

TESTIMONY OF PAUL HUDSON, PRESIDENT OF FLYERSRIGHTS BEFORE THE
SENATE COMMERCE COMMITTEE, HEARING ON SOUTHWEST AIRLINES
MELTDOWN & CONSUMER PROTECTIONS, WASHINGTON, D.C., FEBRUARY 9, 2023

Introduction

Thank you for including the passenger perspective in this very important and long-overdue discussion. My name is Paul Hudson, and I am the President of FlyersRights.org, the nation's largest airline passenger advocacy organization, with over 60,000 members/supporters.

The Southwest Meltdown's Effects

The December Southwest Airlines Meltdown is the most recent meltdown in a long string of airline meltdowns over the past decade. This recent meltdown alone resulted in over two million stranded passengers, families sleeping at airports, mountains of delayed or lost passenger luggage, and passengers missing important events such as weddings, funerals, holiday family gatherings, cruise ship vacations, and business meetings.

Dianne Martinez, needing her epilepsy medicine, had to drive 10 hours from Charleston to Nashville because Southwest had no available flights for days and did not re-accommodate her on another airline.¹ She had to pay \$600 for a rental car and hotel stay because of Southwest.

Katie Demko missed her own wedding despite booking a flight scheduled to land more than two days before her wedding day.² She estimated that she and her wedding party lost more than \$70,000 from hotel rooms alone.

Many passengers endured what Christopher Rosales endured: multiple canceled flights, a night at the airport, and spending Christmas Eve at a hotel.³ Passengers were unable to talk to any airport representative in person, on the phone, or online.

Southwest's Incentives

This all occurred while other airlines had empty seats on their flights. But under the current system, U.S. airlines are not required to pay any delay compensation for domestic flights and have no legal obligation to mitigate hours- or even days-long delays by rebooking a

¹ <https://abcnews.go.com/Business/stranded-southwest-customers-details-exhaustive-efforts-home-amid/story?id=95848764>

² <https://www.latimes.com/california/story/2023-01-11/it-was-horrible-stranded-southwest-passengers-still-waiting-to-recoup-costs-from-airline-meltdown>

³ <https://www.cbsnews.com/newyork/news/southwest-airlines-under-scrutiny-after-leaving-stunning-amount-of-passengers-stranded/>

passenger on the next available flight regardless of airline. All that the airline has to do for any canceled flight is to give the passenger a refund. But as we saw during the pandemic, airlines are not quick to return passenger money. In November 2022, the DOT fined six airlines, including just one U.S. airline for withholding \$600 million of passenger refunds for up to two years. Those airlines were fined pennies for this willful misbehavior, and nine of the ten largest U.S. airlines escaped without punishment.

The airlines are incentivized to deliver poor service. Southwest has been incentivized to ignore calls over the past few years by its own employees to update its grossly-outdated technology⁴ and instead became the first airline to deliver a post-pandemic dividend amounting to \$428 million on December 7, 2022.⁵

Whether it is missing important family events, missing work, having to pay for an expensive walk-up ticket, or being stranded for days—it is passengers who end up paying for Southwest’s mistakes.

In the European Union, airlines are required to compensate passengers between 250 and 600 euros for certain delays and cancellations that are within the airline’s control. The airlines must also provide appropriate meal vouchers, hotel vouchers, and transportation to and from the hotel. Had Southwest Airlines been subject to EU passenger protection regulations, it would have had to pay between \$532 million and \$851 million⁶ in compensation for its 16,700 canceled flights.⁷ This figure does not include the amounts owed as refunds for canceled flights or delays of over 5 hours, as well as hotel and meal vouchers.

That is a large figure, but it puts into perspective how much damage flight cancellations and delays actually harm passengers. In comparison, just weeks before the Southwest Christmas Meltdown, Southwest Airlines announced a \$428 million dividend for its shareholders.

