

April 25, 2018

Dear Representative:

Consumers Union, the advocacy division of Consumer Reports, urges your vote in favor of H.R. 4, the FAA Reauthorization Act of 2018.

Consumers continue to experience poor service, abusive treatment, higher fares, diminished choices, and lack of transparency in an ever-more concentrated airline industry, where the airlines, facing less competition, are ever bolder in focusing more on increasing their profits than on treating their customers well. This bill presents 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.

This bill includes a number of beneficial provisions to improve passenger protections, including provisions that address recommendations we made in our testimony at the Transportation Committee's hearing on May 2, 2017, and in our July 14, 2017 letter to that Committee. Unfortunately, it also includes one provision that runs significantly counter to the interests of consumers. And several of the pro-consumer amendments that were submitted were not made in order. We will work to see that these issues are addressed in the final bill.

Among the beneficial provisions in the bill are ones:

- Prohibiting an airline from involuntarily removing a passenger who has already boarded the flight, except for valid safety and security reasons. (Section 406)
- Directing 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. (Section 541)
- Requiring airlines to provide a concise one-page statement clearly explaining passenger rights to compensation 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. (Section 414)
- Requiring DOT to establish rules for airline ambulance service, 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. Consumers are too often 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. (Section 412)

- Prohibiting cell phone voice communication during flights. (Section 402)
- Extending the life of the Advisory Committee for Aviation Consumer Protection. (Section 403)
- Strengthening required disclosures regarding application of insecticides in aircraft while in foreign countries, including aircraft operated by U.S. airlines. (Section 404)
- Supporting a modernized consumer complaints hotline. (Section 408)
- 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 232)

Of the amendments made in order under the rule, we urge your support for several that further the interests of consumers, and urge your opposition to one that would run counter to those interests.

Amendments we urge you *to support* include the following:

Amdt. 21 – Soto – Expands required review of on-flight emergency medical kits to include needs of pregnant women.

Amdt. 24 – Crist – Requires GAO review of whether current FAA “Compliance Philosophy” is undermining effective safety enforcement.

Amdt. 35 – Cicilline – Adds to required statement of passenger rights information on compensation (rebooking options, refunds, meals, and lodging) when a flight is diverted.

Amdt. 36 – Cárdenas – Requires DOT study of the effects of airline overbooking of flights.

Amdt. 38 – Bonamici/Shea – Creates the position of Aviation Consumer Advocate at the FAA.

Amdt. 39 – Langevin – Improves assistance provided to passengers with disabilities.

Amdt. 42 – DeFazio – Removes prohibition against DOT safety regulation of lithium batteries on board commercial passenger and cargo flights.

Amdt. 69 – Suozzi/Bass/Quigley – Requires FAA report on safety issues related to age of commercial aircraft, impact of metal fatigue, use of contractors for maintenance, and rules for inspecting aging aircraft.

Amdt. 78 – Lipinski – Requires airlines, in the event of significant delay, cancellation, or misconnection of flight, to provide passengers with suitable alternative transportation and, for passengers who were involuntarily denied boarding on their original ticketed flight, meal vouchers and hotel accommodations when appropriate.

Amdt. 100 – Lipinski – Requires GAO to study effect on passengers of airline computer network outages, including how passengers were accommodated.

We urge you *not to support* the following amendment:

Amdt. 26 – McClintock – Eliminates authorization for funding Essential Air Service, which subsidizes air service to airports in more remote communities where airlines might not otherwise find it profitable enough to continue service. This has been an important protection for these communities ever since air service deregulation began 40 years ago, and remains particularly important today, when increased concentration has reduced competitive incentives to see that these communities are served.

Unfortunately, there are other important consumer protections that are not yet addressed in this bill as they should be. Among the most important of those protections is transparent fare and fee information, which we believe should be available to consumers in all venues for shopping and purchase, so that it is easy for consumers to see the cost of travel as they shop for their tickets. DOT has suspended rulemakings that were addressing this need. Rather than direct DOT to resume and finish its rulemakings, this bill, in section 405, would actually take a major step *backwards*, reversing a current DOT rule that establishes a baseline for price transparency by requiring airlines to advertise the full fare that consumers will be required to pay for a ticket. Section 405 would give airlines license to obscure *mandatory* fees and taxes by separating them and moving them to another location on the website, leaving them off the advertised fare.

In addition, a number of pro-consumer amendments were submitted but not made in order for the full House to consider. Among these are the following:

- An amendment by Congresswoman Schakowsky and others to strengthen section 406, by extending the protection 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 stated publicly last year that

United would offer compensation as high as \$10,000 for a seat, an amount far beyond what might realistically be needed.

- An amendment by Congressmen Cohen and Jones to ensure ancillary fees are reasonably based on cost. In recent years, we have witnessed the growth of ancillary fees charged separately from the base fare, often without clear prior disclosure to consumers, and often bearing no relation to the cost of providing the associated service. One particularly abusive fee is the fee for changing a flight – often a flat fee, regardless of how far in advance the consumer requests the change. Often, the airline is able to re-sell the seat, in addition to charging the consumer for the original ticket and the change fee.
- An amendment by Congressman Polis to ensure that a parent or other adult family caregiver is permitted to accompany a minor child through all stages of security screening; that pregnant women be given appropriate consideration for advance boarding; and that children under age 13 be permitted to sit next to an older family member.
- An amendment by Congressman Ciciline to set a limit on fees for changing a ticket to a different flight.
- An amendment by Congressman Lujan to require that baggage fees be disclosed to consumers at all points of sale.

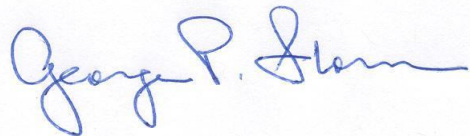
We will be working to strengthen this bill as it moves toward enactment, to advance the goals of fare and fee transparency, to ensure that pricing information is equally accessible on all shopping platforms, whether controlled by the airline or operated by an independent third party seller, thereby promoting competition and consumer choice and convenience. We will also be working to strengthen other important consumer protections.

We look forward to continuing to work with Congress for enactment of legislation that helps more effectively ensure a safe, fair, reliable, and affordable aviation system for consumers.

Respectfully,



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George P. Slover
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