BTS's data collection with officials from the 10 selected airlines that agreed to be interviewed. In addition, we examined the "contract-of-carriage" documents from all 11 selected U.S. airlines.[8]

Last, we obtained documents and interviewed officials from four selected foreign governments (the European Union, Canada, the United Kingdom, and Malaysia) that have taken actions to improve consumer transparency related to airline fees; information from these interviews is presented in appendix I. All information regarding foreign laws, regulations, and cases is based on responses by the applicable foreign officials to interview questions. More detailed information on our scope and methodology is presented in appendix II, including a list of the selected aviation stakeholders we interviewed and specific information about how we selected the stakeholders, airlines, and foreign governments for our review.

We conducted this performance audit from November 2016 to September 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

In recent years, airlines have increasingly charged fees for optional services. Since the U.S. airline industry was deregulated in 1978, the industry's earnings have been volatile. In calendar years 2008 and 2009, the U.S. passenger airline industry incurred nearly $4.4 billion in

[8]A "contract of carriage" is the legal agreement between the passenger and the airline and typically defines all the contractual rights, liabilities, and duties of the two parties to the contract.

operating losses, due largely to high jet fuel prices—airlines' biggest operating expense in 2008—combined with a severe economic downturn that reduced passenger traffic. In response to these and other economic challenges, airlines began in 2008 to "unbundle" optional services from the base ticket price, thereby charging separate fees for services that were previously included in the ticket price.[9] Revenues from fees for optional services continue to grow. In fiscal year 2016, airlines reported $200 billion in revenue, about $7.1 billion of it from the two optional services fees for which revenues are separately reported to DOT—$4.2 billion in baggage fee revenue and $2.9 billion from fees for changing reservations.

The passenger airline industry is primarily composed of network (or "legacy"), low-cost, and regional airlines. Network airlines were in operation before the Airline Deregulation Act of 1978 and support large, complex hub-and-spoke operations with thousands of employees and hundreds of aircraft. These airlines provide service at various fare levels to a wide variety of domestic and international destinations.[10] Low-cost airlines generally entered the market after deregulation and tend to operate less costly "point-to-point" service using fewer types of aircraft.[11] Regional airlines generally employ much smaller aircraft (up to 100 seats) and provide service under "code-sharing" arrangements with larger network airlines for which they are paid on a cost-plus or fee-for-departure basis to provide network capacity.[12] Both network and low-cost airlines charge fees for a variety of optional services. Regional airlines may also charge optional fees, such as baggage fees; however, those fees are generally determined by the network airline in the code-sharing partner agreement. While charges for some services—such as unaccompanied minors, reservation changes or cancellations, and oversized or overweight baggage—have existed in the airline industry for many years, other services, such as wireless internet access and on-

[9]"Unbundling" refers to charging fees or ancillary fees for optional services or offering a la carte pricing for different services.

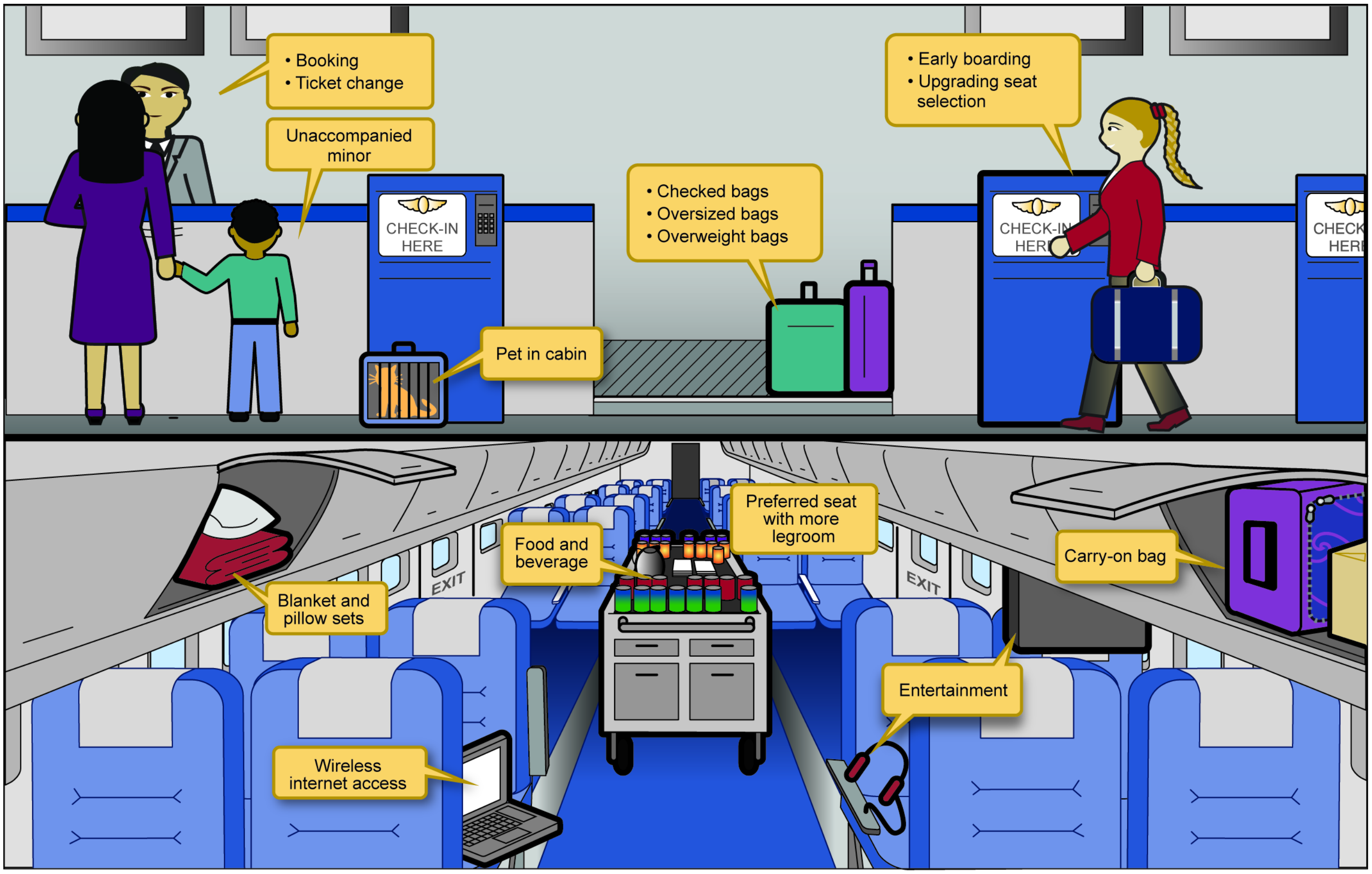
[10]For purposes of this report, we defined Alaska, American, Delta, Hawaiian, and United as network airlines.

[11]For purposes of this report, we defined Allegiant, Frontier, JetBlue, Southwest, Spirit, and Sun Country as low-cost airlines.

[12]A "code-sharing" arrangement is a marketing arrangement in which an airline places its "designator code" (e.g., UA for United) on a flight operated by another airline and sells and issues tickets for that flight.

demand entertainment access, are new. See figure 1 for examples of optional service fees.

Figure 1: Examples of Airline Optional Service Fees



Source: GAO. | GAO-17-756

Some optional services can be purchased in advance when booking airline tickets. For example, customers can purchase optional services when booking tickets directly from the airline (i.e., from the airline's website, by calling the airline's call center, or from the airline's ticket counter at the airport). Customers who purchase tickets from third parties, such as online travel agents (e.g., Priceline or Expedia) and traditional or corporate travel agents, may also have the option to purchase some optional services when booking tickets, but this option varies depending on the airline and third party. Customers may also obtain some information about flight schedules, fares, and some optional services from metasearch companies (e.g., Google or Kayak); however, the information on optional services available through these websites varies.[13] Generally, online travel agencies, traditional or corporate travel agents, and metasearch companies obtain airfare and optional service fee information from global distribution systems, which are companies that package airline information so that travel agents can query and "book" (i.e., reserve and purchase) flights for airline customers.[14]

DOT has authority to investigate whether a U.S. air carrier, foreign air carrier, or ticket agent has been, or is engaged, in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. Upon finding that a U.S. air carrier, foreign air carrier, or ticket agent is engaged in such a practice or method, DOT has the authority to order the regulated entity to stop the practice or method.[15] Under this authority, in April 2011, DOT issued "Consumer Rule 2" which included several provisions related to increasing the transparency of airfares and optional service fees for consumers.[16] This rule—which became completely in effect in January 2012—requires, among other things, that certain U.S. and foreign air carriers disclose information about their optional service fees on their websites and refund passengers'

[13]Metasearch websites provide consumers with information about different airline prices and schedules to enable customers to comparison shop across multiple airlines and online travel agent websites. Metasearch websites do not sell tickets but direct customers to airline or travel agent websites to book their tickets.

[14]The three main global distribution system companies are Amadeus, Sabre, and Travelport. Airlines provide airfare information to the Airline Tariff Publishing Company, the tariff publishing house, which is owned by a consortium of airlines and which in turn, provides the fare information to the global distribution system companies. Once an airline ticket is purchased, the financial transaction is reconciled by the Airlines Reporting Corporation, another company owned by an airline consortium, which offers payment and settlement services.

[15]49 U.S.C. § 41712(a).

[16]Enhancing Airline Passenger Protections (Consumer Rule 2), 76 Fed. Reg. 23110 (Apr. 25, 2011).

baggage fees if their bags are lost.[17] The transparency regulations that went into effect after the issuance of Consumer Rule 2 are summarized in table 1.

Table 1: Department of Transportation's Consumer Protection Regulations Related to Airlines' Optional Service Fees

Regulation[a]	Requirements[b]	Citation
Full fare price advertising	• Advertisements in the United States by an air carrier or ticket agent for air transportation within, to, or from the United States must include the entire price for air transportation, including government taxes and mandatory fees.	14 C.F.R. § 399.84(a)
Opt-in requirement	• Consumers must affirmatively "opt-in" (i.e., agree) to purchase optional services before such fees are added to the total price of the air transportation-related purchase.	14 C.F.R. § 399.84(c)
Disclosure of fees for optional services	• U.S. and foreign air carriers with websites marketed to U.S. consumers must promptly and prominently disclose on the homepage of their website for at least three months after the change becomes effective, any increase in carry-on or checked baggage fees or change in carry-on, first, or second checked bag allowances.	14 C.F.R. § 399.85(a)
	• U.S. and foreign air carriers and ticket agents with websites marketed to U.S. consumers must clearly and prominently disclose on the first screen in which the ticket agent or carrier offers a fare quotation for a specific itinerary selected by a consumer that additional airline fees for baggage may apply and where consumers can see these baggage fees.	14 C.F.R. § 399.85(b)

[17] 76 Fed. Reg. 23110, 23165, 23166-23167 (codified as amended at 14 C.F.R. §§ 259.5, 399.85). As part of this review, we examined optional service fee refund policies of the airlines in our selection and found that these policies differed across the selected airlines. Of the airlines we interviewed, 7 of the 10 stated that if an airline cancels a flight, it will provide an automatic refund of the fare and all fees. Eight out of 10 airlines stated that the airline will provide a refund if the customer cancels the ticket, but that it depends on the type of fare purchased by the customer. For example, according to one airline official, if a customer purchases a refundable ticket, then any optional services that the customer purchased with the ticket will also be refunded automatically if the customer cancels the ticket. However, if the customer purchased a non-refundable ticket, then any optional services purchased with that ticket are also considered non-refundable. In the case of a late or a lost checked bag, 8 of 10 airlines said that they would refund the baggage fee, but that the refund is not automatic and the customer would have to request the refund. The FAA Extension, Safety, and Security Act of 2016 required DOT, by July 17, 2017, to issue final regulations requiring air carrier or foreign air carriers to promptly provide passengers with refunds for baggage fees when the passenger's bag is not delivered within specified time periods after arrival of the flight. Pub. L. No. 114-190, § 2305, 130 Stat. 615, 640 (2016). In October 2016, in response to this mandate, DOT issued an advance notice of proposed rulemaking seeking comment on the appropriate length of delay, within the statutory parameters, that would trigger the refund requirement, among other things. See Refunding Baggage Fees for Delayed Checked Bags, 81 Fed. Reg. 75347 (Oct. 31, 2016).

