

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

In the Matter of

Application for Approval of
An Agreement (Resolution 787)
Adopted by the International
Air Transport Association

Docket OST-2013-0048

COMMENTS OF FARELOGIX INC.

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April 30, 2013

PLAINTIFF EXHIBIT
PX104



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U.S. DEPARTMENT OF TRANSPORTATION
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IN THE MATTER OF

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**APPLICATION FOR APPROVAL OF AN
AGREEMENT (RESOLUTION 787)
ADOPTED BY INTERNATIONAL AIR
TRANSPORT ASSOCIATION**

**COMMENT OF FARELOGIX INC.
APPLICATION FOR APPROVAL OF AN AGREEMENT (RESOLUTION 787) BY THE
INTERNATIONAL AIR TRANSPORT ASSOCIATION**

Farelogix Inc., a technology provider to airlines, submits the following comments in support of IATA's Application for Approval of Resolution 787 (hereinafter referred to as the "New Distribution Capability" or "NDC").

This enhanced airline distribution resolution provides for the adoption of a messaging standard, based on XML programming language, that airlines can choose to adopt in order to dynamically sell their products and services through the indirect channel (i.e., travel agents, OTAs, GDSs, TMCs, etc.). This resolution will therefore help the airline industry evolve and modernize to the benefit of all the participants in the air travel industry—from airlines to intermediaries to travel sellers to the millions of ticket purchasers—and do so in a manner that is consistent and efficient.

By adopting this resolution, IATA's goal is simple: develop a technology standard so that third-party travel sellers can efficiently access airline product and service information (for those airlines that choose to participate, as this is not a mandate) that is provided dynamically by the airline using traveler authentication (i.e., processing a pricing request based on traveler status or identity) when the traveler authorizes the airline to do so. This standard provides two distinct categories of benefit:

- (1) **Increased airline product innovation and consumer choice.** By modernizing the current messaging capability between airlines and travel sellers, airlines are able to create unique, personalized offers to compete for the customer on each and every transaction, in a similar manner to what is being done in most, if not all, e-commerce retail environments. This enables travelers to customize their trips exactly to their liking—all with the highest standard of transparency. It also stands to increase the value of travel sellers by allowing them to provide a wider range of airline products and services to their customers.
- (2) **Industry-wide consistency and cost-saving standardization.** The NDC initiative offers a modern, data exchange XML-based standard to be used by all third parties

wanting to access information from the airlines. To the extent some of the new capability is offered today (e.g., airlines today that are making a limited number of optional services and/or product bundles available to travel agencies/GDS), those limited versions not only are lacking the dynamic and personalization capabilities featured in NDC, but are also achieved in a wide range of ways (including custom web services, APIs, and fare filing methods), creating wasteful and inefficient multiplication of efforts each time an airline connects to a different third party. In keeping with its purpose, IATA is seeking to provide one consistent standard that meets modern e-commerce requirements that can be available for use across the entire industry.

We specifically address the issue raised in the Application of whether Resolution 787 promotes or unreasonably restrains competition in air transportation, or as more simply put by IATA "whether this industry initiative advances the interest of the traveling public." As described below, we rely upon facts, rather than hyperbole or protectionism, to support our conclusion that it does so.

I. RESOLUTION 787 MODERNIZES CURRENT MESSAGING CAPABILITIES, WHILE PROVIDING CONSUMERS WITH INCREASED CHOICES AND AUTHENTICATED TRAVEL OPTIONS WITH HIGHEST LEVELS OF TRANSPARENCY

Farelogix wholeheartedly agrees with IATA that Resolution 787 supports enhanced consumer choice and offer comparison. IATA has selected the Open Axis messaging schema, a proven messaging standard, as the base from which the NDC schema will be derived. As an early promoter of the Open Axis schema, Farelogix has developed its technology to comply with that base schema and can demonstrate the enhanced choice and comparison that NDC is seeking to foster with its new standard.

