



September 23, 2020

Honorable Elaine Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Chao:

Consumer Reports is writing to urge you to take action to protect commercial airline travelers during the ongoing COVID-19 crisis by (1) mandating health protections in airports and onboard aircraft; and (2) ensuring that airlines provide cash refunds to passengers whose flights were affected by the pandemic. To date, you have offered only guidance and recommendations to airlines and airports on these issues. These are not enough.

Only you as Transportation Secretary have the authority to protect the health and safety of everyone in commercial aviation: passengers; airport employees and vendors; government and other essential workers; and airline crewmembers and ground employees. And only you can require airlines to act fairly and provide refunds to travelers who have been unable to fly as planned during the COVID-19 crisis.

Health and Safety on Airlines

As the COVID-19 crisis continues, Americans have encountered a confusing patchwork of conflicting health and safety policies at hundreds of U.S. airports and every U.S. airline. Travelers cannot even be sure, when they make a reservation, what the airline's policies on healthy travel will be on the date when their flight takes off.

We urge you to listen to the more than 62,000 Americans who signed our petition - enclosed here - urging you "to immediately set mandatory, enforceable health and safety rules, so every airline, airport, and passenger can be held

accountable to help stop the spread of this virus.” Establishing mandatory guidelines will ultimately help the airlines recover, as passengers will have more confidence that they will be safe when flying.

The Department took a helpful first step with its release in July of “Runway to Recovery,” a 44-page guidance issued jointly by the Departments of Transportation, Homeland Security, and Health and Human Services.¹ This document addressed many of the critical health protocols essential to safe operations during COVID-19: airport and aircraft cleaning; social distancing; personal protective equipment like masks; and other protocols. These are life-and-death issues, but months later the “Runway to Recovery” remains little more than a suggestion, rather than a clear government requirement.

Consumer Reports reached out to our readers, asking them about their travel experiences during COVID. The 173 responses show that there is deep inconsistency in policies.² John from Minnesota wrote: “I’ve flown on 3 airlines in the last month. Because we are lacking regulations for COVID on airlines, the experiences were quite different.” He reports that, on one airline he flew, there were passengers in nearly every seat, while the two other airlines kept middle seats open for social distancing. Some travelers we heard from complimented the airlines they flew on, while others expressed concerns about mask requirements not being enforced and about overcrowded flights, with variation between airlines as well as on different flights on the same airline.

Consumer Reports urges you to craft mandatory guidance grounded in the advice of the best experts at DOT, FAA, TSA, CDC, FEMA, and other government agencies; airlines, airports, aircraft manufacturers, and their vendors; and expert medical and public health professionals. It is clear that, as Transportation Secretary, you have the authority to immediately implement emergency rules to protect the hundreds of thousands of lives affected by traveling during this pandemic every day, just as Secretary Mineta acted swiftly to protect the health and safety of air travelers immediately after the 9/11 attacks.

Refunds

While the health, safety, and well-being of passengers and others is paramount, we also urge you to use the authority of your office to ensure that domestic airlines, foreign airlines, and travel agencies fairly fulfill their financial obligations to their consumers as well. Your editorial in USA Today on May 19, 2020

¹ U.S. Department of Transportation, *Runway to Recovery* (July 2020) (online at: www.transportation.gov/sites/dot.gov/files/2020-07/Runway_to_Recovery_07022020.pdf).

² Consumer Reports, *Member Stories: Covid-19: Flying Safely*, (online at: <https://www.consumerreports.org/stories?questionnaireId=186>).

summed it up very well: “Airlines must be fair to people hit by coronavirus disruptions.”³

However, in the months since your editorial was published, it has become quite clear that airlines have not been at all fair to consumers seeking refunds. The Department’s own monthly Air Travel Consumer Report has documented unprecedented and staggering increases in consumer complaints over refunds recently—more than 55,000 people filed complaints with the Department during the first four months of the crisis against domestic and foreign airlines and travel agencies regarding refunds. This is nearly *100 times* the number of refund complaints that were filed during the same period in 2019.⁴

The Department’s findings dovetail with our own at Consumer Reports. Consider the following:

- Nearly 3,800 consumers submitted stories and complaints to Consumer Reports about their efforts to secure airline refunds;⁵
- Nearly 250,000 joined CR in a petition to the airlines demanding cash refunds;⁶
- More than 1,600 people attended a public webinar we hosted in June to assist consumers in obtaining refunds.⁷

These numbers underscore that the airlines are not adhering to your public request that they treat consumers fairly. Despite the tens of billions of dollars in taxpayer bail-out provided in the CARES Act, airlines continue to violate existing DOT rules by not providing cash refunds to qualifying passengers. And they are exploiting loopholes in the Department’s rules to deny billions of dollars to tax-paying Americans already suffering through the worst public health crisis in a century, and the worst economic crisis since the Great Depression. Despite being told by federal and local authorities and medical experts not to travel, consumers

³ Transportation secretary: Airlines must be fair to people hit by coronavirus disruptions, *USA Today* (May 19, 2020) (online at: www.usatoday.com/story/opinion/2020/05/19/coronavirus-air-travelers-deserve-refunds-elaine-cho-colum/5209154002/).

⁴ U.S. Department of Transportation, *Air Travel Consumer Reports* (online at: www.transportation.gov/individuals/aviation-consumer-protection/air-travel-consumer-reports).

⁵ Consumer Reports, *Member Stories: Coronavirus: Airline Refunds* (online at: https://www.consumerreports.org/stories?questionnaireId=142&fbclid=IwAR0SzpRMUIT6RKrsUP3DCicB2DJOX1d_Nw2h5sWnulrraStVlfj_3WPZUf4).

⁶ Consumer Reports, *CR, U.S. PIRG and activist deliver nearly 250,000 petition signatures to airlines calling for full refunds for canceled flights* (May 13, 2020) (online at: https://advocacy.consumerreports.org/press_release/cr-u-s-pirg-and-activist-deliver-nearly-25000-0-petition-signatures-to-airlines-calling-for-full-refunds-for-canceled-flights/).

⁷ Consumer Reports, *Workshop: Air Travel Refunds* (June 30, 2020) (online at: <https://www.youtube.com/watch?v=DBlc9Vh5j18&feature=youtu.be&fbclid=IwAR09GOWNp9LR3rtUAHEw85zoSAbyVFsjUFdSkwAog-ScmTevJyaltjrQ32o>).

are being penalized for not flying during a pandemic, and the airlines offering only vouchers for future travel are using these pre-payments as interest-free loans -- loans that for many consumers, the airlines may never have to repay.

Conclusion

It is now six months since the severity of COVID-19 effectively shut down commercial air travel in the United States. While travel is beginning to tentatively pick up again, the American public is still without sensible health mandates and basic consumer protections. You alone have the authority to address both these issues, and we urge you to do so. Please contact us if we can offer any assistance in these efforts. Thank you for your attention.

Sincerely,

Anna Laitin
Director, Financial Fairness
and Legislative Strategy

William J. McGee
Aviation Adviser

George Slover
Senior Policy Counsel

cc: Members of the Aviation Consumer Protection Advisory Committee