Regulation[a]	Requirements[b]	Citation
	• U.S. and foreign air carriers and ticket agents that advertise or sell air transportation in the United States must include information about the free baggage allowance, and/or applicable fees for the first and second checked bag and carry-on baggage, on the e-ticket confirmation provided to the customer for air transportation within, to or from the United States. The baggage fee information must be expressed as specific charges.	14 C.F.R. § 399.85(c)
	• U.S. and foreign air carriers with websites marketed to U.S. consumers must prominently disclose fees for all optional services—including baggage charges and items such as upgrades, meals, and drinks—in a single place, accessible through a conspicuous link on the home page of the website. Fees for particular services may be expressed in ranges, except for baggage fees which must be expressed as a specific charge.	14 C.F.R. § 399.85(d)
	• For air transportation within, to or from the United States, a carrier marketing a flight under its identity that is operated by a different carrier (also known as a code-share flight), must disclose on its website any differences between its optional services and related fees and those of the carrier operating the flight.	14 C.F.R. § 399.85(e)
Prohibition on post-purchase price increases for airfare and baggage	• Any seller of scheduled air transportation within, to or from the United States cannot increase the price of airfare or baggage if the consumer has already paid the full amount, except in the case of an increase in a government-imposed tax or fee. However, post purchase price increases for government-imposed taxes or fees are only allowed if the seller notifies the consumer of the potential for such an increase and obtains the consumer's written consent to the potential for such increase prior to the purchase of the air transportation. Additionally, any seller of scheduled air transportation within, to or from the United States must notify a consumer of the potential for a price increase that could take place prior to the time that the full amount has been paid by the consumer and must obtain the consumer's written consent to the potential for such an increase prior to accepting any payment for the air transportation.	14 C.F.R. §§ 399.88, 399.89
Refunding fees for optional services	• When a consumer is voluntarily or involuntarily denied boarding, the carrier must refund all optional service fees paid for by the consumer that are not available on the alternative flight. The carrier must also refund passengers the baggage fee if the bag is lost.	14 C.F.R §§ 250.5(f), 259.5(b)(3), (b)(5)

Source: GAO review of DOT regulations | GAO-17-756.

[a]The regulation column does not reflect the title provided in the Code of Federal Regulations. Instead, we included the name by which DOT commonly refers to the regulations.

[b]The requirements column for each regulation is a summary based on both the regulatory text of the citation provided, and DOT's guidance provided in its "Answers to Frequently Asked Questions Concerning the Enforcement of the Second Final Rule on Enhancing Airline Passenger Protections (EAPP #2)," most recently revised on December 12, 2016.

DOT's Office of Aviation Enforcement and Proceedings (OAEP), and its Aviation Consumer Protection Division (ACPD), monitor and enforce airline compliance with economic regulations, such as advertising requirements related to the disclosure of airline fares and optional service fees, among others.[18] Consumers may file air-transportation-related complaints with DOT.[19] Consumers may also file air-transportation-related complaints with airlines, and airlines are required to acknowledge and respond to each complaint.[20] Additionally, DOT may require airlines to file reports and keep records.[21] DOT is authorized to inspect regulated entities' records and collect transportation information from regulated entities.[22] DOT may assess civil penalties against airlines for violating the statute prohibiting unfair and deceptive practices and unfair methods of competition, and any regulations promulgated under that authority.[23]

Selected Airlines Have Continued to Introduce New Fees for Optional Services since 2010, while Increasing the Price of Some Existing Fees

Since 2010, U.S. airlines have introduced a variety of new optional-service fees and bundled products and increased the price of some existing fees. Some fees for optional services, like first and second checked bag fees on network airlines, have not changed considerably since 2010. However, some airlines increased other fees, such as fees for overweight and oversized bags and reservation changes and cancellations. According to DOT data, from 2010 to 2016, airline revenues from baggage fees and reservation-change and cancellation fees increased as did the number of passengers.

U.S. Airlines Have Introduced New Fees and Products for Optional Services since 2010

Several U.S. airlines have introduced new fees since 2010 for services that used to be included in the ticket price, notably "preferred" seats within the economy cabin. For example, several network airlines—including Alaska, American, and Delta—created fees for upgrading to preferred seats, which are more desirable seats in the economy cabin of the aircraft, such as those located in an exit row, toward the front of the

[18]Both OAEP and ACPD are housed within the Office of the Secretary of the Department of Transportation.

[19]49 U.S.C § 46101(a).

[20]14 C.F.R. § 259.7(c).

[21]49 U.S.C. §§ 41708, 41709 (a).

[22]49 U.S.C. §§ 329 (a), 41709(b).

[23]49 U.S.C. § 46301(a).

aircraft or with additional legroom.[24] Preferred seats may also include priority boarding or food and beverages, depending on the airline. The characteristics of preferred seats differ among airlines, even when the products' names sound similar. For example, both American and Hawaiian have a product called Preferred Seating, but American's product refers to standard legroom in more favorable locations, whereas Hawaiian's product refers to more legroom and priority boarding, among other things. In addition, some airlines offer more than one type of preferred seat. For example, in addition to its Preferred Seating product, American also offers a product called Main Cabin Extra, which includes additional legroom and priority boarding. As of July 2010, Frontier, JetBlue, and Spirit had already instituted fees for preferred seats, and Allegiant started offering preferred seats to its passengers in 2014. Southwest, however, does not have any assigned seating and therefore does not sell preferred seating. Instead, Southwest allows some customers to pay for early boarding, which increases the customer's ability to select a desired seat. Table 2 shows airlines' different approaches to charging fees for preferred seating.

[24]Some airlines, including Delta, place preferred seats in a separate cabin, as opposed to designated areas within the economy cabin.

Table 2: Selected U.S. Airlines' Approaches to Charging Fees for Preferred Seating, as of April 1, 2017

Airline	Product	Description
Alaska	Premium Class	3-4 inches more legroom than standard seats, priority boarding, and complimentary beverage
	Seats with more legroom	4-9 inches more legroom than standard seats
Allegiant	Legroom+	More legroom than standard seats
	Giant Seats	Wider seats and more legroom than standard seats
American	Main Cabin Extra	3-5 inches more legroom than standard seats and priority boarding
	Preferred	Standard legroom in more favorable locations of the aircraft
Delta	Comfort+	1-4 inches more legroom than standard seats, priority boarding, and complimentary food and beverages
	Preferred	Standard legroom in more favorable locations of the aircraft
Frontier	Stretch seats	5-10 inches more legroom than standard seats
Hawaiian	Extra Comfort	More legroom than standard seats, priority boarding and security screening, entertainment pack, and use of pillow and blanket
	Preferred	More legroom than standard seats and priority boarding
JetBlue	Even More Space	More legroom than standard seats and priority boarding
Southwest	Upgraded Boarding	Allows passengers to board earlier and select a more desirable seat
Spirit	Big Front Seats	Larger seat with more legroom than standard seats
Sun Country	Preferred	Seats located in the front of the coach cabin
United	Economy Plus	3-8 inches more legroom than standard seats

Source: GAO analysis of selected airline websites | GAO-17-756

Notes: With preferred economy seating, a customer may pay to reserve a more desirable seat, such as a seat toward the front of the aircraft or with extra legroom. More legroom refers to increased seat pitch, which is defined as the distance between a point on a seat and the corresponding point on the seat in front of or behind it.

The pricing of preferred seats is not always apparent to customers on airlines' websites, unless the customer selects or begins to book a specific flight. For example, some airlines, like Spirit and United, specify the range of prices, which may vary based on the route. Other airlines, like Alaska and Frontier, provide the minimum possible price but do not specify the maximum a customer might pay for the preferred seat. One of the selected airlines in our review, Delta, did not have preferred-seating prices available to customers browsing the website. All of the selected airlines provide detailed pricing on preferred seats if the customer selects or begins to book a specific flight.[25]

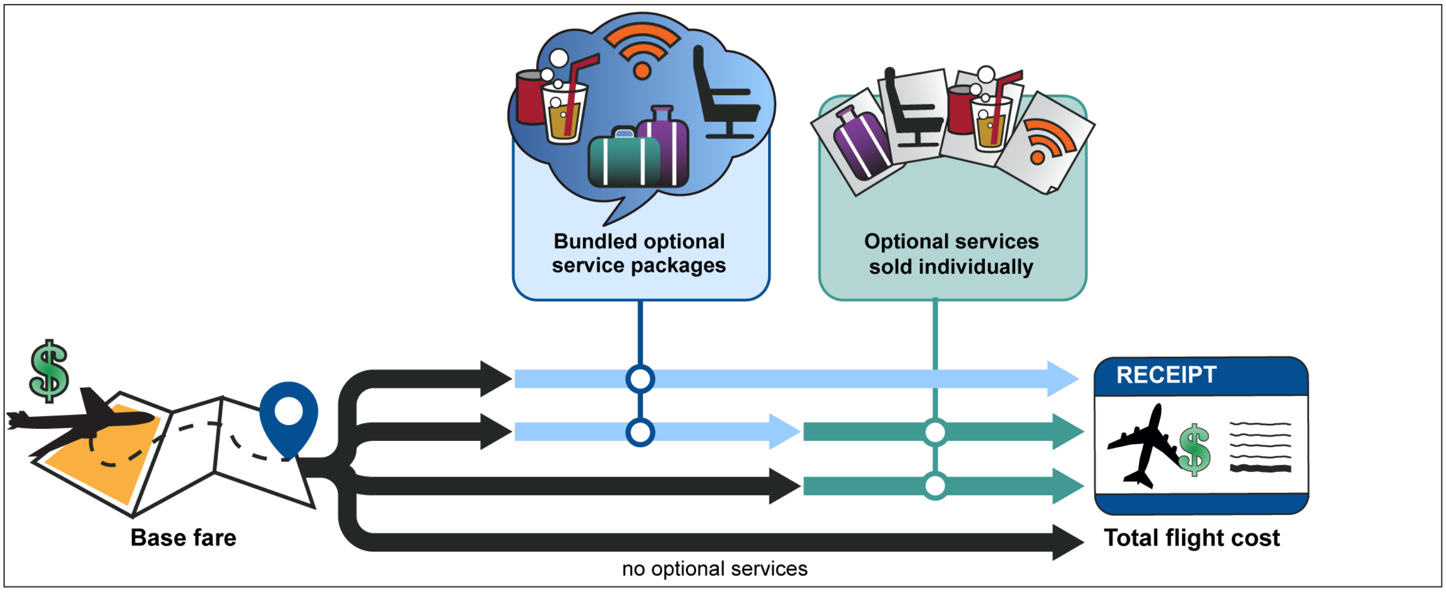
[25]Although Southwest's Upgraded Boarding is not available for purchase until the day of travel, its website states that the fee is either $30 or $40 depending on the flight.