Because we believe "a picture is worth 1000 words," Farelogix submits the following screenshots that plainly and clearly demonstrate the opportunity for offering new types of airline products, as well as the high degree of transparency that is inherent when travel technology companies develop applications utilizing the NDC standard. These examples are taken directly from our live system although the names of the airline products have been changed in order to protect customer confidentiality. It is important to note that the NDC resolution only pertains to the standardizing of XML data transmissions, and not to the look and feel of the presentation layer (display screens) shown to consumers. The development of consumer-friendly presentation layers is left up to each developer. Nonetheless, we can demonstrate that providing consumers with multiple or varying options on the same screen is neither difficult nor confusing, as some critics have argued – and to the contrary, delivers new degrees of capability to travel agents and consumers that have until now only been available on airline websites.

The screenshots in the following pages (taken from a Farelogix agency desktop application called SPRK) display the products of multiple airlines that already today use a messaging standard (Open AXIS) that is the baseline for version 1.0 of the new IATA NDC standard.

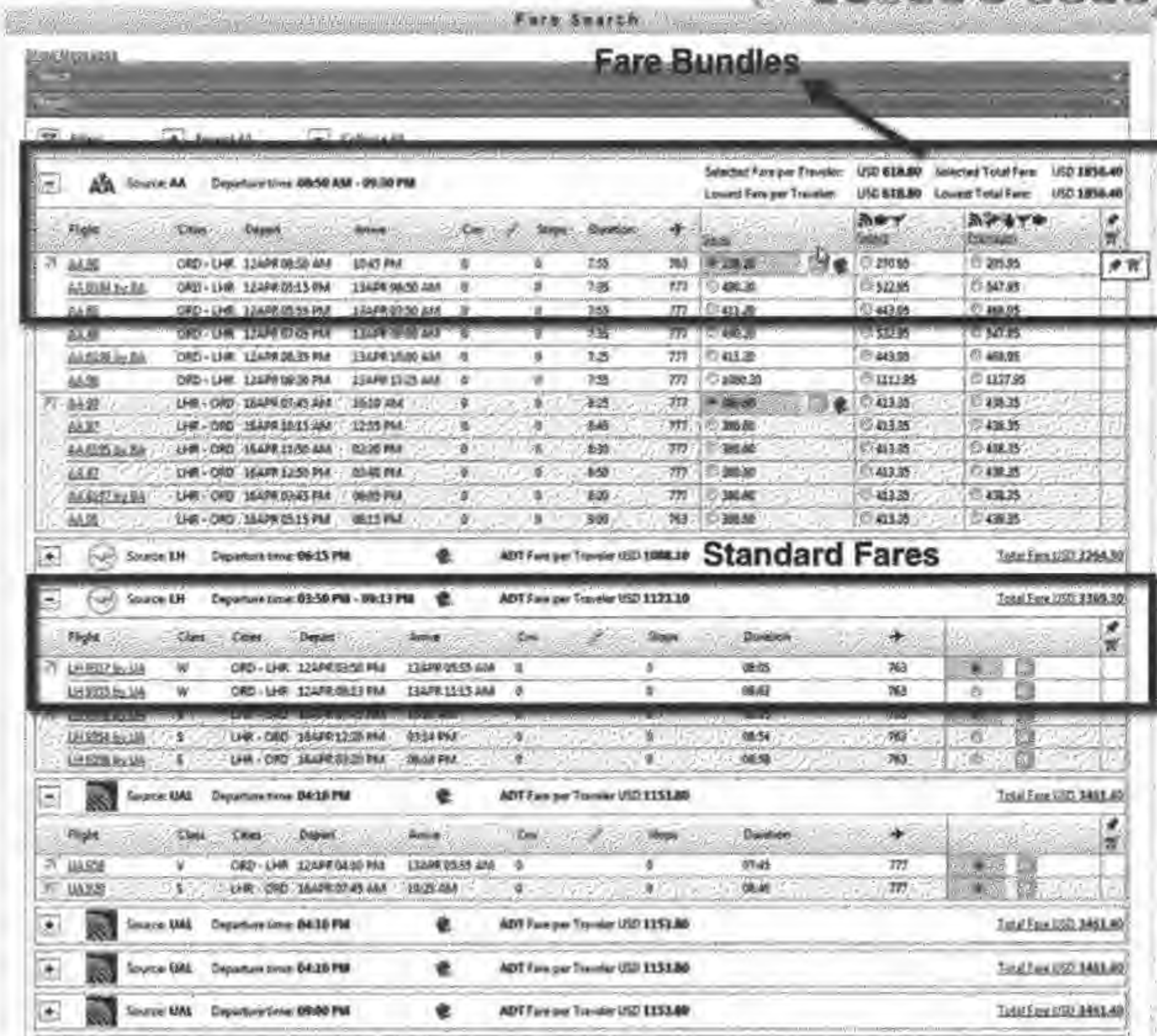


Figure 1

Figure 1 shows a response to a search request for travelers going round-trip from Chicago to London. Note that multiple airlines (American, Lufthansa, and United) are shown in the same display, with each airline showing its products in the way it chooses. Also, the search results for each airline can be expanded or collapsed on the screen in order to allow the viewer to see whatever solution (or offer) is desired.

At this stage in the search request, the traveler can either search anonymously¹ or provide additional information (such as frequent flyer number) and, in both instances, receive search results that are **fully transparent and comparable across airlines**.

¹ In our view, even an “anonymous” request is in fact an authenticated request to an airline. It is simply authenticated as “anonymous” and priced accordingly.