Bad press, low fines, and little-to-no formal enforcement action will not incentivize Southwest to update its systems. It hasn’t in the past. Southwest canceled or delayed half of its flights due to technological problems in June 2021⁸ and canceled 1,800 flights in just one

⁴ <https://www.washingtonpost.com/transportation/2022/12/28/southwest-airlines-flight-cancellations/>

⁵ <https://www.reuters.com/business/aerospace-defense/southwest-airlines-reinstates-quarterly-dividend-2022-12-07>

⁶ These figures estimate the number of passengers on the 16,700 canceled Southwest flights by taking a weighted average of Southwest’s passenger capacity on its 737-700s, 737-800s, and 737 MAX 8’s at the most recent available load factor of 86.7%. This yields over 2.2 million passengers, and the two figures are based on the 250 euro and 400 euro compensation amount respectively.

⁷ <https://www.npr.org/2023/01/26/1151667801/southwest-airlines-investigation-losses-holiday-travel-cancellations>

⁸ <https://www.nytimes.com/2022/12/27/business/southwest-airline-delays-cancellations.html>

weekend in October 2021.⁹ And after the industry received \$58 billion in covid bailouts intended to keep staffing at a pre-pandemic level, the airlines avoided the “no layoffs or furloughs” provisions by offering buyouts and early retirements to pocket even more money. And then the airlines held on to over a billion dollars in money owed to passengers as refunds. Meanwhile, the airlines are not subject to minimum reserve requirements for equipment or staff or any form of stress testing. Bad weather and other disruptions should result in only graceful degradation of air service, not complete breakdowns that take a week to recover from.

Airlines Enjoy Unique Legal Privileges

Let’s state the obvious: no other industry is allowed to be this bad to its customers and still operate as business as usual. No other industry is allowed to expand stock buybacks, dividends, and executive compensation, and then cry poor, with its outstretched hand asking for bailouts. We traded a system of government dictation of prices, routes, and frequency for the free market. But this is not a free market with reasonable regulation. This is passengers and the government ruled by the airlines.

What’s a clearer example than airlines having to consent to be fined by the DOT, and then only paying half of that fine? Airlines taking bailouts with few strings attached and then violating the spirit of the bailout? Airlines raising prices through drip pricing, junk fees, gotcha fees, and fees that bear no relation to the cost of the ancillary service provided? Fees to sit next to your 8-year-old child? Fees to sit in a seat they can, kind of, safely fit into, as the airlines respond to growing passenger size with ever-shrinking seats.

The airlines are exempt from state consumer protection enforcement. Meanwhile, private litigation by passengers is limited in scope and in practice. The airlines can remove any small claims lawsuit to federal court, where the expenses and fees are cost-prohibitive. Competition is only decreasing as the government approves, but never denies, mergers, alliances, and joint ventures.

This means only the DOT can currently police the airline’s bad behavior. And there’s a lot of it: system meltdowns, passenger strandings, unpaid refunds, denied boardings, tarmac confinements, broken wheelchairs, drip pricing. The DOT’s authority, outside of a few narrow statutory commands, is limited to its authority to prevent unfair and deceptive practices. The problem is that the airlines have never seen a DOT proposal they didn’t oppose and that they didn’t think exceeded the DOT’s unfair and deceptive practices authority. This includes the bipartisan reforms people may take for granted today: the tarmac delay rule and the 24-hour refund rule. The DOT is forced to police the airlines through phone calls, through requests, through consent decrees, where the only fines against airlines are fines that the airlines agree to.

⁹ <https://www.cnn.com/2022/12/27/business/southwest-airlines-service-meltdown/index.html>

How does this make sense? The airlines held on to hundreds of millions of dollars of passenger money for almost two years. The DOT brought enforcement against only one U.S. airline for illegally withholding refunds, Frontier. Frontier was ordered to return \$222M in passenger money wrongly held by the airlines for up to two years. Frontier was also fined \$2.2M in what amounts to a low interest loan for the airline. This fine is unlikely to have much of a deterrent effect on future bad behavior by the airlines.

Looking Back to Go Forward

The measures that Congress takes can no longer be band aids, or else we will be back here, knowing that the airlines egregiously misbehaved or broke the law, but still struggling to find a solution. To find the path forward, we must first look back to how we got here.