From 2010 to 2017, U.S. airlines introduced other new fees such as fees for carry-on bags, beverages, wireless internet access, and priority boarding. For example, three low-cost airlines implemented new fees for carry-on bags. Spirit introduced a fee for bringing a large bag into the cabin in 2010, as did Allegiant in 2012 and Frontier in 2013. None of the network airlines currently charge for carry-on bags. Allegiant and Frontier also began to charge customers for non-alcoholic beverages in 2012 and 2013, respectively, while Spirit already charged for these products. Since 2010, some U.S. airlines began charging for services that were not previously available. For example, Southwest first offered and charged for wireless internet access in 2011, and JetBlue began charging for expedited security screening and early boarding in 2011.

While some customers are electing to pay extra for optional services, others are purchasing tickets that are priced lower and include optional service restrictions. For example, since 2015, American, Delta, and United have introduced Basic Economy fares. Passengers choosing to purchase Basic Economy tickets are assigned seats after checking in, meaning that they might not be seated with the rest of their travel group; board the aircraft last; cannot upgrade seats or class of service; and cannot change their flights. In addition, American and United Basic Economy passengers may not stow belongings in overhead compartments and are limited to one carry-on bag that fits under the seat in front of them.

In yet another purchasing option, since 2010 several U.S. airlines have introduced packages of optional services that are sold together as a bundle instead of individually and can be purchased on top of or along with the base fare. The contents of these bundles vary greatly among airlines. For example, Frontier has two packages that include carry-on and checked bags, seat selection, and priority boarding; one of the packages also allows customers to change or cancel their tickets for full refunds. Other airlines' bundles include the base ticket as well as other optional services, such as JetBlue's "Blue Plus" that adds one checked bag to the basic fare. On some airlines, bundled packages also overlap with preferred seating; for example, on Hawaiian, an Extra Comfort seat provides a seat with additional legroom, priority boarding and security screening, entertainment pack, and the use of a pillow and a blanket. Figure 2 illustrates different ways that airline passengers can elect to purchase optional services, depending on the airline.

Figure 2: Airline Passengers Purchase Optional Services as a Bundled Package or Individually, or Both



Source: GAO. | GAO-17-756

Network Airlines Have Generally Not Increased Baggage Fees, but Some Fees for Other Optional Services Have Increased since 2010

From 2010 to 2017, fees for first and second checked bags on U.S. network airlines generally remained unchanged, while low-cost airlines generally increased these fees (see table 3).[26] Among the five network airlines in our selection, only Alaska increased its first bag fee—from $20 to $25, which is the same price charged by other network airlines.[27] Delta and Hawaiian did not increase their fee for first and second checked bags; however, they eliminated a $3 discount that was previously available for paying bag fees online in advance of a flight. Among low-cost U.S. airlines with which we spoke, Allegiant, Frontier, and Spirit each increased the fee range for the first and second checked bags from 2010 to 2017. These three airlines charge varying baggage fees based on when the passenger pays the fee; specifically, paying a bag fee online and in advance of the flight is less expensive than paying the bag fee at the airport on the day of travel. Southwest does not charge for a first or second checked bag, opting to use "bags fly free" as part of its marketing strategy.

[26]The fees detailed in this section only apply to U.S. domestic flights. Fees on international flights may be higher or lower depending on the airline and destination and origin countries. We examined these seven fees in our prior report in 2010, which allowed us to compare prices from 2010 and 2017 in this report.

[27]All of the network airlines in our selection allow several groups of passengers to check bags at no cost, including passengers with certain frequent-flyer statuses, passengers who booked tickets with airline-branded credit cards, U.S. military members, and first- and business-class passengers.

Table 3: Selected U.S. Airlines' Fees for Checked Baggage and Other Optional Services on Domestic Flights, as of July 1, 2010, and April 1, 2017

	Year	First bag	Second bag	Overweight bags	Oversized bags	Reservation change or cancellation	Unaccompanied minor	Pet in cabin
Network airlines								
Alaska	2010	$20	$20	$50	$50-75	$75-100	$25-50[a]	$100
	2017	$25	$25	$75	$75	$125	$25-50[a]	$100
American	2010	$25	$35	$50-100	$150	$150	$100	$100
	2017	$25	$35	$100-200	$200	$200	$150	$125
Delta	2010	$23-25	$32-35	$90-175	$175-300	$150	$100	$125
	2017	$25	$35	$100-200	$200	$200 (each way)	$150	$125
Hawaiian	2010	$23-25	$32-35	$50	$100	$150	$100	$175
	2017	$25	$35	$50-200	$100	$200	$100	$175
United	2010	$25	$35	$100	$100	$150	$99	$125
	2017	$25	$35	$100-200	$200	$200	$150	$125
Low-cost airlines								
Allegiant	2010	$15-35	$25-35	$50-100	$35	$50 (per segment)	n/a	n/a
	2017	$18-50	$18-50	$50-75	$75	$75 (per segment)	n/a	$100
Frontier	2010	$20	$20	$75	$75	$50-100	$50-100[a]	$75
	2017	$30-40	$40-45	$75	$75	$99	$110	$75
JetBlue	2010	$0	$30	$50-100	$75	$100	$75	$100
	2017	$25	$35	$100	$100	$75-150	$100	$100
Southwest	2010	$0	$0	$50	$50	$0	$50	$75
	2017	$0	$0	$75	$75	$0	$50	$95
Spirit	2010	$19-25	$25	$50-100	$100-150	$100-110	$100	$100
	2017	$25-50[b]	$35-60[b]	$30-100	$100-150	$90-100	$100	$110
Sun Country	2010	$20-25	$30-35	$75	$75	$75	$75	$100
	2017	$25	$35	$75	$75	$50	$75	$125-199

Source: GAO analysis of airline information. | GAO-17-756

Notes: n/a = service not available on this airline. This table includes fees for passengers in economy cabins; optional services for passengers who are in first class or business class, have certain frequent-flyer statuses, booked tickets with airline-branded credit cards, or are members of the U.S. military may have different fees. This table excludes intra-Hawaii and intra-Alaska flights for Hawaiian and Alaska, respectively. All fees except reservation change and cancellation fees apply to one-way trips. Reservation change and cancellation fees apply to entire booking unless otherwise indicated.

[a]The fee for unaccompanied minors is higher if the trip includes connecting flights than if the trip is direct or non-stop.

[b]Spirit's first and second bag fees may be up to $9 lower if the customer has joined the airline's membership program for an annual charge.

Fees for other optional services—namely, fees for overweight and oversized bags, reservation changes and cancellations, and unaccompanied minors—generally increased from 2010 to 2017 on both network and low-cost U.S. airlines, as shown in table 3. Notably, roughly half of the airlines in our selection increased the overweight bag and unaccompanied minor fees, while a majority of the airlines in our selection increased reservation change or cancellation fees. Specifically, from 2010 to 2017, 7 of the 11 selected airlines increased their fees for checking overweight bags. In 2010, overweight bag fees ranged from $50 to $175, and in 2017, they ranged from $30 to $200.[28] In addition, 6 of the selected airlines increased oversized bag fees, while the rest of the selected airlines either narrowed the cost of checking an oversized bag (e.g., Delta charged from $175 to $300 in 2010, but later switched to a flat $200 fee) or did not change the fees.[29] In 2010, oversized bag fees ranged from $35 to $300, and in 2017, they ranged from $75 to $200. Six of the 10 selected airlines that charged reservation change and cancellation fees increased those fees from 2010 to 2017. (Southwest does not charge a reservation change or cancellation fee.) In 2010, the selected airlines charged from $50 to $150 to change or cancel a domestic reservation; in 2017, this fee ranged from $50 to $200.[30] Five of the 11 airlines increased unaccompanied minor fees.

Total Revenue from Fees Increased as the Number of Passengers Also Increased

According to airline financial data submitted to BTS, U.S. airline revenues from baggage fees and reservation change and cancellation fees—the only fees for which revenues are separately reported—increased from a total of $6.3 billion in 2010 to $7.1 billion in 2016 in constant 2016 dollars. Specifically, revenues from baggage fees rose from $3.7 billion in 2010 to

[28]Nine of the selected airlines charged overweight fees for bags over 50 pounds, while Allegiant and Spirit charged for bags weighing more than 40 pounds.

[29]Most of the selected airlines charge oversized bag fees for bags that are greater than 62 or 63 linear inches, which is the sum of the width, depth, and height of the item. Some of these airlines charge set fees for specialty items, such as sporting equipment; fees for specialty items are not included in this report.

[30]Reservation change and cancellation fees generally apply to entire booking, but some of the selected airlines charge for each segment or each direction of a trip. Customers who purchase refundable tickets are generally exempt from reservation change and cancellation fees.

$4.2 billion in 2016 in constant 2016 dollars, an increase of nearly 12 percent. Similarly, revenues from reservation change and cancellation fees increased from $2.5 billion in 2010 to $2.9 billion in 2016 in constant 2016 dollars, an increase of more than 14 percent. Combined revenue from bag and reservation change and cancellation fees made up 3.3 percent of airlines' operating revenues in 2010 and 3.5 percent of operating revenues in 2016.

While revenue from baggage and reservation change and cancellation fees has increased, so has the number of passengers traveling on U.S. airlines. From 2010 to 2016, the number of passenger enplanements and the revenue from these optional services increased at similar rates. As discussed earlier, total enplanements on U.S. airlines increased by about 14 percent, from about 721 million in 2010 to 825 million in 2016. It is worth noting that, unlike the revenues from domestic airfares, revenues from most optional service fees are not subject to the excise tax that helps fund the Airport and Airway Trust Fund, which partially supports the Federal Aviation Administration and the operation of the air traffic control system.[31] This issue was discussed in depth in our 2010 report and remains relevant as the amount of airline revenue generated by optional service fees increases.[32]

[31]The Internal Revenue Code imposes a 7.5-percent excise tax on amounts paid for the taxable transportation of any person by air, the revenue from which is deposited into the Airport and Airway Trust Fund. Additionally, Treasury regulations and Internal Revenue Service guidance set parameters for which airline-imposed fees are subject to the 7.5-percent excise tax; generally, all mandatory charges necessary to transport passengers are taxed but fees for optional services are not. Treasury regulations have specifically exempted payments for baggage fees from the tax. If baggage fees in 2016 had been subject to the 7.5-percent excise tax, we estimate that up to approximately $309 million in excise taxes would have been credited to the Airport and Airway Trust Fund. This amount is approximately 2.1 percent of the approximately $14.4 billion in revenue that the Trust Fund received during fiscal year 2016. For this analysis, we are making the simplifying assumption that the additional tax due would not have caused any passengers to choose not to purchase tickets. Any such reduction in purchases presumably would have been small and would have had the effect of making the increase in potential taxes collected a little smaller than our estimate. This figure is also based on total baggage fee revenues, including international baggage fees that would presumably not be subject to the 7.5-percent excise tax. The reported data do not allow us to identify the portion of baggage fee revenues collected on international flights. Moreover, we also note that airline officials stated that the introduction of separate fees for optional services have enabled them to lower base airfares. If this trend continues, it would continue to erode the base to which the 7.5-percent excise tax is applied.