Figure 1 also shows how one airline can return bundled fares while the other airline returns standard fares. Not only does this demonstrate that the standard generates a comparison of fares and transparency, but also there is **more information provided to travelers** than what is traditionally provided to travel agencies today in terms of ancillary services. Using the new standard, there is no confusion as to what each airline is offering.

By simply hovering over each bundle, it is simple to see what services are included, all while still on the search screen, as demonstrated in Figure 2 below.



Figure 2

Below, Figure 3 shows the personalization that is possible when a corporation negotiates a specific corporate bundle with an airline. In such a situation, the traveler (using a corporate booking tool) or the travel agency (on behalf of the corporate customer) can provide a particular corporate ID number and retrieve a search display that shows the corporate bundle alongside the regular bundled fares offered to all travelers. This is possible because the information is validated with the airline at the time of the search request.

Corporate Bundles

Source: AA Departure time: 08:50 AM - 09:30 PM

Selected Fare per Traveler: USD 413.00 Selected Total Fare: USD 1850.40
 Lowest Fare per Traveler: USD 413.00 Lowest Total Fare: USD 1850.40

Flight	Class	Depart	Arrive	City	Stops	Duration	Carrier	Fare	ADT	Child	Infant	Senior	Group
AA 00	ORD - LHR	12 APR 08:50 AM	09:45 PM	0	0	1:55	763	299.00	279.00	285.00	295.00		
AA 01	ORD - LHR	12 APR 09:15 PM	12 APR 06:50 AM	0	0	7:35	777	493.00	523.00	517.00	547.00		
AA 02	ORD - LHR	12 APR 05:55 PM	12 APR 07:30 AM	0	0	7:35	777	411.00	443.00	438.00	469.00		
AA 03	ORD - LHR	12 APR 07:05 PM	12 APR 09:00 AM	0	0	1:55	777	490.00	522.00	517.00	547.00		
AA 04	ORD - LHR	12 APR 08:35 PM	12 APR 10:00 AM	0	0	7:25	777	411.00	443.00	438.00	469.00		
AA 05	ORD - LHR	12 APR 09:30 PM	12 APR 11:25 AM	0	0	7:55	777	1088.00	1112.00	1107.00	1137.00		
AA 06	LHR - ORD	15 APR 07:45 AM	08:30 AM	0	0	0:45	777	360.00	413.00	408.00	438.00		
AA 07	LHR - ORD	15 APR 10:15 AM	12:55 PM	0	0	0:40	777	360.00	413.00	408.00	438.00		
AA 08	LHR - ORD	15 APR 11:50 AM	02:30 PM	0	0	0:38	777	360.00	413.00	408.00	438.00		
AA 09	LHR - ORD	15 APR 12:50 PM	03:40 PM	0	0	0:50	777	360.00	413.00	408.00	438.00		
AA 10	LHR - ORD	15 APR 03:45 PM	06:00 PM	0	0	0:25	777	360.00	413.00	408.00	438.00		
AA 11	LHR - ORD	15 APR 05:15 PM	08:33 PM	0	0	0:00	763	360.00	413.00	408.00	438.00		

