

July 14, 2017

The Honorable Bill Shuster, Chairman
The Honorable Peter A. DeFazio, Ranking Member
Committee on Transportation and Infrastructure
United States House of Representatives
Washington, DC 20515

Dear Chairman Shuster and Ranking Member DeFazio:

Consumers Union, the policy and mobilization arm of Consumer Reports, writes regarding the bill H.R. 2997, the 21st Century AIRR Act of 2017. We appreciate your consideration of the recommendations we made in our testimony at the Committee's May 2 hearing. And we appreciate the inclusion, in the bill as ordered reported, of a number of provisions to improve airline passenger protections.

As the Committee is aware, consumers continue to experience poor service, abusive treatment, higher fares, diminished choices, and lack of transparency in the increasingly concentrated airline industry. This is an opportunity to move toward better ensuring safe, reliable, affordable air travel that serves the interests and needs of passengers, and respects their rights as consumers. We support your efforts to do so.

As the bill advances in the legislative process, we would urge you and your colleagues to ensure that the final bill includes the following protections:

Stop involuntary bumping of ticketed passengers

Section 506 of the bill would prohibit an airline from involuntarily removing a passenger who has already boarded the flight, except for valid safety and security reasons. We believe this protection should extend to all ticketed passengers who arrive at the gate on time. If an airline chooses to overbook a flight, or wants a seat for a crew member, or for any other reason, the airline should bear the burden of freeing up that seat – not by forcing a passenger to give up the ticket, but by offering the passenger sufficient consideration to persuade him or her to voluntarily give up the seat.

The feasibility of this approach is clear by the fact that United Airlines CEO Oscar Munoz has stated publicly that United would offer compensation as high as \$10,000 for a seat, an amount far beyond what might realistically be needed.

The amendment Congressman Nolan offered during Committee markup would provide this important protection. The airline would still make the decision whether to overbook, based

on marketplace considerations, but the risk of doing so would be borne by the airline, not inflicted on its hapless passengers. The amendment was deferred so its drafting could be examined. We stand ready to assist you and your colleagues in ensuring that this amendment is added to the bill and is written in a way that fulfills its objective.

Maintain and improve transparency of airfares

DOT regulations currently require that listed fares include all mandatory fees and taxes, making it easier for consumers to see the cost of travel as they shop for their ticket. We believe this benefit to consumers should be maintained and improved. Section 505 of the bill would allow airlines to obscure the mandatory fees and taxes by separating them and moving them to another location on the website. We urge you and your colleagues to remove this provision, and to build on the current requirements by making common optional fees, such as for checked and carry-on baggage, also more easily accessible, and to ensure that this pricing information is equally accessible on all shopping platforms, whether controlled by the airline or operated by an independent third party seller, thereby promoting competition and consumer choice and convenience.

Establish standards for minimum dimensions for passenger seats

Congressman Cohen's amendment, added to the bill in Committee markup, directs DOT to establish requirements for minimum permissible dimensions for passenger seats. This is an important protection, not only for passenger comfort, but also for passenger health and safety, in light of concerns such as the increased risk of deep vein thrombosis, as well as the increased risk of impeding effective and safe evacuation. We recommend that passenger comfort also be made an explicit criterion, and that, until the new regulation is implemented, airlines not be permitted to further reduce seat dimensions in any aircraft.

Establish a clear, concise Passenger Bill of Rights

Congressman Nolan's amendment, added to the bill in Committee markup, requires airlines to provide a concise one-page statement clearly explaining to passengers what their rights to compensation are in the event of flight delays and cancellations, mishandled baggage, and other events with significant adverse effects, similar to what the European Union has had in place for a dozen years. This will be far more helpful to consumers than the voluminous, confusing, and one-sided contracts of carriage in which U.S. airlines specify what rights consumers have or, in many cases, do not have.

Establish transparency and consumer protections for air ambulance service

Congressman Woodall's amendment, added to the bill in Committee markup, provides for a DOT rulemaking, based on input from an advisory committee with consumer representation, to require that charges for air ambulance transportation service be transparent and clearly separated out from charges for other medical services, and to provide other consumer protections as determined to be warranted. We believe these changes will be important

protections for consumers, who too often are hit with unexpected, exorbitant, and unclear charges for air ambulance transportation service. We recommend also clarifying that states are not preempted from applying health insurance laws governing network participation, reimbursement, price transparency and balance billing to air ambulance service, to better enable consumers to obtain coverage under their insurance.

Defer action on privatizing air traffic control

As we have previously noted, we believe there are serious potential ramifications, including for safety, coverage, and competition, in the proposal to transfer the nation's air traffic control system to a newly established non-profit corporation, turning air traffic control into a business proposition, and injecting corporate revenue-generating considerations into the core responsibility of ensuring safe and reliable coordination of flights in our skies and on our runways. We urge you and your colleagues to remove this provision so that action can be deferred until these important issues can be thoroughly examined and appropriately addressed.

Other improved passenger protections

We also support a number of other provisions in the bill strengthening protections for consumers, including:

- A ban on cell phone voice communication during flights. (Section 502)
- Supporting an advisory committee for aviation consumer protection. (Section 503)
- Strengthening required disclosures regarding application of insecticides in aircraft while in foreign countries, including aircraft operated by U.S. airlines. (Section 504)
- Supporting a modernized consumer complaints hotline. (Section 508)
- Creating an FAA task force on flight standards reform, which could address issues regarding outsourced aircraft maintenance, regional airline pilot training, and proper child restraints for children under the age of 2. (Section 332)

Ultimately, we also hope other important passenger protections can be included in the final bill:

- Improve monitoring of cabin air quality for passenger health and safety. (Senate bill, Blumenthal amendment, adopted in committee)
- Clarify that states are not preempted from applying health insurance laws governing network participation, reimbursement, price transparency and balance billing to air ambulance service, to better enable consumers to obtain coverage under their insurance. (S. 471, by Senator Tester)

- Ensure that fees charged for services such as flight changes and cancellations and checked baggage are reasonably related to cost. (Senate bill, Markey-Wicker-Blumenthal amendment, adopted in committee)

Conclusion

We look forward to working with you and your colleagues for enactment of legislation that helps more effectively ensure a safe, fair, reliable, and affordable aviation system for consumers.

Respectfully,



William J. McGee
Adviser, Aviation and Travel



George P. Slover
Senior Policy Counsel

cc: Members, House of Representatives