[32]GAO-10-785.

Selected Airlines Consider Competition and Customer Demand Among other Factors When Making Decisions About Optional Services

Airlines Said That They Charge Separately for Optional Services to Compete with Other Airlines and Respond to Customer Demand

Airline officials said that airlines charge separately for optional services to better compete with other airlines. Officials from 9 of the 10 airlines with whom we spoke said that selling optional services separately from the base fare allows airlines to reduce the base ticket price. One airline official explained that customers make purchasing decisions based primarily on the base ticket price—the cost of flying from one point to another. According to this airline official, lowering the base fare therefore helps an airline compete with other airlines. Some airline officials cited other ways in which unbundling can lower ticket prices. For example, one airline official said that baggage fees have prompted customers to travel with fewer bags or no bags. As a result, the plane weighs less, which reduces fuel costs and, in turn, can allow the airline to reduce the base ticket price. Four other airline officials said that the lower base fares resulting from unbundling optional services have made flying more affordable to more people, thereby increasing the number of people who decide to travel by air.

Officials from two airlines said that airfares have decreased over time, and an official from Airlines for America (A4A)—the U.S. airline trade association—cited BTS data during a May 2017 congressional hearing to show that consumers are paying less for airfare than they had previously; however, these data have some limitations. Data compiled by BTS indicate that the average domestic airfare decreased from $370 in 2010 to $349 in 2016 in constant 2016 dollars, a decrease of 5.6 percent.[33] But, the fares include only base fares plus applicable government taxes and do not include all optional service fees. As a result, they do not represent the total amount that some customers may be paying to travel. In addition, according to DOT officials, DOT does not weight one-way tickets differently than round-trip tickets when calculating the average fares. DOT officials told us that customers are more likely to purchase one-way tickets now than they were 10 years ago because airlines no longer charge a premium for one-way tickets. As a result, a higher share of one-way tickets would result in lower average fares. Lastly, it is difficult to determine all the factors that could have caused this decrease in airfare, as several economy-wide changes, including those in energy prices, affect fares.

However, some studies have examined the effect bag fees may have had on ticket prices. To examine this issue, we conducted an economic literature search for any published, peer-reviewed studies that examined the introduction of bag fees by U.S. airlines and the effect on fare prices. The three studies that met our criteria (as described in appendix II) found that although the introduction of bag fees may have led to a decrease in average fares, the total price paid by customers who checked a bag may not have decreased on average. Specifically, these studies found that charging separately for bags reduced fares by less than the new bag fee itself. As a result, customers who paid for checked bags paid more on average for the combined airfare and bag fee than when the airfare and bag fee were bundled together. Conversely, passengers who did not check bags paid less overall. The results of these three studies are summarized below.

- The authors of a 2012 study measured the impact of baggage fees on airline fares using DOT data from 2006 to 2009.[34] They noted that airlines introduced bag fees to generate additional revenues without increasing fares, which would adversely affect demand. They found

[33]Average domestic fares, as reported by BTS, are based on the total ticket value and include round-trip fares unless the customer did not purchase a return trip, in which case the one-way fare is included. These data are available at https://www.rita.dot.gov/bts/airfares/programs/economics_and_finance/air_travel_price_index/html/AnnualFares.html.

[34]Kevin E. Henrickson and John Scott, "Baggage Fees and Changes in Airline Ticket Prices," *in Pricing Behavior and Non-Price Characteristics in the Airline Industry (Advances in Airline Economics, Volume 3)*, ed. James H. Peoples, Jr, (Emerald Group Publishing Limited, 2012), 177–192.

that for an airline charging a bag fee, a one-dollar increase in those fees resulted in a $0.24 decrease in fares, which means that a passenger checking one bag, would pay $0.76 more on these airlines. According to the authors, these results imply that airlines with bag fees lower fares to appear more competitive and then make up the lost revenue when passengers pay to check bags.

- In a 2015 study, the authors analyzed DOT quarterly data from 2008 to 2009 and found that adoption of a bag fee resulted in about a 3 percent reduction in average airfares.[35] Analyzing non-stop flights and those with connections separately, they found that a bag fee led to a 2.7 percent and a 2.4 percent average-fare reduction for non-stop and connecting flights, respectively. The authors pointed out that, since these declines translated into an amount that was less than the bag fee, on average the combined total of the fare and bag fee increased.[36] However, according to the authors, the decline could be greater than the bag fee for some passengers because the decline in average fare varies with route characteristics.
- In another 2015 study, the authors studied a sample of U.S. domestic routes over the period 2007–2010, which covers the period when bag fees were first introduced (in 2008) and when many carriers increased bag fees (in 2010).[37] To analyze the effect of bag fees on passenger demand and fares, the authors focused on a set of domestic airport-to-airport routes where passengers could choose between airlines that charged fees for checked baggage and Southwest, which allowed passengers one or two “free” checked bags. The authors found that a one-dollar increase in bag fees led to an $0.11 reduction in fares and a loss of 0.6 passengers. On the other hand, they found that a one-dollar fare increase resulted in a loss of seven passengers. Thus, they determined that bag fees allowed airlines to increase their revenues with a much lower reduction in passenger demand than a fare

[35]The authors analyzed DOT’s Origin and Destination Survey data, which include fare and itinerary information on every tenth airline ticket sold. Jan K. Brueckner, Darin N. Lee, Pierre M. Picard, and Ethan Singer, “Product Unbundling in the Travel Industry: The Economics of Airline Bag Fees,” *Journal of Economics & Management Strategy*, vol. 24, no. 3 (2015).

[36]The authors calculated that average one-way, non-stop fare on a network airline was $196; therefore, the 2.7 percent reduction translates into a non-stop fare decrease of $5.30. They also calculated that average one-way, connecting flight on a network airline was $229; therefore, the 2.4-percent reduction translates into a fare decrease of $5.50.

[37]Davide Scotti and Martin Dresner, “The Impact of Baggage Fees on Passenger Demand on US Air Routes,” *Transport Policy*, vol. 43 (2015): 4–10.

increase. Finally, their evidence suggests that there is an overall increase in total fares for passengers checking bags.

Airline officials also said they charge separately for optional services to meet the needs of their customers. According to officials from 9 of the 10 selected airlines we interviewed, unbundling allows passengers to customize their flights by paying for only the services that they value—a benefit that one official cited as the overriding impetus for unbundling. That official described unbundling as an effort to make the airline's entire product line of services available to customers and provide passengers with the ability to tailor their travel experience. Similarly, another airline official explained that they aim to cater to a broad range of customers and unbundling allows passengers to decide on the price and service level that is right for them.

Airlines Cited Many Factors That Affect How They Price Optional Services

Airline officials from the 10 U.S. airlines that we interviewed cited various factors that contribute to their decisions about how to price optional services.

- **Customer demand and willingness to pay**: Officials from all 10 airlines that we interviewed said that customer demand and the price that customers are willing to pay for an optional service are important factors in pricing an optional service. Customers' willingness to pay varies. Hence, when the price rises, some consumers who are not willing to pay a higher price stop purchasing, resulting in some loss of demand. Higher prices may thus result in higher or lower revenue depending on the extent to which the demand is reduced. For example, one airline official described how the airline would consider increasing the price for a preferred seat if the demand were high enough, indicating that there may be some customers willing to pay more for a preferred seat. An official from a different airline said that it conducts market testing to determine what optional services customers are interested in, and it may test products at different prices to determine the optimal price.
- **Competitors' prices for similar services:** Officials from 8 of the 10 airlines that we interviewed said that they consider competitors' pricing for similar services when they set fees for optional services, to ensure that their own product is priced competitively. One airline official said that because commercial aviation is a highly competitive industry, the official's company closely monitors the market and makes adjustments to the price of services, as needed. Industry stakeholders with whom we spoke, as well as consumer advocates,

believed that competition is a key factor in how airlines set fees for optional services.

- **Customer service and satisfaction:** Officials from 5 of the 10 airlines we interviewed said that customer service and satisfaction are factors in how they set prices. Officials from one airline stated that they try to keep optional service fees relatively low to prevent passengers from feeling overcharged. In at least one case, an airline official told us that this airline sets the price of one type of fee to prevent too many people from purchasing the service. For example, this airline official told us they set the price for wireless internet access high enough so that relatively few passengers will pay for it because too many users can affect the speed and quality of the service. Officials from 6 airlines said that they conduct customer surveys and adjust the price of optional services based on survey feedback.
- **Cost:** Officials from 3 of the 10 airlines that we interviewed said that the airlines' cost to deliver a service is a major factor in how they charge for that service. One of these officials said that this airline conducts a business case analysis when developing a new product to ensure that the revenues from the new optional service exceed its cost. Officials from 3 additional airlines cited cost as a minor factor. Officials from 2 of these airlines said they incorporate cost into optional service pricing only for products for which cost is relatively easy to measure, such as food and beverages. Conversely, officials from 4 airlines did not cite cost as a factor in pricing optional services.

  Even airline officials who said that cost factors into their pricing decisions highlighted the complexity of calculating the precise cost of delivering many services. For example, one airline official explained that calculating the cost of cancelling a reservation requires consideration of the cost of the reservation system, corporate overhead, and possibly opportunity costs if the seat could not be re-sold. Another official from the same airline said that they closely track costs but do not necessarily have the ability to assign a specific cost to the provision of an optional service. This comment was echoed by several airline officials who said that calculating the cost of checking baggage, for example, requires consideration of a multitude of factors, including labor, ground infrastructure, and fuel costs.

  In addition, one airline official said that the airline does not always incur costs when offering some optional services, for example allowing a passenger to select a seat in a preferred location, such as a window seat or toward the front of a cabin, but the airline will sell the service because customers value it enough to pay for it. Industry stakeholders echoed the view that the cost of delivering optional services plays a minimal role in airlines' pricing decision of optional services. One industry stakeholder we spoke with agreed and stated that the competitors' prices and what customers are willing to pay are more important factors in how airlines set prices for optional services than the cost of delivering a product; this stakeholder said that the pricing of optional services is ultimately based on what will deliver the most revenue to the airline.