Source: EN Departure time: 06:25 PM ADT Fare per Traveler USD 1096.10 Total Fare USD 2264.30

Source: LN Departure time: 03:50 PM - 09:15 PM ADT Fare per Traveler USD 1125.10 Total Fare USD 2369.30

Figure 3

Figure 4 below is an example of the different pricing for ancillary services that return for multiple travelers based on their frequent flyer status. All pricing is transparent for each traveler, and all prior to the traveler booking the flight. More importantly, *the traveler's status is validated at the time of the search*, so that only accurate and relevant pricing is presented to the traveler.² We are aware that other providers, including certain GDSs, only validate the traveler's status after the booking is made. This process creates confusion if the traveler books the flight or service expecting to pay a certain price, only to find out after the status validation that the traveler was not eligible for that price.

Note that each traveler is presented with different pricing for its ancillary services, in each case based on that traveler's frequent flyer status. In what some like to call the "democratization" of airline travel, travelers with no status are presented with an opportunity to purchase the services that are generally provided for free to travelers with a higher status. The ability to choose is always at the option of the traveler since needs and desires can vary depending on whether one is traveling for business, pleasure, alone or with friends and family, short-haul domestic, or overnight internationally.

² In the case where a traveler chooses to remain anonymous, the status is validated as anonymous and the traveler gets accurate information relevant to that status.

Bag Fees		Traveler-Authentication		
Optional Services priced in USD				
		Traveler(s)		
		ZUMDIECK/M GLD	REZ/T PLT	GIGOWSKI/J
Options for flight AA 61 from MIA - DFW				
Enjoy Priority Boarding <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Be one of the first passengers on board assuring overhead space for your carry-on. 	<input type="checkbox"/> 20.00	Included	<input type="checkbox"/> 25.00
In-Flight Internet Access <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Enjoy access to email, movies, favorite games, etc. 	<input type="checkbox"/> 6.95	Included	<input type="checkbox"/> 9.95
Special Hot Meal/Beverage <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Hot meal available on this flight if pre-purchased All food items listed are examples and actual food items served may vary by month. 	<input type="checkbox"/> 18.00	<input type="checkbox"/> 18.00	<input type="checkbox"/> 18.00
1st Bag Fee (discounted for online check in)	<ul style="list-style-type: none"> 1st Bag Fee at airport will be USD 25.00 	<input type="checkbox"/> 10.00	Included	<input type="checkbox"/> 15.00
2nd Bag Fee (discounted for online check in)	<ul style="list-style-type: none"> 2nd Bag Fee at airport will be USD 40.00 	<input type="checkbox"/> 20.00	Included	<input type="checkbox"/> 25.00
Conference Rooms available at our VIP Lounge in DFW <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Need a Conference Room? We can accommodate you in our VIP Lounge. Rate is USD 220.00 per hour (or fraction thereof) 	<input type="checkbox"/> 150.00	<input type="checkbox"/> 150.00	<input type="checkbox"/> 150.00
Options for flight AA 1728 from DFW - MIA				
Enjoy Priority Boarding <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Be one of the first passengers on board assuring overhead space for your carry-on. 	<input type="checkbox"/> 20.00	Included	<input type="checkbox"/> 25.00
In-Flight Internet Access <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Enjoy access to email, movies, favorite games, etc. 	<input type="checkbox"/> 6.95	Included	<input type="checkbox"/> 9.95
Special Hot Meal/Beverage <input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Hot meal available on this flight if pre-purchased All food items listed are examples and actual food items served may vary by month. 	<input type="checkbox"/> 18.00	<input type="checkbox"/> 18.00	<input type="checkbox"/> 18.00
1st Bag Fee (discounted for online check in)	<ul style="list-style-type: none"> 1st Bag Fee at airport will be USD 25.00 	<input type="checkbox"/> 10.00	Included	<input type="checkbox"/> 15.00

Figure 4

It is important again to note that, if the traveler does not provide any additional information beyond what is required today (adult/child, city pair), then the traveler still gets a pricing response based on generic pricing parameters. The traveler can remain anonymous (see Figure 5) or provide additional information, however the traveler chooses. The choice of how much information to provide is left up to the traveler.

