



November 18, 2021

The Honorable Pete Buttigieg
Secretary, U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Buttigieg:

We sincerely appreciate the time you spent with Consumer Reports and other consumer advocacy organizations on July 27 to discuss our deep concerns about the current state of the airline passenger experience. We were heartened by your interest and your promise to follow up on the issues we raised. Among several critical problems we raised with you were the following:

- The long-standing and chronic problems millions of Americans have encountered in seeking refunds for flights affected by Covid-19 and the resulting disruptions.¹ Airlines have been refusing refunds, withholding billions of dollars, despite three taxpayer bailouts of the industry totaling \$58 billion. As you know, DOT recorded a record number of complaints about refund refusals in 2020 — *57 times* the number filed in 2019. Adding insult to injury, many of the vouchers forced on consumers in lieu of refunds are now expiring.
- The fees U.S. airlines continue to collect for seating families together when they are traveling with children under age 13.² Despite Congress's clear directive, in section 2309 of the 2016 FAA Reauthorization Act, that the FAA take effective steps to address this abusive practice, the practice continues and DOT has yet to act. As we discussed with you, the results of a Freedom of Information Act filing by Consumer Reports uncovered hundreds of disturbing examples of children as young as 3, 2, and even 1 being assigned seats alone. In addition to the obvious threat of child abuse, such practices also raise serious concerns about child insecurity, personal safety, and evacuation safety, as well as about public health during the need for COVID precautions. We believe it constitutes a violation of the prohibition against unfair and deceptive practices.

Unfortunately, in the months that have followed our meeting, by any objective measure passengers have been confronted with a further degradation of both flight operations and customer service. Consider the following crises caused by operational meltdowns resulting in widespread flight cancellations, which have been widely reported by news media:

¹ See, e.g., <https://www.elliott.org/airline-problems/how-get-united-airlines-voucher-refund/>;
<https://www.consumerreports.org/airline-travel/you-might-have-to-pay-extra-to-sit-with-your-kid-when-you-fly/>;
<https://transportation.house.gov/imo/media/doc/Testimony%20-%20%20McGee.pdf>.

- In early October, Southwest Airlines canceled 2,000 flights, blaming it on “disruptive weather” and “air traffic control issues”³ — a claim publicly refuted by FAA.⁴
- Later in October, American Airlines canceled 1,200 flights, also blaming weather.⁵
- Also in October, Alaska Airlines announced it was cancelling flights two months in advance, claiming it was merely making “standard seasonal operating changes.”⁶
- This summer, when Spirit Airlines canceled nearly 3,000 flights, it claimed “overlapping challenges” including bad weather, but also admitted to staffing shortages.⁷

According to credible reports, a key factor in all these disruptions is a shortage of crew and other airline employees, due to furloughs, encouraged early retirements, and outsourcing — despite the CARES Act specifically stating that taxpayer bailouts were designed to *prevent* airline labor shortages.⁸ Furthermore, these meltdowns are compounded by the airlines’ failures to provide adequate customer service; to adequately staff call centers; and to provide prompt re-bookings and refunds.⁹ We remain skeptical that these delays and cancellations can truly be attributed to extraordinary weather events and air traffic control problems — keeping in mind that airline contracts of carriage limit compensation owed to passengers under such described Force Majeure conditions. If indeed the airlines cannot demonstrate that the disruptions are predominantly attributable to these extraneous causes, as the airlines have claimed, this could also constitute an unfair and deceptive practice.

Industry analysts are predicting chaos during the holiday air travel season, which kicks off next week with Thanksgiving, and continues through Hanukkah, Christmas, Kwanzaa, and New Year’s. In light of these concerns, in September Consumer Reports requested that the flying public share their stories and complaints with us.

We asked the following: *Was your flight unexpectedly delayed or canceled recently? Have you had difficulty contacting the airline to resolve your problem? Are you still waiting on a refund for canceled travel related to Covid?*¹⁰

³ <https://twitter.com/southwestair/status/1446915196438581254>.

⁴ twitter.com/FAANews/status/1447249660884754441?s=20; <https://viewfromthewing.com/the-faa-keeps-throwing-twitter-shade-at-southwest-airlines/>.

⁵ www.dallasnews.com/business/airlines/2021/10/30/american-airlines-cancels-more-than-900-flights-over-weekend-blaming-weather/.

⁶ www.businessinsider.com/labor-shortage-alaska-airlines-cutting-flights-staff-wichita-kansas-seattle-2021-10.

⁷ www.usatoday.com/story/travel/airline-news/2021/08/17/spirit-airlines-cutting-flights-cancellations-cost-50-million-revenue/8161890002/; <https://www.cnbc.com/2021/08/16/spirit-airlines-flight-cancellations-50-million-cuts-third-quarter-schedule.html>.

⁸ E.g., <https://www.cnbc.com/2021/03/01/delta-hands-out-bonuses-to-managers-whose-pay-was-cut-in-the-pandemic.html>; <https://www.theguardian.com/business/2021/apr/25/united-airlines-layoffs-covid-relief>; <https://www.reuters.com/business/aerospace-defense/united-airlines-outsource-catering-operations-october-2021-07-29/>; <https://www.commerce.senate.gov/services/files/59D52931-8489-4EF6-9A4B-22ECB97B05DC>.

⁹ E.g., <https://www.washingtonpost.com/travel/tips/airline-customer-service-hold-times/>; <https://www.wsj.com/articles/delta-jetblue-lufthansa-travel-delay-wait-airline-customer-service-calls-11629927162>.

¹⁰ act.consumerreports.org/S6DVWjQ.

As we promised, we are forwarding these stories and complaints to the Department for your consideration to show the urgency for investigation and, if warranted by the facts uncovered, appropriate enforcement action.

Most of the responses Consumer Reports received concerned (a) flight refunds and vouchers and (b) flight cancellations. Here are a few highlights of the 393 responses received:

- Among the many refund and voucher problems cited by consumers were financial burdens; personal health issues; concerns over vaccinations for children; and the inability to use or transfer tickets. One consumer was denied a refund by United Airlines despite having spent eight days in the hospital with Covid-related pneumonia, and stated: “We paid for our tickets, and then the federal government gave United more money to cover situations like ours, with money we paid in federal taxes.”
- Consumers also cited recent flight cancellations, and expressed concerns about the financial burdens of paying out of pocket for hotels, meals, rental cars, etc. One family of six were notified, when the first leg of their American Airlines flight had landed in Dallas, that their connecting flight had been canceled, stranding them for days; they eventually rented a car and drove 12 hours. The consumer stated: “Three months later, I have yet to receive those vouchers.” Another consumer told us she was notified on the morning of her scheduled flight from San Diego to Seattle that Alaska Airlines had rerouted her at the last minute — through New York City! (A short time later, even that flight was canceled.)
- We also are forwarding several complaints about family seating. In one complaint, a reader told us that Alaska Airlines offered no assistance while she was traveling with a 15-month-old child, denying her adjacent seats: “Long story short, we will NEVER FLY ALASKA ever again.”

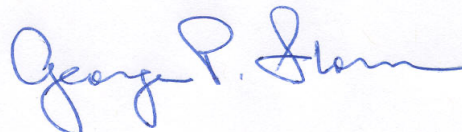
Mr. Secretary, we urge you to consider the severity of these complaints, and the frustration felt by airline travelers impeded by federal preemption from seeking accountability through their state or local government when DOT fails to take action on their behalf.

Thank you very much for your attention. We appreciate your engagement, and look forward to your prompt reply.

Sincerely,



William J. McGee
Aviation Adviser
Consumer Reports



George P. Slover
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