DOT Has Made Progress in Increasing Transparency of Optional Service Fees, but Consumer and Industry Groups Raised Some Challenges

DOT Has Monitored and Enforced Compliance with Transparency Regulations, Collected Consumer Complaints, and Provided Guidance and Information to Airlines and Consumers

DOT has taken a range of actions to improve transparency of U.S. airline fees for optional services since 2010, as described below.

Monitoring and Enforcing Compliance with Transparency Regulations

DOT conducts different compliance inspections of U.S. airlines to monitor compliance with its regulations on a variety of consumer traveler issues, including issues related to transparency of optional service fees.

- Since 2012, DOT has completed 19 compliance inspections of U.S. and foreign airlines according to documentation the department provided to us. DOT inspections are conducted on an ongoing basis, and according to DOT officials, have included repeated inspections of certain U.S. airlines that account for a significant percentage of U.S. enplanements. As part of these inspections, DOT inspectors review records onsite at airlines' headquarters as well as information on airlines' websites. As part of the website review, DOT verifies, among other things, that the website provides adequate information about optional service fees, that consumers are provided an opportunity to knowingly and voluntarily "opt-in" to purchase optional services, and that the airline posts its current contract of carriage on its website in an easily accessible form per DOT regulations.[38]

- DOT also conducts additional targeted inspections to specifically assess airlines' compliance with DOT's consumer transparency regulations. For example, according to DOT documentation and officials, in 2012 DOT inspected 113 websites of U.S airlines, foreign airlines, and ticket agents (websites that were marketed to U.S. consumers) to monitor compliance with specific provisions of the 2011 Consumer Rule 2. DOT found that most of the websites generally complied with Consumer Rule 2 provisions; however, 10 airlines and 1 ticket agent faced enforcement actions for violations.

According to DOT officials, the department documents any violations identified during inspections and contacts the airline to correct the violation. If the violation is long-standing and severe, DOT may take enforcement action, including imposing civil penalties.

In other instances, airlines may receive a warning that enforcement action may be taken in the future if the violations are not corrected. According to DOT officials, in 2016, DOT issued 22 consent orders against airlines related to aviation consumer rule violations[39] and assessed $5,955,000 in civil penalties.[40]

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[38]With opt-in services, the customer is offered and can take action to purchase a service. This process differs from an opt-out scenario, where the service would be automatically included unless the customer takes action to decline the service.

[39]A "consent order" is a type of settlement in which DOT may require air carriers to pay civil penalties or complete specified corrective actions in order to avoid future litigation. According to DOT, this number does not include orders resulting from reporting or licensing violations because such infractions do not result in a direct harm to individual consumers. A reporting failure is a failure to accurately or timely report data that the airline is required to report. Licensing violations occur when airlines operate outside of their economic authority or fail to provide advance notice prior to ceasing a particular operation.

[40]According to DOT, of this amount, $2,700,000 was paid as a condition of settlement. Offsets that reflect money and vouchers already paid directly to consumers amounted to $1,307,000. An additional $137,500 of fines that were suspended pending further violations were subsequently paid due to carriers violating provisions of their consent orders.

Collecting, Reviewing, and Responding to Consumer Complaints

DOT also analyzes and investigates passenger complaints about optional service fees that it receives via its website, mail, and telephone hotline.[41] In 2014, DOT established a separate complaint category for optional service fees and began tracking the number of these complaints. DOT receives fewer complaints related to optional service fees than other topics, according to DOT officials. For example, DOT officials told us that they received in 2016, a total of 17,904 complaints of which 862—about 5 percent—were regarding airline fees for optional services. According to DOT officials, the two largest complaint categories that DOT receives are regarding flight problems (e.g., delayed flights) and baggage problems (e.g., lost or damaged bags). We requested and reviewed a selection of 2016 complaints related to optional service fees and found that complaints included concerns that fees for changing or cancelling reservations, transporting bags, and selecting seats were too high or that information about these fees was not transparent or fully disclosed to the customer.

DOT analyzes passenger complaint data to identify trends and investigate possible violations of DOT regulations. According to DOT officials, under DOT's process for handling complaints, when a complaint is received, a DOT official will review and categorize the information by type of complaint. DOT reviews the complaint to see whether a regulation applies and, regardless whether it does, forwards all complaints to the applicable airline for the airline to respond to the consumer. Airlines are required to acknowledge each complaint within 30 days of receipt and provide a substantive written response to each complainant within 60 days of receipt.[42] After receiving and reviewing the complaint, if DOT determines the airline is in fact violating a regulation, DOT will ask for a copy of the airline's correspondence with the complainant. According to DOT officials, airlines generally respond to these requests in a timely fashion. A consumer complaint regarding compliance issues with an existing regulation can trigger an investigation in which DOT looks for egregious or repeated violations; a pattern of violations can lead to enforcement action. For example, in 2016, DOT issued a consent order against VivaAerobus, a foreign airline, after DOT found that the airline was not

[41]Passengers can also file complaints about optional service fees with airlines. The Federal Aviation Administration reviews complaints related to safety or security issues.

[42]14 C.F.R. § 259.7(c).

disclosing baggage and other optional service fees in accordance with regulations.[43] The airline was fined $150,000 in civil penalties.

Collecting Data on Revenue Generated from Fees

DOT requires that U.S. airlines report revenues from optional service fees to BTS, which helps increase transparency regarding the amount of revenues generated from these fees. Currently, U.S. airlines are required to report this revenue in one of four separate accounts: baggage fees, reservation change and cancellation fees, other transport-related fees, and miscellaneous fees. Because revenues from baggage fees and reservation change and cancellation fees have their own accounts, the revenues from these particular fees can be tracked. However, according to DOT documentation, revenues from other optional service fees are reported either in the transport-related or miscellaneous fees accounts, which include revenue from optional services as well as from other sources. For example, according to DOT guidance, the transport-related revenue category includes not only revenue from all onboard sales (such as, food, drink, entertainment, and wireless internet access) but also revenue from fuel or airplane parts sold to other airlines.[44] Similarly, according to DOT's guidance, the miscellaneous category includes, for example, revenue for transporting unaccompanied minors and pets, as well as revenue from sales of miles to airlines, credit card companies, hotels, rental cars, or other business partners that are frequent flyer partners. From 2010 to 2016, revenue for the transport-related account increased by 10 percent, from $36.5 billion to $40.1 billion in constant 2016 dollars. At the same time, revenue from the miscellaneous account increased by 87 percent, from $3.3 billion to $6.2 billion in constant 2016 dollars; this 87 percent increase was the largest increase of all four accounts. Over the same years, U.S. airlines' total operating revenues increased from $192.3 billion to $200.4 billion in constant 2016 dollars. Because the DOT data do not separate the revenue reported from optional service fees from the other types of revenues that are reported in the transport-related and miscellaneous fees accounts, we could not determine how much of the total revenue reported in these accounts should be attributed to optional service fees.

[43]Aeroenlaces Nacionales, S.A. de C.V., t/a VivaAerobus (May 5, 2016). DOT found VivaAerobus violated 49 U.S.C. § 41712,14 C.F.R. §§ 399.84(a), 399.84(c), 399.85(d).

[44]Department of Transportation, Research and Innovative Technology Administration Bureau of Transportation Statistics Accounting and Reporting Directive, No. 289, Reporting Ancillary Revenue on Form 41, February 20, 2009.

In 2010, we reported on this issue and stated that without complete data it is difficult for policy makers and regulators to determine total revenues from optional service fees and the fees' effect on the industry.[45] We concluded that without collecting revenue from optional service fees in a separate account, it was difficult to determine the amount of total optional service fee revenues that airlines collect. We recommended that DOT require airlines to report all optional service fees paid by passengers related to their trip into a separate category, exclusive of baggage fees and reservation change and cancellation fees (for which separate categories already exist). Citing our recommendation, DOT initiated a rulemaking in 2011 that proposed requiring airlines to report optional service fee revenues in 23 separate categories.[46] However, the final rule has not yet been published and DOT has not taken any recent action on this rulemaking. According to DOT officials, DOT rulemakings are currently being evaluated in accordance with Executive Orders 13771[47] and 13777;[48] thus, the schedules for many ongoing rulemakings are still to be determined.

In our 2010 review we also found differences in how airlines report some optional services fee revenues.[49] More specifically, in 2010, we found that airlines were reporting revenues from the same optional service fees into different accounts. Based on responses from our selected airlines, this issue persists. For example, we found that some airlines accounted for revenues from unaccompanied minor fees as transport-related revenue while others reported them as miscellaneous operating revenue, and two airlines reported fees for unaccompanied minors as revenue from reservation cancellation fees. We also found differences in how airlines reported revenue from preferred seating, upgraded seats, seat selection, and priority security screening. In some cases, we found airlines reported fees inaccurately despite guidance, and in others, it was not clear from DOT's guidance how certain fees should be categorized. DOT's guidance has not been updated since 2009, and according to officials, there are no

[45]GAO-10-785.

[46]76 Fed. Reg. 41726, 41730 (July 15, 2011).

[47]Exec. Order No. 13771, "*Reducing Regulation and Controlling Regulatory Costs*" (Jan. 30, 2017), 82 Fed. Reg. 9339 (Feb. 3, 2017).

[48]Exec. Order No. 13777, "*Enforcing the Regulatory Reform Agenda*" (Feb. 24, 2017), 82 Fed. Reg. 12285 (Mar. 1, 2017).

[49]GAO-10-785.

current plans to do so. As previously discussed, since 2010 airlines have introduced a number of new fees and products for optional services, and determining how to report revenue from these fees into the existing four accounts may not be clear. However, even if DOT were to revise its guidance and provide more detailed information on how to categorize different fees, it would still not be possible to understand how much revenue is generated just from optional service fees because airlines would still be required to report this information in accounts that include revenue from other non-fee sources. Implementation of our 2010 recommendation that DOT require airlines to report all optional service fees, exclusive of baggage fees and reservation-change and cancellation fees, into a separate category would provide airlines with a clearer understanding of how to report revenue from specific optional service fees and provide the missing data on how much revenue is generated from optional service fees.

Educating Airlines and Consumers

DOT has taken several actions to educate airlines and consumers about existing regulations and consumer rights related to optional service fees, for example:

- In 2011, after the issuance of Consumer Rule 2, DOT conducted informational sessions with the airlines about the requirements of the new regulations. Additionally, DOT developed and issued guidance that provided answers to frequently asked questions regarding the new regulations.[50]
- DOT provides consumers with information about their rights related to optional services through various publications available on its website. For example, DOT publishes *"Fly Rights: A Consumer Guide to Air Travel"* which provides information on a range of topics including airline fees, general refund policies, and information about DOT regulations.[51]
- DOT has a webpage, "*Air Travel Tips*," where it publishes a collection of tips and information to help airline passengers. These airline tips

[50]Department of Transportation, *Answers to Frequently Asked Questions Concerning the Enforcement of the Second Final Rule on Enhancing Airline Passenger Protections*, August 19, 2011, accessed December 20, 2016. https://www.transportation.gov/airconsumer/faq-rule2-enhancing-airline-passenger-protections.