Figure 5 demonstrates choices available to travelers who have opted to remain anonymous. As you can see, in contrast to Figure 4, there is no traveler name shown and the pricing does not reflect frequent traveler status.

Optional Services priced in USD	Anonymous Shopping		
	ADT T1	ADT T2	ADT T3
Options for flight AA 61 from MIA - DFW			
Enjoy Priority Boarding • Be one of the first passengers on board assuring overhead space for your carry-on.	25.00	25.00	25.00
In-Flight Internet Access • Enjoy access to email, movies, favorite games, etc.	9.95	9.95	9.95
Special Hot Meal/Beverage • Hot meal available on this flight if pre-purchased • All food items listed are examples and actual food items served may vary by month.	18.00	18.00	18.00
1st Bag Fee (discounted for online check in) • 1st Bag Fee at airport will be USD 25.00	15.00	15.00	15.00
2nd Bag Fee (discounted for online check in) • 2nd Bag Fee at airport will be USD 40.00	25.00	25.00	25.00
Conference Rooms available at our VIP Lounge in DFW • Need a Conference Room? We can accommodate you in our VIP Lounge. • Rate is USD 220.00 per hour (or fraction thereof)	150.00	150.00	150.00
Options for flight AA 1728 from DFW - MIA			
Enjoy Priority Boarding • Be one of the first passengers on board assuring overhead space for your carry-on.	25.00	25.00	25.00
In-Flight Internet Access • Enjoy access to email, movies, favorite games, etc.	9.95	9.95	9.95

Figure 5

Figure 6 demonstrates a seat map, with personalized pricing based on frequent flyer status, available to the traveler prior to booking the flight so that the traveler can choose whether the seating options available make it worthwhile to book the particular flight or choose another with seat availability better suited to the traveler's needs.

757 (Boeing 757 - Passenger) - Economy Class

9 10 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34

A B C D E F

Cabin Comfort Seats

- Exit row
- Leg space seat
- Premium
- Power port
- Seat Option
- Priority boarding
- Enjoy up to 6 more inches of legroom
- Seats recline a full 33% more than standard seats

JAY BOEHMER Included
TIM REID / USD 45.00

Personalized Pricing →

Figure 6

Figure 7 shows how marketing images and video can be included within the XML message itself for display at the point of sale. This delivers greater choices and transparency for the consumer (in this case, the capability to see a video of the business class seat she may choose to purchase), all early in the shopping process.



Figure 7

A central feature of the IATA NDC standard is that the airline is able to provide a real-time, validated offer, including all ancillary services, to the traveler at the time of the search request. This is because the offer is created by the airline itself, and not by the intermediary, ensuring the traveler gets the most accurate, relevant, and up-to-date offer from the airline. From a travel agency point of view, having the airline create the offer eliminates any possibility for pricing inaccuracies that today result in potential debit memos being issued to the travel agency. This improves pricing accuracy and eliminates consumer or travel agent confusion as to whether or not a certain offer is valid for a particular traveler.

In another example, available to all consumers today and shown in Figure 8 below, Priceline.com presents American Airline and United Airline flights using the messaging standard espoused by Resolution 787³. In the case of American, Priceline is already able to offer personalized seat choices, based on frequent flyer status, at the time of shopping, a direct result of the modern connectivity between the airline and the OTA.

³In addition to these examples, American Airlines and Travelport recently announced their new distribution partnership whereby Travelport will connect to American's XML-based direct connect interface, which utilizes the same Open Axis base as the NDC schema, to provide Travelport agencies with all of American's product offers in a dynamic and personalized manner.

priceline.com

Why not build a business... MSA AT FLY... 12% extra MSA program. Ask today and qualify for a 1% discount.