The Airline Deregulation Act of 1978, with bipartisan support, brought an end to the Civil Aeronautics Board's determination of price, routes, and scheduling. The commercial airline system was born as a subsidized industry. In its infancy, the government subsidized the airlines through the flying of mail. One of the biggest complaints of CAB regulation was that the government blocked new entrants. Today, it is the airlines doing the blocking, through mergers, alliances, joint ventures, and anticompetitive practices such as predatory pricing, sitting on unused or underused slots, and "capacity discipline," where the airlines limited the number of flights in order to boost prices.

Again, the government is unable to enforce the law and restore the free market from the now privatized airline oligopoly. Deregulation was supposed to deliver lower prices and better customer service. Instead, fares are increasing and service is clearly worsening.

In the immediate aftermath of deregulation, airfares continued their decline, as expected. Continued technological advancement should yield benefits for airlines and passengers alike. But now, fares, when factoring in dozens of ancillary fees, are increasing. And when you consider what passengers got in the 70s versus now, prices aren't that much lower 45 years later.

Alfred Kahn, former Chairman of the CAB and "Father of Airline Deregulation", explained how what we have now is not what was intended. Kahn stated, "These problems drive home the lesson that the dismantling of comprehensive regulation should not be understood as synonymous with total government laissez-faire. The principal policy failures over the last fifteen years have been failures on the part of government **to vigorously and imaginatively fulfill responsibilities that we, in deregulating the industry, never intended to abdicate.**"¹⁰

¹⁰ <https://www.econlib.org/library/Enc1/AirlineDeregulation.html>

Congress must revisit the Airline Deregulation Act of 1978 and antitrust law and policies to fix the obvious dysfunctions that enable and cause the present problems. I recall the time I testified before this committee shortly after September 11th. The committee forged a bipartisan consensus, and in a matter of weeks, persuaded a reluctant President and House of Representatives to remove aviation security regulation from the FAA, remove the operation of aviation security from the airlines and airports, and transfer operation to a new agency, the Transportation Security Administration. There has not been a successful airline hijacking or bombing since.

Today, I urge this committee to act in a similar, decisive fashion: create a bipartisan commission to review the current state of air travel and enact much needed reforms in the next 6 to 12 months. Such reforms may include structural changes in government agencies.

Fundamental Reforms

Congress shouldn't feel bad about pursuing fundamental reforms for aviation, reforms that feel ambitious only because of the airlines' decades of unfair and anticompetitive actions. The airlines just received \$58 billion in bailouts in 2020, and along with that, broken promises to keep its employees paid and its operations ready for the eventual return to increased traffic. Instead we got the summer of cancellations in 2022, and the staff and equipment shortages persist.

Although this committee is currently investigating the misuse of bailout funds, without fundamental reforms, Congress and the DOT will always be reacting to the next air travel crisis. The solution can be meaningful regulation, the ones that come with meaningful punishments and incentives and that do not require constant monitoring and investigations. The type of regulations that already exist in other parts of the world.

This Crisis Was Foreseeable

In June 2022, Flyers Rights sent a letter to Secretary Buttigieg with 17 policy proposals to help prevent air travel meltdowns, like the Southwest one we would see just six months later.¹¹ I want to highlight two of the most fundamental reforms needed: delay compensation and the reciprocity rule.

¹¹ See Attachment 1.

Delay Compensation

U.S. airlines are no strangers to paying flight delay compensation. However, this compensation largely goes to foreign passengers, as passengers in U.S. domestic air travel are not entitled to ANY flight delay compensation.

Passengers are entitled to European flight delay compensation when they fly on a European airline or when they depart from Europe on any airline. The Montreal Convention also guarantees passengers actual damages arising from flight delays and cancellations in international travel.

Bringing this compensation home to the U.S. would provide the airlines with the incentive to finally stop its practice of deceptive scheduling currently under investigation by the DOT. As we saw in the covid refund heist of 2020, where the airlines held onto passenger money for years with little or no penalty, the airlines can schedule flights it has no intention of or no ability to actually operate. The airline takes the passenger's money, and in a worst-case scenario, simply has to refund the money a few months later if it cannot operate the flight. Meanwhile, the passenger is forced to pay higher fares, known as the walk-up rate, to secure another flight.