[51]Department of Transportation, *Fly Rights: A Consumer Guide to Air Travel,* last updated December 7, 2015, accessed July 12, 2017, https://www.transportation.gov/airconsumer/fly-rights.

cover a wide range of topics, including information on how to file a complaint, DOT's 24-hour refund policy,[52] and airline fees.[53]

- DOT also publishes a monthly "*Air Travel Consumer Report*." This report provides consumers with information on a range of topics, such as information about aviation consumer complaints filed with DOT. According to DOT officials, these monthly consumer reports present information in which customers are most interested.

[52]DOT requires airlines to either hold a reservation at the quoted fare for 24 hours without payment or refund a paid ticket if the customer cancels the ticket within 24 hours of purchase if the ticket was purchased 7 days or more before the flight. 14 C.F.R. § 259.5(b)(4).

[53]Department of Transportation, *Air Travel Tips,* last updated August 8, 2017, accessed August 22, 2017, https://www.transportation.gov/airconsumer/air-travel-tips.

Consumer and Industry Groups Recognized DOT's Progress Related to Increasing Transparency of Optional Service Fees but Identified Other Transparency Challenges

Representatives from consumer advocacy organizations and industry groups representing global distribution system (GDS) companies, the online travel agent industry, and metasearch companies told us that DOT's 2011 regulations have had a positive impact such as increased transparency regarding optional service fees. In particular, three consumer groups told us that the Full Fare Price Advertising regulation has resulted in more transparent pricing of airfares across the industry and has reduced instances of misleading airfare advertising.[54] Three consumer and two industry groups also told us that DOT's regulation requiring airlines to disclose all optional service fee information on their websites has been a positive step for the industry and has increased consumers' understanding of how they may be charged for different services. While consumer groups recognized DOT's progress in this area, they also reported a range of issues, discussed below, that persist related to the transparency of fees for optional services. Industry officials shared similar views. DOT has initiated several rulemakings in this area that might address these issues, but these rulemakings are still ongoing.

Indirect Distribution Channels Do Not Always Have Optional Service Fee Information or Purchase Options

While consumers are often able to obtain information about optional services and then purchase them directly from an airline's website, information about these services and the ability to purchase these services is not always available from indirect sources, such as online travel agents. According to various estimates, about 50 percent of airline ticket sales occur through indirect sources. All four consumer advocacy groups that we spoke with told us that not being able to obtain information about optional services and purchase optional services from indirect sources at the time of booking decreases consumers' ability to determine the full cost of their travel. A representative from one consumer advocacy group stated that having optional service fee information displayed alongside the airfare on online travel sites is important because it allows consumers to better compare different fares at the onset of their purchasing process. Two industry officials we spoke with agreed that not being able to purchase optional services through third parties decreases consumer transparency. One of these officials said that some basic optional services—seat selection in particular—are important to

[54]The Full Fare Price Advertising regulation requires that advertisements in the United States by an air carrier or ticket agent for air transportation within, to, or from the United States must include the entire price for air transportation, including government taxes and mandatory fees. 14 C.F.R. § 399.84(a).

consumers, who prefer to be able to purchase these services when they purchase their tickets.

In our interviews with airlines, officials from 8 of the 10 airlines we spoke with said that they make information about optional services, such as baggage fees, available to third parties, but that the level of information available about these fees varies across online travel agents. In addition, officials from 3 of the 10 airlines that we interviewed told us that they make optional services available for purchase through indirect channels. According to these officials, the type of optional services available for purchase differs by airline and by distribution channel. Officials from the remaining 6 airlines told us that they sell products primarily through direct channels (i.e., their own websites or customer service) because (1) they have more control over how those products are marketed to consumers and (2) the third-party websites have technical limitations in how they can display and sell optional service products. For example, one airline official stated that his airline can better differentiate its products from other airline's products on its own website than on an online travel agency or metasearch company site. In addition, officials from the International Air Transport Association (IATA) told us that the industry as a whole is taking steps to develop standards and capabilities for optional services to be more widely available for purchase through GDSs and online travel agencies.[55]

In 2010, we recommended that DOT require airlines to disclose baggage fees and policies along with fare information across all sales channels used by the airline.[56] In 2017, DOT issued a Supplemental Notice of Proposed Rulemaking[57] and a Request for Information[58] related to how

[55]IATA is a trade association representing approximately 275 airlines or 83 percent of total air traffic. According to IATA officials, more and more airlines are incorporating IATA's New Distribution Capability—a travel industry-supported program launched by IATA for the development and adoption of a common XML-based data transmission standard. This standard would enable airlines to more easily sell optional services through travel agents and would make it easier for consumers to compare competing airlines' fares and optional service products across multiple distribution channels.

[56]GAO-10-785.

[57]In January 2017, DOT issued a Supplemental Notice of Proposed Rulemaking proposing to require covered carriers to provide useable, current, and accurate (but not transactable) baggage fee information to all ticket agents that receive and distribute the carrier's fare and schedule information, including GDSs and metasearch companies. See Transparency of Airline Ancillary Service Fees, 82 Fed. Reg. 7536 (Jan. 19, 2017).

information about optional service fees would be distributed to ticket agents, including GDSs, online travel agents, and metasearch companies, that may address our recommendation. However, in March 2017, DOT indefinitely suspended the public comment period for the proposed rule and information request to allow the President's appointees the opportunity to review and consider the actions.[59] In addition, this rule and information request may address some of the issues raised by consumer and industry groups that we interviewed, but not all. For example, while the Supplemental Notice of Proposed Rulemaking proposes requiring covered carriers to provide baggage fee information to all ticket agents that distribute fare and schedule information, it does not require that the information be made transactable (i.e., to require that airlines permit online travel agencies to sell these optional services). In addition, the proposed rulemaking would only require that information about baggage fees be made available, not other types of optional service fees. The Request for Information asks for comments from interested parties on whether airline restrictions on the distribution or display of airline flight information harm consumers and constitute an unfair and deceptive business practice or an unfair method of competition, among other questions. As previously mentioned, according to DOT officials, this rulemaking and request for information are currently being evaluated in accordance with Executive Orders 13771 and 13777, and the schedules for many ongoing rulemakings are still to be determined.

The Variety of New Optional Services and Products Has Made it Difficult for Consumers to Compare Prices

Representatives from the four consumer groups and three industry groups we spoke with also noted that as a result of the variety of new optional service fees, bundled products, and fares that airlines now offer, it has become increasingly difficult for consumers to compare airfare ticket prices, fees, and associated rules, and understand what is included in their purchases. As previously discussed, airlines have increased the number of fees for optional services and have begun introducing different optional service bundles and fares. Representatives from two consumer groups whom we interviewed said that even though airlines are required to have a "static page" on their website listing all optional service fees,

[58]Exploring Industry Practices on Distribution and Display of Airline Fare, Schedule, and Availability Information, 81 Fed. Reg. 75481 (Oct. 31, 2016). In December 2016, DOT published a notice in the Federal Register extending the response deadline and clarifying certain statements in the Request for Information. See 81 Fed. Reg. 94021 (Dec. 22, 2016).

[59]See 82 Fed. Reg. 13572 (Mar. 14, 2017) and . 82 Fed. Reg. 13375 (Mar. 10, 2017).

these lists can be lengthy and can include several different fees with different associated rules that the consumer would need to interpret and understand. One consumer group representative stated that for consumers, comparing fares and optional service fees across multiple airlines can be challenging and time-intensive. Representatives from four consumer groups also noted that with the emergence of different fare products, there is greater potential that consumers might not fully understand what they are purchasing and what is included in the fare. According to one consumer advocate, when a single airline is offering three different economy products, consumers may not understand how these products differ, and this lack of clarity is even more acute on third-party websites.

According to DOT officials, they contact airline officials for additional information when airlines introduce new products that DOT believes will significantly affect consumers. DOT's goal is to ensure that relevant information about conditions and restrictions of new products is accurately disclosed to consumers in a timely manner. For example, as discussed earlier in this report, since 2015, American, Delta, and United have introduced new Basic Economy fares. The key features of these fares are restrictions related to among other things, advanced seat selection, and, in the case of American and United, personal carry-on bags. According to DOT officials, they have monitored Delta's introduction of Basic Economy and contacted American and United to get information about the airline's plans to inform consumers about these fares and restrictions. DOT officials told us that going forward, they intend to monitor complaints related to Basic Economy fares to determine if consumers are experiencing any issues associated with these tickets.

Contract-of-Carriage Documents Are Generally Lengthy and Difficult to Understand

While airlines are required to provide customers with a contract-of-carriage document, which generally includes information about an airline's optional service fees and policies, consumer advocates have raised concerns that these documents are often lengthy and difficult to understand. Each airline has its own contract of carriage, which is the legally binding contract between the airline and its passengers. These documents are important because they provide useful information to consumers about the individual airline's contract terms, policies, and rules related to different services such as check-in deadlines, responsibility for delayed flights, and optional service refund policies—all of which can vary across airlines.[60] Any term or condition of this contract is legally binding on the airline and the passenger and may be enforced in court. However, according to three consumer advocates we spoke with these documents are often lengthy and can be filled with legal jargon, making the documents difficult to understand. We reviewed contracts of carriage for the 11 selected airlines and found that they ranged from approximately 17 to 74 pages, with an approximate average length of 40 pages.[61] In addition, we tested the 11 contract-of-carriage documents with an automated grade-level readability test and found they require a reading level of someone with a college graduate degree.[62] According to DOT officials, the DOT Advisory Committee for Aviation Consumer Protection had recommended that DOT take steps to require airlines to simplify language in their contract-of-carriage documents. DOT officials stated that the department opted to not take specific action in this area because it did not want to get involved in contracts between airlines and passengers. However, the DOT Advisory Committee for Aviation Consumer Protection subsequently recommended in 2012 that DOT work with the airlines to survey how they define certain terms frequently used in their contracts of carriage and customer service plans. The department worked with A4A to develop such a document, which DOT then placed on its web site to assist consumers with understanding the terms and conditions of their travel.[63] We reviewed this document and found that it provides an explanation of frequently used terminology in the airline industry and provides links to information about DOT's consumer protection regulations, such as regulations related to baggage fee and code-share disclosures, and denied-boarding compensation requirements. According to a representative from A4A, airlines have

[60]In addition to the contract of carriage, information about optional service fee rules may be described in an airline's ticket terms and restrictions.

[61]The word count for these documents ranged from approximately 8,252 to 37,141 words per document with an approximate average word count of 19,790. To estimate the approximate page length, we assumed a word count of 500 per page.

[62]To assess the readability of the contract-of-carriage documents, we selected and used an automated readability tool—the Flesch-Kincaid Grade-Level (FKGL) test. The FKGL tool was developed by the U.S. Navy based on the Flesch Reading Ease test. The FKGL tool was developed primarily for adults and has been tested extensively on adult materials. It uses core measures of word length and sentence length to estimate the grade level at which the content is written. The version we used was included in the word processing software Microsoft Word.

[63]Department of Transportation, *Common Terms in Air Travel*, accessed July 27, 2017, https://www.transportation.gov/airconsumer/common-terms-air-travel.

committed to reviewing their contracts of carriage to see if they can be simplified to improve transparency.

