



Consumer Protection Priorities for the Department of Transportation

Near-Term Priorities

Make Consumer Protection a Priority – The Department of Transportation (“DOT” or “Department”) is the only consumer protection agency that airline passengers can turn to when they are harmed by unfair and deceptive practices. Given that neither state attorneys general nor passengers themselves can seek recourse through state courts or legislatures, the Secretary should publicly acknowledge that strengthening existing consumer protections and promoting new ones is a priority for the Department. To execute on this priority, the DOT and FAA should seek input from consumer advocacy and passenger rights organizations throughout the policy making process.

Ticket Refunds and Expiring Ticket Credits – DOT must immediately ensure that ticket vouchers issued during the COVID-19 pandemic will never expire. DOT’s upcoming “Airline Ticket Refunds” NPRM must ensure that airlines can never again deceptively steer consumers towards ticket vouchers when they have a right to a full refund because of airline-initiated flight cancellations. In addition, DOT must ensure that consumers who cancelled their tickets because they were unable to fly during the COVID-19 pandemic due

to local, state, or federal health regulations or other medical guidance be provided refunds if they cannot or do not want to use the voucher they were given. DOT should require airlines to carry pandemic insurance policies to ensure that they have sufficient resources to provide refunds to all consumers in the event of future “force majeure” events.

Family Seating –DOT should begin a rulemaking to ensure that families with young children are always able to sit together on flights without incurring additional fees or being required to purchase upgraded tickets.

Initiate Rulemaking for Minimum Seat Sizes and Update Emergency Evacuation Standards To Be Completed Within One Year - Passengers have been getting larger while airlines have been aggressively shrinking seat and passenger space for decades. Passenger space is currently completely unregulated. FAA has steadfastly resisted any minimum seat size standards, notwithstanding a 2015 passenger group rulemaking petition, an adverse appeal court decision, a 2018 Congressional mandate, a May 2020 report by FAA’s Emergency Evacuation Advisory Rulemaking Committee, and a September 2020 DOT Inspector General’s report that criticized current FAA emergency evacuation testing standards as outdated and badly flawed.

Accordingly, we request the Secretary take the following actions:

1. Order FAA to commence the rulemaking process forthwith to be completed by July 2022;
2. Use DOT emergency powers authority to place a moratorium on further shrinkage of seat size and passenger space while rulemaking is pending;
3. Appoint an advisory committee composed of outside experts and all relevant stakeholders to study and advise FAA on minimum seat and passenger space standards, to be completed in 180 days;
4. Release the May 2020 report of FAA’s Emergency Evacuation Advisory Rulemaking Committee; and

5. Order the FAA to conduct realistic emergency evacuation testing using current aircraft seating, conditions and passenger demographics with outside expert and stakeholder observers to be completed within 75 days; and
6. Order FAA to consider health and passenger disruption issues as well as safety in setting minimum seat and passenger space standards.

Other Priorities

COVID-19 Health and Safety Protections – DOT should, in consultation with federal, state, and local public health agencies and subject matter experts, issue clear and enforceable requirements to reduce the risk of COVID-19 transmission in commercial aircraft and in airports.

Reform the Unfair and Deceptive Practices Rule – DOT must ensure that it has flexibility to quickly bring enforcement actions and complete rulemakings under its Sec. 41712 authority to regulate unfair and deceptive practices in the airline industry. Existing DOT rules that allow airlines to unduly delay enforcement and consumer protection rulemaking should be reformed.

Airfare Transparency – DOT should initiate a rulemaking to ensure that consumers are always provided a “bottom line price,” inclusive of both mandatory and “optional” taxes and fees for all flights during the flight search process. These rules should apply to all booking channels, both online and offline, including for tickets sold through airlines or third-party ticket sellers. DOT should reject industry lobbying to weaken the Full Fare Advertising Rule.

Uncensored Access to Complete Flight, Fare, Fee and Schedule Information – Through its rulemaking authority to protect the flying public from unfair and deceptive practices and its authority to protect consumers from unfair methods of blocking competition, DOT should take action to stop airline interference in and censorship of the display of publicly available flight, fare, fee, and schedule information. DOT should initiate a rulemaking to

ensure that consumers are always able to access all commercial and publicly available flight, fare, fee, and schedule information through the search method of their choice via online, offline, airline-branded or third-party channels.

Improve FAA Oversight of Aircraft Manufacturing and Maintenance – Conflicts of interest between aircraft manufacturers and FAA inspectors was a key contributing factor to the 737 MAX 8 crisis. FAA oversight of aircraft manufacturing must be reformed to eliminate such conflicts. The FAA should require that maintenance of U.S. airlines' aircraft be conducted in the United States, under adequate agency supervision.

Child Restraints – FAA should begin a rulemaking to close the 1953 loophole in federal regulations that allow children under the age of 2 to fly unrestrained, particularly during takeoffs, landings, turbulence, and emergencies.