Not only is this wildly unfair and deceptive, it leads to disruptions and the widespread sentiment that the airlines are unreliable and untrustworthy. Andy Lalwani, a passenger whose flight was canceled during the most recent Southwest meltdown and had to pay more than double the original price for another ticket, stated "This outdated tech and outdated operations they've been using has just been funneling and trickling down to this moment. It makes you have a distrust in the future to ever fly with Southwest."¹² I had a similar experience last year when I was stranded overnight in Atlanta by a Southwest canceled flight and had to pay 3x the booked fare to avoid a 40-hour delay. It appears that bad service is actually now good business. Flight delay compensation, hotel vouchers, meal vouchers, and the reciprocity rule are how we solve this problem.

Reciprocity Rule

The Reciprocity Rule was a de facto rule prior to deregulation that required an airline to accommodate a passenger whose flight was canceled or significantly delayed on the next available flight, regardless of the operating airline, at no additional cost. The reciprocity rule matched stranded passengers with empty seats on other airlines, thereby increasing the efficiency of operations and limiting the harm inflicted on passengers.

¹² <https://abcnews.go.com/Business/stranded-southwest-customers-details-exhaustive-efforts-home-amid/story?id=95848764>

The Southwest Christmas Meltdown demonstrates that we need to return to the Reciprocity Rule. The rule would incentivize reliability and accurate scheduling. Airlines have deceptively scheduled flights that they have little to no intention or ability of operating. The airline collects passenger money up front and simply has to refund that money a few months later or place the passenger on its next available flight, even if that results in a delay of many hours or days.

The reciprocity rule, just like flight delay compensation, would reward airlines that keep their promises and incentivize airlines to perform better and schedule more accurately.

Conclusion

Thank you again for this opportunity to testify. I look forward to your questions and the air travel reforms that this Committee can initiate and that Congress must enact.

Sincerely,

Paul Hudson, President

FlyersRights.org

Member, FAA Aviation Rulemaking Advisory Committee (1993- present)

Member, FAA Emergency Evacuation Advisory Rulemaking Committee (2019-2022)

Member, FAA/TSA Aviation Security Advisory Committee (1997-2007)

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Attachments

1. FlyersRights.org's June 2022 letter to Secretary Pete Buttigieg
2. FlyersRights.org's Airline Passenger Bill of Rights 3.0 (2023)

Attachment 1



June 24, 2022

Hon. Pete Buttigieg
Secretary of Transportation
Office of the Secretary,
Attn. Director of Scheduling
1200 New Jersey Avenue SE
Washington, DC 20590

BY EMAIL and BY HAND

RE: Meeting Request for Airline Passenger Advocates on the Air Travel Delay Crisis

Dear Secretary Buttigieg,

As you are aware, air transportation delays and flight cancellation have reached record numbers, affecting about 100 million and counting. Last week, we understand you met with airline officials to hear from them, demanded they take certain measures, and warned them that the DOT would be taking action as needed.

Toward that end and the goal of avoiding a summer meltdown in air travel under your watch, FlyersRights.org is urgently requesting a meeting with you and your staff, preferably in person, next week. The purpose would be to brief you on specific measures that the DOT could undertake to ameliorate delays this year. Other consumer advocates have expressed interest in attending as well.

A list of 17 specific policy options is included with this letter.

You may recall at our meeting in July 2021, consumer advocates highlighted a number of aviation consumer priorities including pandemic related ticket refunds, lack of seat and emergency evacuation standards, and families sitting together. Unfortunately, limited-to-no progress has been made nearly a year later, so we would like to review these matters as well. For example, the DOT 2022 Q1 Air Travel Consumer Report shows a nearly 4x increase in passenger complaints and an astounding 17.7x increase in refund complaints from the 2019 Q1 report.