Agency Comments

We provided a draft of this report to DOT for review and comment. DOT officials provided technical comments that we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of the Department of Transportation, and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or dillinghamg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

Gerald L. Dillingham, Ph.D.
Director, Physical Infrastructure Issues

Appendix I: Information from Selected Countries on Increasing the Transparency of Airline Optional Service Fees

Other countries have taken similar actions to the United States to increase consumer transparency of airline optional service fees. Specifically, the European Union (EU), Canada, Malaysia, and the United Kingdom (UK) have all enacted laws that include provisions related to increasing the transparency of airline optional service fees. For example, in 2008, the EU enacted Regulation (EC) No 1008/2008 on Common Rules for the Operation of Air Services in the Community, which established, among other things, specific requirements related to disclosing information about airline optional service fees.[1] The law requires that airlines display the final price of a ticket, inclusive of all applicable taxes, charges, surcharges and fees unavoidable and foreseeable at the time of publication. The law also requires that the final price is disclosed at all times during the booking process and that the applicable conditions are published. In addition, airlines must disclose optional service fees in a clear, transparent, and unambiguous way at the start of the booking process, such as through a separate link on the airline's website, and airlines must ensure that optional services are only offered on an "opt-in" basis. As shown in table 4, other countries have implemented similar laws. In addition, in 2017, Canada introduced consumer protection legislation related to air transportation that would require, among other things, that the Canadian Transportation Agency promulgate regulations establishing air passenger rights.[2]

[1]Commission Regulation 1008/2008, 2008 J.O. (293) 3.

[2]Transportation Modernization Act, Bill C-49, 1st Sess, 42nd Parl, 2017, (First reading, May 16, 2017).

Table 4: Laws with Provisions Related to Optional Service Fees as Reported by Selected Countries

Region or Country	Law	Provisions related to optional service fees
European Union (EU) and United Kingdom(UK)[a]	Regulation (EC) No 1008/2008 on common rules for the operation of air services in the community	• Requires the final price to be indicated at all times during the booking process and the applicable conditions to be published. • Requires that displayed flight prices include all unavoidable and foreseeable taxes, charges, surcharges, and fees. • Requires that optional service fees are communicated in a clear, transparent, and unambiguous way at the start of the booking process. • Prohibits airlines from automatically adding optional services to a customers' ticket and requires that optional services be offered to consumers on an "opt-in" basis. • Requires EU member countries to ensure compliance with the regulation and lay down penalties for infringements that are effective, proportionate, and dissuasive.
Canada	Canada's Air Transportation Regulations	• Requires that all airlines that travel to from and within Canada have a tariff—a contract-of-carriage agreement—that sets out, among other things, fares, rates, charges and information on optional service fees. • Requires the advertised price of an airline ticket to include the total price of the fare, inclusive of all taxes, fees, and charges that a consumer must pay to obtain the air service. Advertisements must also include all optional services offered, as well as their price or range of prices, including applicable taxes and fees.
	Canadian Transportation Agency Decision No. 144-A-2014 (April 15, 2014)	• Requires that when passengers are participating in an interline itinerary issued on a ticket whose origin or ultimate destination point is Canada, a single set of baggage rules must be applied to the entire itinerary, and the baggage rules must be disclosed to the passenger.

Region or Country	Law	Provisions related to optional service fees
Malaysia	Malaysian Aviation Consumer Protection Code 2016	• Requires airlines to disclose the full airfare, which must include any government imposed taxes and fees, and other charges that are unavoidable and foreseeable. • Requires airlines to communicate to the customer the cost of any optional service at the time of booking. • Prohibits airlines from automatically adding optional services to a customer's ticket and requires that optional services be offered to consumers on an "opt-in" basis. • Requires an airline to disclose all terms and conditions of the contract of carriage to the consumer before the purchase of a ticket. • The contract of carriage must be incorporated in the ticket or boarding pass and must include, among other things, information on baggage allowance policies. Incorporation could include stating that the complete terms and conditions are available on the website.

Source: GAO summary of laws and information obtained from selected foreign governments as described in our scope and methodology | GAO-17-756

[a] As a current member of the EU, airlines in the UK are required to also follow Regulation (EC) No 1008/2008 on common rules for the operation of air services in the community. The UK also has two separate laws, the Operation of Air Services in the Community (Pricing) Regulation 2013 and the 2002 Enterprise Act, which together provide the UK Civil Aviation Authority with authority to enforce Article 23 of Regulation (EC) No 1008/2008.

There are some differences between the U.S. and foreign laws. For example, Part V, Division III of Canada's Air Transportation Regulations requires advertisements of air services to specify all optional services offered, as well as their price or range of prices, including applicable taxes and fees charged by government or public authority. In addition, the regulations prohibit information being provided in an advertisement in a manner that would interfere with the ability of anyone to readily determine the price for the air service, including for any optional incidental service. The Canadian law does not otherwise impose specific requirements as to how this information is to be made available to consumers. According to officials from Canadian Transportation Agency, airlines can decide how they want to communicate this information to the consumer. Also, according to officials from the European Commission, a 2014 European Court of Justice decision determined that airlines cannot charge for bringing hand bags or carry-on luggage into the plane's cabin.[3] According to officials, the court's rationale for the decision was that airlines do not provide the passenger any services regarding carry-ons, as passengers carry their own bags.

[3]Case C-487/12, Vueling Airlines SA v. Instituto Galego de Consumo de la Xunta de Galicia (2014).

Officials from the regulatory bodies that we interviewed said that they monitor airline compliance with consumer transparency laws through various methods. For example, according to a European Commission official, the European Commission and the authorities of EU member states (countries) monitor airline compliance with consumer transparency laws and have carried out several reviews to determine the level of compliance with Regulation (EC) No 1008/2008 in different EU countries.[4] According to documentation provided by the European Commission, in 2013, the European Commission, in conjunction with national authorities, initiated reviews of 552 websites and found that 382 websites were not compliant with the EU consumer transparency law. One problem they found was that optional services, including fees for baggage, insurance, and priority boarding, were not being offered on an “opt-in” basis. In addition, the European Commission conducted a “fitness check” of aviation regulations in 2013 to determine whether the airline consumer transparency laws and other consumer protection laws, were meeting their objective and whether any changes to these laws were needed. According to documentation provided by the European Commission, the review found that the laws were meeting their objectives, but that EU member states faced some challenges with enforcing these laws and could benefit from further coordination and sharing of best practices in this area. According to an official from the European Commission, it has also recently begun an evaluation of Regulation (EC) No 1008/2008 to determine whether there are any areas of the law that could be improved.

Similarly, officials from the UK and Canada have taken actions to assess compliance with existing consumer transparency laws. Officials from the United Kingdom’s Civil Aviation Authority (UK CAA) told us that in 2010 and 2011 they reviewed the websites of the top 20 airlines flying from the UK and two smaller UK airlines to assess compliance with Regulation (EC) No 1008/2008. According to UK CAA officials, at that time, they discovered that most airlines were not in compliance and all the airlines had to make some changes to their websites. Issues included failing to include unavoidable taxes, fees and charges in the headline price, pre-selecting optional extras and not separately disclosing information about optional service fees. UK CAA officials notified airlines that were not in compliance and provided them with information on the steps that the airlines needed to take to ensure that their advertisements met the

[4]However, the EU member states are ultimately responsible for enforcement of the pricing provisions of Regulation (EC) No 1008/2008.

requirements of the law. According to UK CAA officials, most of the airlines agreed to amend their websites; however, there were three airlines where the UK CAA had to take enforcement action to achieve compliance. According to UK CAA officials, compliance with the EU law has improved since 2010, and most airlines now have a link posted early in the booking process to baggage fees and other optional service fees. The UK CAA has also completed reviews of travel agents' websites to assess compliance with Regulation (EC) No 1008/2008, according to UK CAA officials. Canadian officials told us that the Canadian Transportation Agency monitors and enforces airline compliance with consumer transparency laws. To do so, they conduct periodic carrier inspections to assess compliance with Canada's Air Transportation Regulations and conduct targeted investigations when needed. The Canadian Transportation Agency also reviews international tariffs to determine whether they set out all the information required by regulation and to assess whether airline policies with regard to optional service fees are clear, reasonable and not unduly discriminatory, according to Canadian officials. Malaysian officials that we spoke with stated that they are in the process of developing processes for monitoring and enforcing compliance with Malaysia's consumer protection code.

Officials from some of the regulatory bodies whom we interviewed said that they have taken other actions to educate airline consumers about consumer transparency laws related to optional service fees. For example, the UK CAA posts information on its website about existing optional service fees for the 20 largest airlines that travel to and from the UK, and the document is updated twice a year. According to UK CAA officials, they make this information available on their website to inform UK consumers about these fees and help consumers compare different optional service fees across different airlines. Similarly, the Malaysian Aviation Commission has a "Know Your Rights, Before You Fly" webpage, where, according to Malaysian officials, they post information for consumers, including their rights related to airline optional service fees.

Appendix II: Objectives, Scope, and Methodology

Our objectives for this report were to describe: (1) how selected U.S. airlines have modified their offering and pricing of optional services since 2010, (2) the factors that selected U.S. airlines consider when determining whether and how much to charge for optional services, and (3) the actions the Department of Transportation (DOT) has taken since 2010 to improve the transparency of optional service fees and views of selected aviation stakeholders about these actions. We also described the actions taken by selected regions or countries to improve consumer transparency related to airline optional service fees and presented this information in appendix I.