Flights, Hotels, Rental Cars, Vacation Packages, Lodging, Tours & Excursions, Automobiles, Cruises

Departing Right from Miami, FL (MIA) to Los Angeles, CA (LAX)

From: MIA Departing Date: 4/17/2013 To: LAX Return Date: 4/18/2013 Passengers: 2 Adult, 0 Children Search Book Options

Save Up To 40% on Your Own Price! Save Up To \$300 Flight + Hotel Package

FLIGHT & HOTEL PACKAGE CALL UP TO \$260

Best Deal \$282
American Airlines \$306
United Airlines \$320
Delta Air Lines \$328
Alaska Airlines \$357
JetBlue \$516

Stops: Showing All Departure Time: 10:00 AM - 10:59 PM

Choose from 44 departing flights

Price	Carrier	Origin	Destination	Departure Time	Flight Type	Stop
\$282	American Airlines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 8:35 am	Non-Stop	1
\$282	American Airlines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 11:55 am	Non-Stop	1
\$282	American Airlines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 12:30 pm	Non-Stop	1
\$282	American Airlines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 3:58 pm	Non-Stop	1
\$282	American Airlines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 6:59 pm	Non-Stop	1
\$320	United Airlines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 8:43 pm	1 Stop	1
\$325	United Airlines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 7:17 pm	1 Stop	1
\$325	United Airlines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 4:45 pm	1 Stop	1
\$325	United Airlines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 2:49 pm	1 Stop	1
\$328	Delta Air Lines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 7:43 am	1 Stop	1
\$328	Delta Air Lines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 12:03 pm	1 Stop	1
\$328	Delta Air Lines	Miami, FL (MIA)	Los Angeles, CA (LAX)	Wed Apr 17, 2013 8:28 am	1 Stop	1

Compare prices at top travel sites with one click. FIND CHEAP FLIGHTS

Virgin America Flights... \$304 Flights to LAX... \$88 in Los Angeles... Cheap Flight Los Angeles

SAVE UP TO 40% NAME YOUR OWN PRICE! Our online options give you the lowest possible airfare through priceline.

FLIGHTS + HOTEL PACKAGE Save up to \$300

Change Flight Search

From: MIA To: LAX

Departure Date: 4/17/2013 Return Date: 4/18/2013

Passengers: 2 Adult, 0 Children

Figure 8

The screenshot examples shown in the previous pages also serve to invalidate some of the false claims about IATA Resolution 787. In particular, [Figure 1](#) addresses one key criticism: the fear that a particular airline is going to increase pricing to a specific traveler because it is aware of the traveler's history or purchasing patterns. This fear is clearly unfounded when there are multiple airlines flying and competing for travelers on the very same requested routes.

To elaborate a bit on this point, some are suggesting that, by adopting NDC, airlines will be able to collect more information on passengers and therefore be able to charge them more than what the market price would normally be. It is difficult to understand how an airline having more information on a particular traveler (e.g., frequent flyer status or purchasing history) could force a traveler to unwillingly pay a higher price **when the traveler can simply choose another airline from the same display**. As demonstrated above, an aggregated search display will return multiple airline choices so long as there are multiple airlines flying the requested routes. In a competitive marketplace, any airline that overcharges customers quickly loses those customers. And if the airline has little or no competition in a particular market, it would seem more plausible to believe that the airline would increase prices on ALL consumers, regardless of who they are or what information they provide, simply because of the lack of competition.⁴ The norm in any retail business is that frequent buying gives consumers more perks and discounts, not less. We do not understand why this would be any different for airlines. More to the point, today's airline websites are the one place where an airline could presumably be able to freely exploit this ability to charge higher prices: airlines often have prior history on travelers that log into their websites, and on an airline website travelers are only looking at flights from the specific airline as opposed to an aggregated agency display with multiple airlines (which is what IATA NDC is created for). A traveler is more likely to be "captive" on an airline website today and yet we do not hear of any airlines charging higher prices there. If they did, the traveler could simply log out and choose another website.

As illustrated by [Figures 4 and 5](#), the new standard offers travelers the choice of whether to share information such as frequent traveler ID, or whether to search anonymously. Accusations that somehow the IATA NDC initiative will mandate disclosure of personal information are entirely false and contrary to the workings of any successful e-commerce marketplace.