We look forward to your earliest response to this meeting request. We believe that under your leadership the right policy measures can greatly reduce the current epidemic of delays and cancellations and avoid a full blown air travel crisis.

Sincerely,

Paul Hudson

President, FlyersRights.org
Member, FAA Aviation Rulemaking Advisory Committee
Member, FAA Emergency Evacuation Advisory Rulemaking Committee
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Charlie Leocha
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Enc.

FlyersRights.org's Policy Proposals to Ameliorate the Air Travel Crisis

1. Discourage airlines from booking flights without capacity by mandating discontinuing certain flights and overall capacity. Flights can be discontinued as chronically delayed under current truth in scheduling law.
2. Declare the failure to answer phones an unfair practice as an emergency rule with large fines and threaten to suspend airline certificates of public convenience and necessity for failure to answer phones within 30 minutes. This would end this "no phone answering" practice overnight.
3. Mandate airports provide emergency rest and sleeping facilities for passengers stranded overnight and keep concessions open (they now close generally by 9 and many have

- never reopened) . Airports have received lots of bailout money too but have failed to restore services adequate to handle the big travel increase especially at big hub airports.
4. Require adequate reserves of equipment and flight crews. Currently there are no reserve requirements, so canceling a full flight means passengers may be stranded for days.
 5. Immediate enactment of reciprocity rule as an emergency regulation as proposed by FlyersRights. A reciprocity rule corrects a **market failure** by matching unsold seats with stranded passengers, now needed more than ever. This rewards airlines who keep their schedules and punishes those airlines unable to keep their schedules or engaged in deceptive or fraudulent scheduling.
 6. Temporary lifting of mandatory retirement age for pilots to age 68 with good health records (currently airline pilots must retire by 65 regardless of health).
 7. Set minimum wage for commercial pilots.
 8. Encourage use of larger planes to relieve congestion delays at choke point airports by raising landing and take off fees for smaller planes and lowering fees for larger planes.
 9. Require consumer warnings on all flights chronically delayed or canceled, reform delay statistics by publishing a typical passenger delay statistic caused by each airline monthly, and end the deceptive practice of counting a canceled flight as zero minutes delay.
 10. Survey passenger satisfaction of airports and airlines and publish results monthly to put pressure on them to improve services or else lose business and federal dollars for poor service.
 11. Fund the FlyersRights.org telephone hotline and other consumer organizations qualified to advise passengers of their rights and options when excessively delayed or stranded with grants.
 12. Delegate authority to consumer organizations to make referrals to DOT for investigation and for DOT to step up and issue administrative orders to show cause within 30 days why an airline should not be fined for unlawful, unfair, or deceptive practices. The FAA and DOT delegate safety and inspection authority to airline industry corporations to assist it but not to aviation consumer organizations. Legislation was enacted requiring DOT to set up a passenger hotline but was never funded and never implemented due primarily to DOT opposition as too costly.
 13. Get tough on airline misbehavior. The current system of 1-3 year investigations with only negotiated fines and mostly secret no action letters is not just broken. It's a bad and bitter joke, a waste of taxpayer funds, a coverup, and de facto endorsement of chronic airline misbehavior that bilks passengers of billions, hurts the U.S. economy, and is destroying public U.S. air travel. This crisis is an opportunity for Secretary Buttigieg to exercise leadership and earn positive national attention. Failure to act or ineffective action or deferring to the airline industry or the DOT bureaucracy is likely to have the opposite effect.
 14. Encourage new airlines to expand by opening up gates and removing slots from airlines with high cancellation and stranding rates.
 15. Set up a DOT website for contact information exclusively of all commercial airlines allowed to fly within the U.S.
 16. Grant permission, on an emergency basis, to certain foreign airlines with good track records to fly within the U.S instead of only to or from the U.S.
 17. Authorize foreign pilots with security clearance special visas to work within the U.S. to relieve the pilot shortage.

Attachment 2



AIRLINE PASSENGER BILL OF RIGHTS 3.0 2023

45 years have passed since Congress deregulated the airline industry as to fares, schedules, and routes. Congress has not comprehensively reviewed the law to correct the abuses, inefficiencies, and unintended consequences that have degraded the nation's public air transportation system in numerous ways and that have left consumers paying the price for airline misbehavior.