To identify the ways in which selected U.S. airlines modified their offering and pricing of optional services since 2010, we first selected U.S. passenger airlines to examine. We used data from DOT’s Bureau of Transportation Statistics (BTS) on passenger enplanements and airline operating revenues. For the passenger data, we used the T-100 database, which includes traffic data for U.S. airlines traveling to and from the United States. These data represent a 100 percent census of all traffic. For the financial data, we used Form 41 quarterly financial filings to BTS, specifically Schedule P-1.2. We relied on the most recent available BTS data at the time we developed our airline selection. To assess the reliability of the BTS enplanements and operating revenue data, we reviewed documentation about the quality control procedures applied by BTS; analyzed the summary data for obvious errors; and interviewed BTS officials about how the data are collected, validated, stored, and protected. We determined that the data were sufficiently reliable for the purposes of identifying airlines to include in our selection for this audit work. We selected U.S. passenger airlines that: (1) reported annual operating revenues of at least $20 million in calendar year 2015, (2) had 1 million or more domestic passengers in calendar year 2015, (3) had at least 1,000 scheduled passengers in the third quarter of 2016, and (4) operate under their own brand. This selection process resulted in a list of 12 U.S. passenger airlines: Alaska Airlines, Allegiant Air, American Airlines, Delta Air Lines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, Sun Country Airlines, Southwest Airlines, Spirit Airlines, United Airlines, and Virgin America. Collectively, the selected airlines transported 81.15 percent of U.S. domestic passengers in 2016 and accounted for 99.88 percent of baggage fees and 99.98 percent of rebooking and cancellation fees charged by all U.S. airlines in 2016. During the course of our review, Alaska Air Group, which owns Alaska Airlines, purchased Virgin America. As a result, we eliminated Virgin America from our selection of airlines mid-way through our review and report on 11 selected airlines.[1]

We identified the types of optional services offered by the 11 selected airlines by reviewing webpages on airlines' websites, which are required to prominently display optional services and fees. We accessed the airlines websites and took screen captures of the webpages with optional service fee information on March 31 and April 1, 2017, so that our analyses of the website content would be as comparable as possible. We also returned to airlines' websites at later points to collect additional information. We compared the optional service fee information that we gathered from our review of airlines' websites to optional service fee information that we collected as part of our 2010 review of airline fees to assess how these fees had changed since 2010.[2]

We corroborated information obtained from our review of airline's websites through interviews with officials from 10 of the 11 selected airlines. We requested interviews with representatives from all 11 selected airlines but one airline declined to be interviewed.[3] As a result we interviewed officials from 10 of the 11 selected airlines.[4] In interviewing the airline officials, we used a semi-structured interview instrument, which contained questions pertaining to the types of optional service fees and bundled fare products that airlines have introduced since 2010, the factors that airlines consider when setting fees, and airlines' views on advantages and disadvantages to consumers of unbundling optional services. During our interviews, we also asked airlines if they would be willing to share cost information on optional services with us, and all 10 airlines declined to provide us with such proprietary information; or said that they do not collect specific cost information on

[1]Excluding Virgin America, the remaining 11 airlines transported 80.18 percent of U.S. domestic passengers on U.S. airlines in 2016 and accounted for 98.34 percent of baggage fees and 98.79 percent of rebooking and cancellation fees charged by all U.S. airlines in 2016.

[2]GAO, *Commercial Aviation: Consumers Could Benefit from Better Information about Airline-Imposed Fees and Refundability of Government-Imposed Taxes and Fees*, GAO-10-785 (Washington, D.C.: July 14, 2010). The 11 airlines that we selected for this review were also part of our 2010 review.

[3]While Sun Country Airlines declined to participate in our review, we included relevant information about Sun Country in the aspects of our report that relied on publicly available information, which we obtained from the airline's website.

[4]One of the 10, Delta provided written responses to our interview questions.

optional services; or said that they collect cost information only in limited circumstances, such as food and beverage costs, which would not have been useful for this report. In addition to answering our interview questions, we asked the 10 airlines to provide information on when they first began charging for specific optional services, how much those fees were at the time that they were first introduced, and how revenue from those fees are categorized and reported to BTS. Nine of the 10 airlines that we interviewed provided this information.[5] One of the responsive airlines did not provide a complete response, but the overall responses were sufficiently detailed to address our objective.

In addition to obtaining fee information, we analyzed airline financial information reported to BTS by airlines from calendar year 2010 through calendar year 2016—the most recent available—to analyze how revenue generated from optional service fees had changed from 2010 to 2016. We analyzed revenue data from baggage fees and reservation-change and cancellation fees, which are the two types of optional service-fee revenues that airlines are required to report to BTS in separate accounts. All other optional service-fee revenue is reported in accounts that include other airline revenue sources. We assessed the reliability of the BTS's operating revenue data as discussed above and determined that they were reliable for the purpose of reporting overall trends in revenue from baggage and reservation-change and cancellation fees for 2010 through 2016.

To identify the factors that airlines consider when setting optional service fees, we interviewed officials from the 10 selected U.S. airlines that agreed to speak with us about the factors airlines consider when deciding whether to separate optional service fees from the base fare price and determining how much to charge for a given optional service. We also interviewed selected aviation stakeholders that included three airline trade associations; four consumer groups; three global distribution systems (GDS) companies; a travel trade association representing GDSs, online travel agents, and metasearch companies; and two other industry stakeholders to obtain their views on factors that airlines consider when setting fees (see table 5). We selected the three airline trade associations that represent different airlines (i.e., domestic airlines, international airlines, and regional airlines). We selected four consumer group associations that represent a range of types of airline consumers (i.e.,

[5]Spirit Airlines declined to provide this information but otherwise participated in the review.

business travelers and leisure travelers) and that recently published articles on consumer transparency issues related to optional service fees. With regard to the GDSs, we selected the three largest GDS companies in the United States. To obtain the perspective of companies that provide information or sell airline tickets through indirect distribution methods, we also selected the travel trade association which represents GDSs, online travel agents, and metasearch companies. Finally, we selected two industry stakeholders because they have observed how the airline industry has changed since 2010 and cover the breadth of the airline industry.

Table 5: List of Aviation Stakeholders GAO Interviewed

Category	Organization
Airline associations	Airlines for America (A4A)
	International Air Transport Association (IATA)
	Regional Airline Association
Consumer advocate organizations	Business Travel Coalition
	Consumers Union
	FlyersRights.org
	Travelers United
Global Distribution System (GDS) companies	Amadeus
	Sabre
	Travelport
Travel trade association representing GDSs, online travel agents and metasearch companies	Travel Technology Association
Other aviation industry stakeholders	Airline Tariff Publishing Company
	IdeaWorksCompany

Source: GAO. | GAO-17-756

We also conducted an economic literature search for studies that have examined the effect of baggage fees on base ticket prices. The literature search was performed in March 2017, using keyword and controlled-vocabulary searches in bibliographic databases including Transportation Research International Documentation, Academic OneFile, Scopus, and WorldCat. The terms included, but were not limited to, keywords such as “airline” or “air carrier,” “baggage fees” or “ancillary fees,” “unbundling” or “de-bundling,” combined with “impact” or “affect” or “effect” and “ticket price” or “base fare” or “airline pricing.” We limited our search to studies published after 2010 because baggage fees were first introduced in 2008. The literature search generated 11 initial results. We vetted this initial list by examining the abstracts for those that addressed our objectives and by determining which studies had appeared in peer-reviewed journals. We identified 5 studies that met these criteria. After performing a secondary review of these studies to assess the soundness of the studies' methodologies and to confirm the relevance to our objectives, we excluded 2 of these studies. This resulted in the following 3 studies being included in our report.

- Henrickson, Kevin E. and John Scott, 2012, "Baggage Fees and Changes in Airline Ticket Prices," in James Peoples (ed.), *Pricing Behavior and Non-Price Characteristics in the Airline Industry* (Advances in Airline Economics, Volume 3) Emerald Group Publishing Limited, 177–192.
- Brueckner, Jan K., Darin N. Lee, Pierre M. Picard, and Ethan Singer, 2015, "Product Unbundling in the Travel Industry: The Economics of Airline Bag Fees," *Journal of Economics & Management Strategy* 24 (3): 457.
- Scotti, D. and M. Dresner, 2015, "The Impact of Baggage Fees on Passenger Demand on US Air Routes," *Transport Policy* 43: 4–10.

We also conducted several literature searches using online resources to identify reports, studies, articles, or other publications that discussed the use of optional service fees in the airline industry.

To determine what actions DOT has taken since 2010 to improve the transparency of optional service fees, we reviewed DOT regulations promulgated since 2010, such as regulations that establish requirements on the disclosure of optional service fees,[6] the refunding policies of optional service fees,[7] and post-purchase price increase limitations on baggage fees.[8] In addition, we identified four DOT proposed rules[9] and one request for information[10] related to transparency of optional service fees and followed up with DOT regarding the status of these ongoing rulemakings and request for information. We also reviewed DOT guidance, directives, policies, and other documentation clarifying the

[6] 14 C.F.R. § 399.85.

[7] 14 C.F.R. §§ 250.5(f), 259.5(b)(3), (b)(5).

[8] 14 C.F.R. §§ 399.88, 399.89.

[9] 82 Fed. Reg. 7536 (Jan.19, 2017); 81 Fed. Reg. 75347 (Oct. 31, 2016); 79 Fed. Reg. 29970 (May 23, 2014); 76 Fed. Reg. 41726 (July 15, 2011).

[10] 81 Fed. Reg. 75481 (Oct. 31, 2016).

requirements of various regulations and describing the roles and responsibilities of DOT's Office of Aviation Enforcement and Proceedings (OAEP) and Aviation Consumer Protection Division (ACPD) related to monitoring, investigating, and enforcing airline compliance with regulations related to airline optional service fees. To understand how OAEP and ACPD monitor compliance with existing optional service fee regulations and respond to consumer complaints about optional service fees, we interviewed officials from OAEP and ACPD about existing regulations; the policies, compliance, and enforcement activities undertaken by these offices; and the process for responding to complaints. In addition, we also interviewed officials from BTS about their guidance and process for collecting optional service fee revenue data from airlines. As described above, we asked officials from the 10 airlines that agreed to be interviewed about how they report revenue from certain optional service fees to DOT's BTS. We summarized this information and identified fees that airlines commonly reported in different categories. To understand how different stakeholders view actions DOT has taken to improve transparency of optional service fees, we interviewed stakeholders described in table 5. In addition, during our interviews with officials from the 10 selected U.S. airlines that agreed to speak with us, we obtained their views on DOT's actions and obtained information about how their airlines comply with DOT regulations related to optional service fees. We also conducted an analysis of the contracts of carriage for all the 11 airlines in our selection. This helped us to corroborate information we obtained from our interviews with airline officials about their optional service refund policies. These contracts of carriage were all accessed and downloaded on March 14, 2017, so that our analyses of the contract-of-carriage content would be as comparable as possible. To assess the readability of the contracts of carriage, we converted the files to Microsoft Word documents and ran the Flesch-Kincaid Grade-Level test, which is included in the Microsoft Word software.[11]

Finally, we reviewed documents and interviewed officials from four selected foreign governments—the European Union, Canada, the United Kingdom, and Malaysia—that have taken actions to improve consumer

[11]To assess the readability of the contract-of-carriage documents, we selected and used an automated readability tool—the Flesch-Kincaid Grade-Level (FKGL) test. The FKGL tool was developed by the U.S. Navy based on the Flesch Reading Ease test. The FKGL tool was developed primarily for adults and has been tested extensively on adult materials. It uses core measures of word length and sentence length to estimate the grade level at which the content is written. The version we used was included in the word processing software Microsoft Word

transparency related to airline optional service fees. Specifically, we interviewed officials from the European Commission, Canadian Transportation Agency, United Kingdom Civil Aviation Authority, and the Malaysian Aviation Commission. We based our selection of foreign governments on various factors including whether the region or country has implemented or is considering implementing laws related to increasing consumer transparency of airline's optional service fees, and recommendations from our interviews with DOT and industry officials and stakeholders. We interviewed officials about existing laws related to consumer transparency of optional service fees, how these laws are monitored and enforced, and the effects of these laws on the airline industry and airline consumers. In addition, we used these interviews to corroborate information obtained from our document reviews.

We conducted this performance audit from November 2016 to September 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, Faye Morrison (Assistant Director), Maria Mercado (Analyst in Charge), Namita Bhatia-Sabharwal, Lacey Coppage, Leia Dickerson, Michele Fejfar, Hannah Laufe, Malika Rice, Amy Rosewarne, and Eric Warren made key contributions to this report.

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