Another concern that has been raised is that airlines that adopt the NDC standard will no longer publically file fares with the Airline Tariff Publishing Company (ATPCO) and that this would somehow create a lack of transparency or potentially higher prices for consumers. Evidently ATPCO doesn't have this concern, since they have publicly endorsed IATA NDC. Furthermore, whether or not an airline chooses to file its public or private fares with ATPCO is a decision that each individual airline already makes today and one that is not an all-or-nothing decision. Many airlines that today file with ATPCO do not file all their fares there;

⁴ Whether or not an airline can charge supra-competitive prices is dependent on the traditional antitrust analysis of the competition available for a particular city pair

some file their baggage fees and some don't; some file certain ancillaries and not others. Each case is already an independent evaluation by each airline. More importantly, an airline's decision on whether to -- or what to -- file with ATPCO has nothing to do with the competitive nature of the airline marketplace; in fact, many of the low cost airlines are the ones that today don't file with ATPCO and are the same ones that offer the most competitive prices today (and are also the ones that have traditionally offered consumers a plethora of ancillary options).⁵

II. ONCE AND YOU'RE DONE

The rationale for implementing a standard is not rocket science: Without a standard, the fact that multiple companies want access to airline offers necessarily leads to multiple ways of requesting the information, with multiple development efforts, and multiple time periods to implement the same thing across numerous distribution outlets. Wasted time, wasted effort, and wasted money. Just like e-ticketing is done in one way by everyone and bar codes are identical across multiple industries, dynamic messaging needs to be done in a standard, modern way. And the time to implement the standard is **now**, while the provision of ancillary services is still in its infancy and before hundreds of millions of dollars are wasted by airlines connecting to distributors and aggregators in multiple ways.

The benefits of standardization have long been recognized within the industry as a way to provide consistency and cost-effective development for a wide range of third parties (GDSs, online travel agencies, corporate booking tools, airlines) that make up the travel supply chain.

IATA 787 is open to anyone who wishes to develop to the standard. No one is prevented; no one is blocked. In fact, it will enhance competition by making it easier for new entrants to the travel distribution industry to develop the required connectivity to airlines with a modern messaging language that is widespread and commonly used today, thereby enabling those new entrants to utilize a cost-effective and readily available resource pool of programming talent. The more new entrants, the greater the competition, and the greater the likely benefit to consumers.

III. CRITICS OF NDC HAVE AN ULTERIOR MOTIVE

It is evident from the screenshots above of real examples in use today that the claims of insufficient transparency, anti-competitiveness, and privacy intrusion are patently untrue. So where does the current outcry against IATA Resolution 787 come from? In a world where VHS beat out Betamax, and Blu-ray beat out HD DVD, battles over technology standards are not uncommon. But unlike those battles where equally new technologies were trying to gain market predominance, today's battle is one of old vs. new, with the

⁵ EasyJet and RyanAir are just two examples of low cost airlines that do not file with ATPCO. There are many more examples

dominant players in the old technology trying to prevent, or at the very least to delay, the implementation of the new standard in order to retain artificial control of the distribution marketplace. As a result, we are hearing more and more absurd comments from those looking to prevent innovation.

In our view, 'transparency' and 'privacy concerns' are convenient catchwords utilized to gain public traction for an otherwise unsupportable position, as we have already shown above. The irony is that the same forces that lash out with cries of "anti-competitiveness" against a new and innovative standard do nothing to decry the lack of competition that has been inherent in the status quo. Instead, Farelogix believes that, as recently came to light from the volumes of documents unearthed in antitrust litigation between American Airlines and Sabre (only a small portion of which survives publicly)⁶, the real motivation behind the opposition is the desire to "target getting as many things as possible in place **to neutralize AA [American] market moves to disrupt the model.**"⁷ For those who have not read the public version of the *American v. Sabre* trial transcripts, this was the secret motive behind Sabre's attempts to stop American's Direct Connect at all costs. Evidently, Sabre's previous focus on American Airlines has now shifted to IATA NDC.

