

DECLARATION FOLATUR

AA and its ever increasing abuse of dominant market position in ticket distribution: FOLATUR strongly rejects recently announced frequent passenger program discrimination.

American Airlines (AA) has just announced that by May 1st,2024 air transportation tickets not sold through their *New Distribution Capability (NDC)* system or their *Direct Connection* channel will not be rewarded with miles under its frequent passenger program *AAdvantage*. Furthermore, Travel Agency bookings carried out under *NDC by AA* will have to represent at least 30% of AA bookings by April 21st,2024 and over 70% of them by April 30th,2025 to enable their customers to earn miles.

The above follows another AA policy that restricts access to Global Distribution Systems (GDS) to 40% of its inventory – other airlines even extricate additional charges for using GDS to promote sales via an *NDC* channel -, that only leads to market fragmentation where potential passengers cannot access all air transportation alternatives once they are under the *NDC by AA* umbrella.

NDC by AA has gradually transformed itself into a **“bait and switch type of transaction”** where price discrepancies, booking challenges, lack of functionality to service bookings and interference with duty of care abound, as harshly experienced by Travel Agencies which are part of the independent and indirect distribution channel and documented in ASTA’s Complaint to the US Department of Transportation (DOT) referred below.

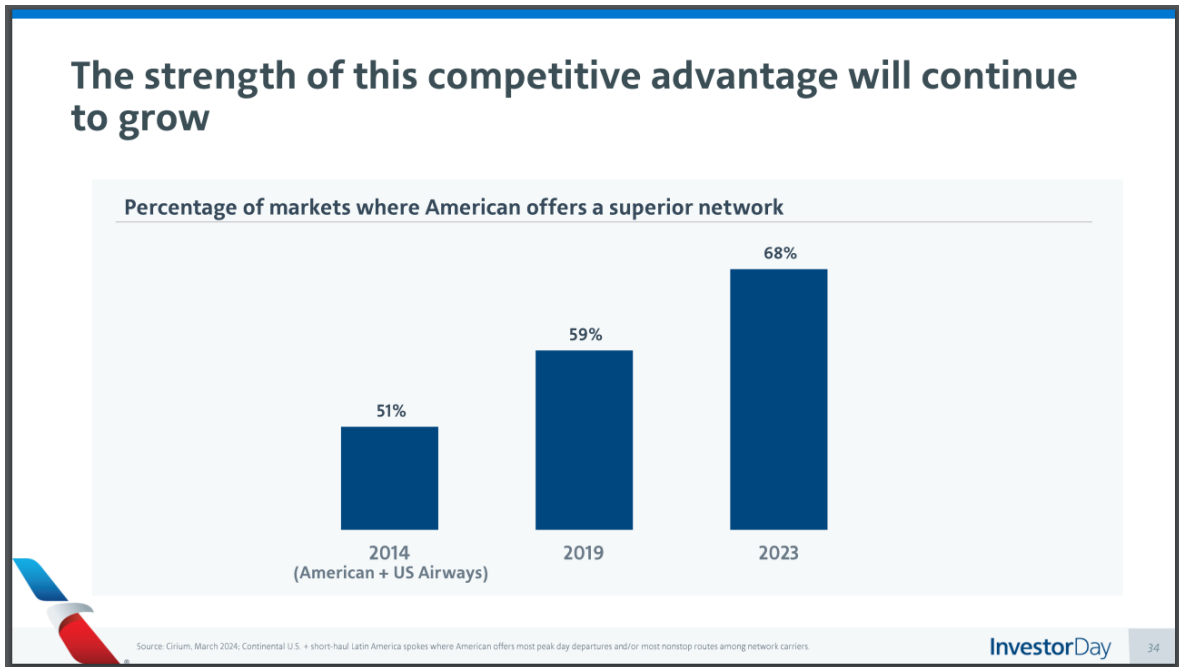
If *NDC by AA* were so good, efficient and transparent for consumers, why is there any need to proactively discriminate against Travel Agencies working in the independent and indirect distribution channel and whose objective is to offer their clients all available alternatives and not just those predetermined by AA? Why is there a need for economic coercion? What will be the next surprise to Travel Agencies in this slow but determined suffocating trend?

If air transportation markets were really competitive, AA policies against the independent and indirect distribution channel would quickly fail, given the availability of alternatives that would exist under such environment. AA stresses again and again in its answer to American Association of Travel Advisors (ASTA) complaint to the US Department of Transportation (DOT)¹ that air transportation markets are indeed competitive.

But those above mentioned declarations to the DOT are flatly inconsistent with what, at the same time, AA informs to the financial market. It just happens that in its March 4th, 2024 **“American Airlines Investor Day presentation”**, AA pinpoints to the **increasing number of markets where AA offers a superior network relative to its competitors: 68% of them (51% in 2014)**. That is the real basis AA counts on to force through a distribution system whereby if AA alternatives are not present,

¹ Complaint of the American Society of Travel Advisors, Inc. against American Airlines, Inc. alleging Unfair Practices and Request for Relief; Docket DOT-OST-2023-0147

the consumer and the independent distribution travel agency cannot but finally accept whatever conditions the former sets. It plainly constitutes a textbook case of a dominant market position abuse from a vertically integrated air transportation company into the distribution of its services. AA is openly looking to mutually reinforce its superior air transportation network with its AAdvantage loyalty program. *NDC by AA* is a tool to attain this purpose, but it rests on its difficult to challenge air transportation network. Travel Agencies offering all airlines alternatives do not fit into this scenario.



To be clear: no one is and could be against technological improvements; FOLATUR just opposes anti-competitive practices that discriminate against the independent and indirect distribution channel, imperiling the simultaneous offering of all air transportation alternatives to passengers, with great harm to them.

If undeterred, AA will continue with its ever increasing discriminating pattern, and other airlines in the oligopolistic air transportation market will certainly follow, unless the DOT finally intervenes to reestablish competitive markets by restoring full access to inventories and forbidding discriminatory practices such as GDS surcharges or miles awarded under loyalty programs conditioned on the use of *NDC by AA*. Both air passenger in the US and foreign markets are and will increasingly be negatively affected by these anticompetitive business practices.

We sincerely hope the US DOT will rise to the challenge and face this clear anticompetitive pattern as forceful as possible. Back in 2013, when US DOT was evaluating IATA's Resolution 787, our member associations opposed its approval because it would lead to anticompetitive practices, including price discrimination and inventory rationing. It is our deep belief that the conditions under which US DOT finally approved of it on May 21st, 2014 have not and are not being complied by AA.

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March 15th, 2024