Prior to the Airline Deregulation Act of 1978 (ADA), air travel times were decreasing, reliability was increasing, and fares were decreasing. The Civil Aeronautics Board (CAB) regulated the airlines by approving flight schedules, airfares, routes, and standards, and by preventing unfair and deceptive practices. Since 1978, there has been no net increase in major U.S. airports. Consequently, congestion in New York and Chicago causes delays felt throughout the nation.

Regulations requiring minimum reserve capacity of equipment and flight crews have been allowed to lapse. So have rules that match stranded passengers from canceled and significantly delayed flights with empty seats on another airline's flight at no cost to the passenger. (Rule 240 or the Reciprocity Rule).

Since deregulation, flight delays of over one hour have increased dramatically. Air travel unreliability not only inconveniences, stresses, and results in financial hardship for airline passengers, it also burdens airlines and the entire economy. The U.S. economy depends on safe, convenient, and affordable air travel, as this is the primary and often only means of long distance transportation.

After deregulation, airfares continued their decline until 2009, when airfares and ancillary fees started to rapidly increase. Continued technological innovation of aircraft and economies of scale combined with reduced labor and operating costs should have yielded cheaper and more reliable air travel. **Instead, the airline industry scores record profits, unprecedented stock buybacks, and ballooning executive compensation despite the airlines ranking as one of consumer's lowest regarded industries, backed up not only by the all-too-familiar travel problem anecdotes but also data.**

AIRLINE PASSENGER BILL OF RIGHTS 3.0

1. Minimum Seat Space Standards

The FAA shall issue minimum standards for seat pitch, width, and leg room. Passenger safety and health requires the end to the current system where airlines cram more and more passengers onto a plane. Passengers are becoming taller, larger, and older while seat space decreases. Failure to act poses an immediate danger to passenger health and safety, particularly as to emergency evacuations, the brace position, and deep vein thrombosis (aka economy class syndrome). In 2018, Congress already required the FAA to set minimum standards, but it took a FlyersRights.org lawsuit in 2022 to compel the FAA to release a major study it conducted in 2019-2020. The FAA has argued in court that it finds the 2018 mandate optional, and it still has not established minimum standards as Congress considers the next 5 year reauthorization bill.

2. Definition of Airfare

Airfare should be defined as the total price, including taxes and fees, for air transportation, including a seat, one carry-on piece of baggage, one personal item, water, and operable lavatories. Airfare is not statutorily defined, so airlines have sliced up as “ancillary” or “optional” fees that used to be standard in a ticket. By creating a maze of ancillary fees, airlines obfuscate the true cost of a ticket and make it impossible for consumers to do the comparison shopping that market competition requires.

3. Ancillary Fee Transparency

Congress must enshrine in law a requirement that airlines display the entire cost of airfare, including taxes, fees, first checked bag fee, second checked bag fee, and seat selection on the first screen at purchase. The Department of Transportation has recognized the need for this through a proposed rulemaking (DOT-OST-2022-0109), and Congress should establish this as a minimum. The airline industry has grown more concentrated, with many routes serviced by a small number of airlines or dominated by one airline. Passengers and market competition require transparency in order for comparison shopping to be possible.

4. No Exorbitant Fees or Price Gouging

Congress should ban airline price gouging and ensure all ancillary fees are reasonable and related to the cost of the service. When severe weather has threatened an area, or when one airline suffers a meltdown (such as the Southwest Christmas Disaster of 2022), other airlines will price gouge its customers, charging over \$1,000 for tickets that normally would cost under \$250. Airlines also deploy gotcha fees and fees that increase the later you purchase them. Importantly, Congress did not deregulate the reasonability of international ancillary fees. Congress does not

need to re-regulate base airfares. Rather, it must ensure that all ancillary fees are reasonable and it must cap excessive price gouging in times of crisis.

