

April 24, 2018

The Honorable Pete Sessions, Chairman
The Honorable James P. McGovern, Ranking Member
Committee on Rules
United States House of Representatives
Washington, DC 20515

Dear Chairman Sessions and Ranking Member McGovern:

Consumers Union, the advocacy division of Consumer Reports, writes regarding 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. It also includes one provision that raises significant concerns for us. The bill is essentially identical to H.R. 2997 as reported last September by the Committee on Transportation and Infrastructure, except for the removal of Title II of that bill, which proposed to transfer air traffic control authority to a new American Air Navigation Services Corporation.

Among these beneficial provisions are ones:

- 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 passengers' 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)

There are a number of amendments among the 230+ submitted to the Rules Committee that would further this purpose, and at least one that we believe would be counter to it. We would draw your attention to the following amendments in particular.

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

- **Amdt. 110 – Schakowsky et al – stop involuntary bumping of ticketed passengers**

Section 406 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 go further, and 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 stated publicly that United would offer compensation as high as \$10,000 for a seat, an amount far beyond what might realistically be needed. Congresswoman Schakowsky’s amendment would provide this important stronger protection.

- **Amdt. 10 – Cohen/Jones – 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. This is often a flat fee, regardless of how far in advance of the flight 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. This amendment would prohibit airlines from setting this fee in an amount that is disproportional to the airline's cost, and would require DOT to set standards for ensuring that other common fees are reasonable and proportional to cost.

- **Amdt. 90 – Polis – protections for flying families**

This amendment would require that ensure that a parent or other adult family caregiver be 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.

- **Amdt. 53 – DeFazio/Massie – remove cap on Passenger Facility Charge**

This amendment would remove the cap on the Passenger Facility Charge, or PFC, a small surcharge on the price of a ticket that helps defray airport infrastructure costs. The PFC has been statutorily frozen since 2000. Infrastructure needs continue to mount, and have the potential to pose significant safety issues. Removing the statutory cap would permit a modest increase in the PFC.

- **Amdt. 162 – Lujan – transparency for baggage fees**

This amendment would require that baggage fees be disclosed to consumers at all points of sale.

- **Amdt. 99 -- Bonamici – Aviation Consumer Advocate**

This amendment would create the position of Aviation Consumer Advocate at the FAA.

- **Amdt. 138 – Cicilino – limits on ticket change fees**

This amendment would address one of the fees addressed in Amdt. 10, the fee for changing the ticket to a different flight, by setting a specific limit on that fee.

Amendments we urge you *not to support* include the following:

- **Amdt. 26 – McClintock – eliminates Essential Air Service**

This would eliminate 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.

There are other important consumer protections that are not addressed in this bill yet. Among the most important of those protections are 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 ticket. We are concerned that DOT has suspended rulemakings that were addressing this need. Of perhaps even greater concern, the bill before you, in section 405, would actually take a major step backwards, reversing a critical 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.

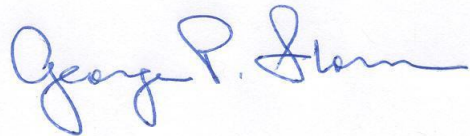
We strongly urge Congress to remove section 405 from the bill. Instead, we urge Congress to *advance* the goals of fare and fee transparency. Congress should require DOT to resume and complete its rulemakings; or better yet, direct DOT to build on the current requirements by making common optional fees also more easily accessible. Congress should 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.

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,



William J. McGee
Adviser, Aviation and Travel



George P. Slover
Senior Policy Counsel

cc: Members, Committee on Rules
Members, Committee on Transportation and Infrastructure