Contrary to what some critics of NDC allege, NDC does not in any way impose any new business model on the industry. Critics point to the use of business requirements in coming up with the standards as a sign that a new business model is being imposed. "Business requirements" are quite different from a "business model." While the standard necessarily takes into account the features that airlines desire (without which a standard couldn't even be developed), it has nothing to say about the commercial arrangements that may result from it. Airlines and intermediaries that choose to adopt the standard may use the dynamic messaging capability under any business model they desire. This is not something IATA can determine, let alone impose, on the industry. Rather, any effect on current business models will necessarily play out over time—and likely in multiple ways—as each airline, agency, and GDS negotiates its value in the distribution chain.

Although IATA's NDC is independent of any business model, the fear that the business model will differ from that which is prevalent today is the key driver behind the opposition.

This is again demonstrated by internal Sabre documents that were disclosed at the trial where Sabre discussed that its tactics against American Airlines were not only about "AA, but about GDS distribution, **the Sabre GDS strategy, and the future of indirect distribution in general.**"⁸ This seems all the more obvious since another of Sabre's specific strategic goals that came to light from the litigation was to "**shut down FLGX [Farelogix].**"⁹ All of this is consistent with a desire to ensure that the status quo stays in place.

⁶ American Airlines v Sabre, Inc., (067-249214-10), Tarrant County, Texas, District Court for the 67th Judicial District

⁷ Id., Plaintiff's Exhibit PTX 642

⁸ Id., Plaintiff's Exhibit PTX 0018

⁹ Id., Plaintiff's Exhibit PTX 7011

Other evidence demonstrates the disingenuousness of the GDS attack on NDC. The real lack of transparency comes from the ability of GDSs to secretly bias airline flights, a true anti-competitive practice employed by Sabre that was also exposed during the litigation. As stated in one internal email, the tactic is wielded in order to coerce airline cooperation: "Do you know if we can implement the type of display restrictions with AA that we have contemplated doing in the past with other **airlines that don't provide full content?**"¹⁰ The ultimate goal was to be able to secretly harm the airline with "a **sophisticated bias strategy that's hard to detect**", or "**smart bias**", because they "don't want an airline to understand what we're [Sabre] doing."¹¹

Even more ominous is the GDS' ability to monitor and track the impact of the biasing, and "**ratchet up over time**"¹², escalating "in terms of the **impact to agencies**"¹³ and the airline.

The effect of all of this is the ability of the GDS - *still unchecked* - to impact tens of thousands of consumers, without their knowledge, on the choices of flights made available to them, all at the whim of an entity with sufficient market power to do so. And that is not all. Travel agencies, corporations, and even other airlines—codeshare or interline partners—are all adversely affected. This is true lack of transparency. This is true anti-competitiveness. This is the power wielded by the GDS, and this is the real issue that needs to be addressed.

In response to the recent ruling in the Texas court that permanently sealed the remaining records in the litigation against Sabre, an IATA official put it well by stating: "It is ironic that the company that claims to be for full consumer transparency worked so hard to keep these records from the public."¹⁴

IV. DOT SHOULD APPROVE IATA RESOLUTION 787

In sum, the IATA NDC standard is an attempt to update the legacy static messaging capability largely in use today with a dynamic search and pricing capability that provides airlines with greater efficiency and consumers with a greater variety of choices and more transparency whether they are shopping on the airline website or through a travel agency. Consumers today expect this. NDC encourages the use of modernized workflows and technologies (similar to the Direct Connect technology deployed by American Airlines and Air Canada) that allow for consumers to receive accurate and relevant pricing information for all airline products—including ancillaries such as seats, priority legroom and other options—consistently and efficiently across the myriad of distribution and aggregation outlets. Allegations to the contrary are untrue and constitute the GDS effort to maintain their stronghold on information and ticket pricing.

¹⁰ Id., Plaintiff's Exhibit PTX 1405

¹¹ Id., Plaintiff's Exhibit PTX 1381

¹² Id., Plaintiff's Exhibit PTX 647

¹³ Id., Plaintiff's Exhibit 1381

¹⁴ May, Kevin, "IATA fails in bid to have sealed court documents opened from Sabre-American Airlines case", *Tnooz*, March 21, 2013, quoting an IATA official. <http://www.tnooz.com/2013/03/21/news/iata-fails-in-bid-to-have-sealed-court-documents-opened-from-sabre-american-airlines-case/>