

March 16, 2016

The Honorable John Thune
Chairman
Committee on Commerce, Science, & Transportation
United States Senate
512 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Bill Nelson
Ranking Member
Committee on Commerce, Science & Transportation
United States Senate
512 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Thune and Nelson:

The American air travel industry has, in less than a decade, consolidated from nine national carriers to just four today. Between them, American, Delta, Southwest and United control 80% of the market for domestic air travel.¹ Consolidation, combined with cheap fuel, increasingly cramped cabins and a litany of fees, has enabled the airlines to post their highest profits on record -- \$14.1 billion for the Big Four airlines alone. The industry's record profits are set to continue as far as the eye can see, and are estimated at \$33 billion in 2016, according to the International Air Transport Association.

As the Commerce Committee considers S.2658, the Federal Aviation Administration Reauthorization Act of 2016, consumer organizations ask that you support measures to ensure that these profits are not coming at the expense of the wallets, care, and safety of the flying public. To achieve this, the undersigned organizations urge you and your colleagues to strengthen the S.2658 by approving a number of consumer protection amendments.

Specifically, we ask that you support the following amendments:

- **Blumenthal_6** – The average American is today 20-30 pounds heavier and an inch taller than in 1960.² However, airlines have reduced average legroom from 35 inches in 1970 to 31 inches today. Average seat width has shrunk

¹ Mutzbaugh, Ben. "Era of airline merger mania comes to a close with last US Airways flight," *USA Today*. October 16, 2015. Online: <http://usat.ly/1OxPQll>

² Remarks of Congressman Steve Cohen. "INTRODUCTION OF SEAT EGRESS IN AIR TRAVEL (SEAT ACT)," *Congressional Record*. February 8, 2016. Online: <http://1.usa.gov/213ah0d>

from 18 inches to 16 ½ inches in the same timeframe.³ There are also far more people occupying those shrinking seats. The average flight is now 85% full - an industry record.⁴ This amendment would freeze further seat size reductions while the Department of Transportation (DOT) establishes minimum standards for safe seat size for egress and for passengers' ability to move around and avoid such conditions as deep vein thrombosis, a condition associated with long airline flights.

- **Blumenthal_7** – The Federal Aviation Administration (FAA) hasn't studied whether reductions in seat sizes have affected the ability of consumers, including people with disabilities, to evacuate safely in the event of an emergency. This amendment would require the FAA to conduct a review and update its regulations on emergency evacuations.
- **Blumenthal_10** – This amendment provides consumers with a private right of action against unfair and deceptive practices by an air carrier, foreign carrier, or ticket agent. This amendment would add much-needed enforcement resources, through a private right, against abuses of the flying public by airlines.
- **Blumenthal_11** – This amendment prevents air carriers from claiming that federal law preempts consumers and states from bringing claims under state consumer protection laws. This would strengthen the ability of consumers and state attorneys general to hold airlines accountable for abuses against the flying public.
- **Blumenthal_15** – In 2015, consumers spent an estimated \$3.8 billion on baggage fees alone.⁵ This amendment would require the Government Accountability Office to conduct a report on the effects of baggage fees on increased airport security costs and other economic disruptions.
- **Blumenthal_18** – This amendment would prohibit the use of electronic cigarettes on board an aircraft.
- **Blumenthal_29** – This amendment would extend the charter of the Advisory Committee on Aviation Consumer Protection until 2022, protecting a key venue for consumer concerns about the airline industry to be heard on the record.
- **Blumenthal_30** – The value of a robust consumer complaint database has been demonstrated by numerous federal agencies, including the National Highway Traffic Safety Administration, the Consumer Product Safety Administration and the Consumer Financial Protection Bureau. This amendment would require airlines to forward consumer complaints to the DOT and make those publicly available.

³ Elliott, Christopher. "Your airplane seat is going to keep shrinking," *Fortune*. September 12, 2015. Online: <http://fortune.com/2015/09/12/airline-seats-shrink/>

⁴ Bureau of Transportation Statistics T-100 Segment data. Online: <http://www.transtats.bts.gov/DataElements.aspx?Data=5>

⁵ Bureau of Transportation Statistics. "Baggage Fees By Airline 2015," December 15, 2015. Online: https://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/airline_information/baggage_fees/html/2015.html

- **Blumenthal_34** – This amendment would require the DOT to examine airlines’ agreements to provide alternative flights on another airline in the event of a delayed or cancelled flight.
- **Blumenthal_35** – This amendment would empower the DOT to investigate unfair or deceptive practices in the offering- and coverage provided by - flight cancellation insurance, an issue raised in a 2013 report on travel insurance.⁶
- **Blumenthal_37** – This amendment would require airlines to provide automatic refunds of baggage fees if a bag is delayed by more than 6 hours (12 hours for international flights) or damaged.
- **Blumenthal_40** – This amendment would prohibit air carriers from limiting access by consumers to information about schedules, fares and fees. This would do much to allow online ticketing agents and travel search engines to develop tools that can accurately show the true cost of flying, including fees.
- **Markey_20** - The airlines are seeing their profits surge largely because of a range of add-on fees that bear little relation to cost of the services provided.⁷ This amendment, originally offered as a the Forbid Airlines from Imposing Ridiculous Fees Act of 2016 (FAIR Fees Act) by Senators Markey and Blumenthal, would prohibit air carriers from imposing ancillary fees that are not reasonable and proportional to the costs incurred by the air carriers.

U.S. airlines have long argued that competition, driven by industry deregulation, would provide a check on anti-consumer conduct in the industry. However, as the American airline industry has consolidated, competitive pressures have vanished, leaving consumers to bear the brunt of higher fees, less space and atrocious service. With complaints skyrocketing, consumers are telling Washington “enough is enough.”⁸ S. 2658 is an important opportunity for Senators on this Committee to promote greater transparency and accountability on the part of the airlines. We urge you to support these important amendments.

Sincerely,

/s/

Sally Greenberg
Executive Director
National Consumers League

/s/

Linda Sherry
Director, National Priorities
Consumer Action

⁶ National Consumers League. “Air travel insurance big bucks, little protection,” Press release. September 2013. Online: http://www.nclnet.org/air_travel_insurance_big_bucks_little_protection

⁷ Mutzabaugh, Benjamin. “Airlines collected record baggage fees in 2012,” *USA Today*. May 15, 2013. Online: <http://www.usatoday.com/story/todayinthesky/2013/05/14/airlines-collected-record-baggage-fees-in-2012/2158983/> (“The airlines took in \$159.5 billion in revenue last year and had expenses of \$153.6 billion, according to the government. That 3.7% profit margin comes entirely from the baggage and change fees.”)

⁸ Department of Transportation. “2015 Airline Consumer Complaints Up From Previous Year,” Press Release. February 18, 2016. Online: <http://1.usa.gov/1Kv070I>

/s/

Susan Grant
Director of Consumer Protection and Privacy
Consumer Federation of America

/s/

George Slover
Senior Policy Counsel
Consumers Union

/s/

Ed Mierzwinski
Consumer Program Director
U.S. PIRG

CC: Members of the Senate Commerce Committee