5. Extend Delay Compensation to Domestic Flights

U.S. airlines are no strangers to paying delay compensation to passengers, but unfortunately that compensation typically does not go to Americans. European Union Regulation 261 provides between 250 and 600 euros for delays of 3 or more hours and cancellations made less than two weeks in advance when the cause of the flight disruption is in the airline's control. Similarly, the Montreal Convention, governing international flights, guarantees passengers delay compensation of up to \$6000 for damages caused by delays within the airline's control. This can include the price of another ticket, hotel expenses, missed cruises, and more.

U.S. air travel has never been less reliable when it comes to on time performance and cancellations. The airlines are under DOT investigation for deceptive scheduling: scheduling more flights than they can possibly operate and then canceling flights based on economic reasons. Delay compensation is not only fair and necessary to help defray the extra expenses that air travel unreliability pushes onto passengers, but it is also necessary for competition for reliability between airlines.

6. Reinstate the Reciprocity Rule

The Southwest debacle demonstrates the need to return the Reciprocity Rule (Rule 240). Before deregulation, airlines would guarantee to place passengers from canceled or significantly delayed flights on the next available flight, regardless of airline, at no additional cost. This rule increased reliability and consumer welfare by matching empty seats with stranded passengers, thereby reducing disruptions faced by passengers. Today, a rule would accomplish that and also incentivize reliability through competition and would decrease deceptive scheduling. Airlines have deceptively scheduled flights by scheduling flights that it has little or no intention of operating due to equipment or crew limitations or for economic reasons. The reciprocity rule would reward airlines that keep their schedules and penalize those that could not maintain their schedules, incentivizing better performance for all airlines.

7. Guaranteed Hotel, Meal, and Ground Transportation Vouchers for Significant Delays Within the Airline's Control

As a component of flight delay compensation to match European and International standards, Congress should require airlines to provide hotel accommodations, meal vouchers, and ground transportation vouchers to all passengers whose flights were delayed past midnight and to passengers on canceled flights who were not offered a rebooking. Airlines as bulk buyers

and with corporate partnerships with hotel chains can secure below market rates for these vouchers.

8. Overhaul of DOT Enforcement Regime

Congress must overhaul how DOT punishes airline violations of the law. Fines must be substantial enough to have a deterrent effect, and part of the fines should be paid to affected passengers. Currently, the DOT's enforcement regime is one of collaboration and informal requests of the airlines, with few fines and enforcement actions. The enforcement actions that do occur are agreed to by the airlines (consent decrees) and waive half of the fine if the airline is on good behavior for a year. Change is needed to strengthen the Department's position to protect passengers, as it is the only regulator of the airlines. Congress and the DOT should be setting the standards for the airlines, not the other way around.

9. Guaranteed Family Seating

Congress must reimplement its 2016 provision and order the DOT and airlines to ensure each child under the age of 13 is seated with a family member over the age of 13, at no additional cost. Congress ordered the DOT to enact this provision "if necessary," and the DOT quietly concluded that such a requirement was not needed. Family seating is common sense and common decency, is a benefit to aviation safety by enabling faster emergency evacuations, and is a protection against sexual misconduct on planes, a growing problem in air travel.

10. Conspicuous Notice of Consumer Rights at Airports and By Airlines

Consumer protections are less effective when the average consumer is unaware of passenger rights. Some airlines estimate that 80% of passengers fly only once per year. In the European Union, airports display bulletins, posters, and announcements for passenger rights information. A similar system is needed here to inform passengers of what rights they do have.

Other measures needed:

- Customer service standards, including staffing of consumer complaint lines
- Mandatory labor and equipment reserves and the implementation and audit of emergency contingency plans that would allow for graceful degradation of service rather than system-wide meltdowns
- New airport construction to relieve congestion and repeal of regulations limiting federal government investment in new airports
- Require passengers to be notified in writing of their rights under the Montreal Convention in a manner more consistent with the Montreal Convention's original intent.
- Passenger lawsuits under \$75,000 should be adjudicated in state court. Current law allows airlines to remove any case to federal court, regardless of amount-in-controversy