



July 11, 2023

The Hon. Maria Cantwell
Chair
Senate Committee on Commerce,
Science and Transportation
254 Russell Senate Office Building
Washington, DC 20510

The Hon. Ted Cruz
Ranking Member
Senate Committee on Commerce,
Science and Transportation
512 Dirksen Senate Office Building
Washington, DC 20510

The Hon. Tammy Duckworth
Chair
Subcommittee on Aviation Safety,
Operations, and Innovation
524 Hart Senate Office Building
Washington, DC 20510

The Hon. Jerry Moran
Ranking Member
Subcommittee on Aviation Safety,
Operations, and Innovation
521 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairs Cantwell and Duckworth and Ranking Members Cruz and Moran:

On behalf of the American Society of Travel Advisors (ASTA) and the more than 160,000 Americans who work in the travel agency sector across the country, I am writing in advance of the committee's markup of the Federal Aviation Administration (FAA) Reauthorization Act of 2023 (S. 1939) to further expand on our views on this bipartisan legislation, expressed most recently in our June 13 letter.¹

As we stated last month, we believe that on the whole the FAA Reauthorization Act of 2023 meets its goals in ensuring the United States has safe, reliable and resilient air travel and stronger consumer protections for the flying public for years to come. That said, we think the bill could be strengthened in ways that recognize of the value of travel advisors and their role in protecting consumers through the addition of several provisions from the House version of the bill (H.R. 3935) and other modest changes. As you prepare for committee markup and in the spirit of making a good bill better, we respectfully urge you to consider making the following modifications:

- **Add a Travel Agency Seat to DOT Consumer Protection Advisory Committee** – Section 701 of S. 1939 expands the membership of the U.S. Department of Transportation's (DOT) Aviation Consumer Protection Advisory Committee (ACPAC) to include foreign air carriers and disability rights groups. It does not provide a seat for ticket agents,² the U.S.-based businesses we represent who sell roughly half of all air tickets in this country and who have unique expertise in the real-world impacts of complex DOT regulatory proposals such as those pending on airline refunds and ancillary fees. Adding a ticket agent seat would align

¹ American Society of Travel Advisors. [ASTA to Senate Committee on Commerce, Science and Transportation Leadership re FAA Reauthorization](#). June 13, 2023.

² Travel agencies, individual travel advisors and other similarly situated third-party intermediaries are considered "ticket agents" under federal statute, regulated by DOT along with other industry stakeholders. See [49 U.S.C. § 40102\(a\)\(45\)](#).

with the House FAA bill (Section 704) as well as freestanding bipartisan legislation introduced last month, the ACPAC Modernization Act (H.R. 3780). We understand that Sen. Jacky Rosen (D-NV) intends to offer an amendment to this effect during the markup, and strongly urge the committee to support it.

- **Clarify Travel Agency Refund Obligations** – We appreciate that the bill separates ticket agents’ obligations for airline refunds from those of the airlines (Section 703 §42305(e)). The risk remains, however, that DOT will use its discretion to require agencies to pay refunds to clients for cancelled or significantly changed flights out of pocket, regardless of whether or not the travel agency is in possession of the client’s funds – our primary concern with regard to DOT’s pending airline refunds proposal.³ As such, we urge the committee to incorporate the language of Section 710(b) of the House bill, which states unequivocally, “the Secretary shall clarify that a ticket agent shall provide a refund only when such ticket agent possesses, or has access to, the funds of a passenger.” As long as instructions to DOT on this question are clear, we are agnostic as to whether DOT has one year (Senate version) or 18 months (House) to finalize these regulations.
- **Remove Travel Agencies from Refund Portal Requirement** – Section 703 §42306 gives DOT nine months to require that air carriers and ticket agents to “prominently display at the top of the homepage of the covered entity’s public internet website a link that passengers eligible for a refund may use to request a refund.” This requirement raises a number of implementation questions that in our view require further study, including whether ticket agents who sell a *de minimis* amount of air tickets – a population that looks set to grow⁴ – would be required to undertake such an expensive web redesign to the extent to which agencies who specialize in business travel and who may create customized microsites for their clients would be covered. Further, this requirement ripens after nine months, whereas the section prior gives DOT one year to finalize regulations. Given these questions as well as those related to the costs and benefits of such a requirement, we believe this issue should be left to the regulatory process and that ticket agents should be removed from the list of Covered Entities in Section 703 §42306(b).
- **Exempt Corporate Travel Agencies from Ancillary Fee Disclosure Requirements** – We appreciate that Section 705 of the bill (“Disclosure of Ancillary Fees”) provides ticket agents flexibility in terms of how fee information is presented to consumers (705(a)) and a protection against DOT enforcement against agents in cases where carriers do not share ancillary fee data (705(b)). At the same time, we respectfully urge the committee to make a further enhancement to this section, one that DOT is considering making in its rulemaking on ancillary fees,⁵ and exempt corporate travel agencies altogether. Exemption from this section is warranted because the business travel market differs substantially from the leisure market. Demand-side considerations in leisure travel services are different from those for business travel services, principally due to the fact that leisure travel is less frequent, is specific to one individual (or one group) and does not typically require the same level of pre-trip support,

³ American Society of Travel Advisors. [Travel Advisors to DOT: Don’t Put Us on the Hook for Airline Cancellations](#) [Press Release]. December 14, 2022.

⁴ See Silk, Robert. “[The State of Booking Air: A Travel Weekly poll indicates that selling air travel has become more onerous than ever for agencies and advisors.](#)” June 19, 2023.

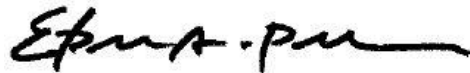
⁵ [Enhancing Transparency of Airline Ancillary Service Fees](#), Notice of Proposed Rulemaking, Docket DOT-OST-2022-0109, 87 Fed. Reg. 63718 (October 20, 2022).

advisory services, account management or other ancillary services. Furthermore, many of the concerns expressed by the committee (and largely shared by ASTA) regarding consumer confusion about the total cost of travel in an unbundled air travel marketplace simply do not apply in the context of corporate travel. It is the business that generally pays the fees, and not the individual traveler. And while business entities are cost-conscious when it comes to travel, the consumer protection concerns here are not the same as with a leisure traveler. Lastly, there is a statutory precedent for making a distinction between corporate and leisure travel when it comes to aviation consumer protection. As part of the FAA Reauthorization Act of 2018, the Department was instructed to issue regulations setting minimum customer service standards for large ticket agents, but to exempt those ticket agents who provide services pursuant to a corporate contract.⁶

- **Streamline Disclosures in Offline Ticket Transactions** – Section 709 of the House bill requires DOT to implement a streamlined system for fulfilling air consumer disclosure requirements during “offline” transactions (over-the-phone, face-to-face) within 18 months of enactment. Today, travel advisors are required by law and regulation to make up to seven consumer disclosures per transaction when selling air tickets. These include disclosures related to airline code sharing, insecticide spraying, price increases, baggage fees, hazardous materials and ticket expiration dates, among others.⁷ Some must be conveyed in every transaction regardless of whether it’s online, over-the-phone or face-to-face, while others can be fulfilled via the Internet or the e-ticket receipt. Others are only triggered in specific transactions (e.g., if the buyer is considering a code share flight). In most cases, failure to make these disclosures is considered an “unfair and deceptive practice” by DOT and exposes travel agencies to fines of up to \$40,272 per infraction.⁸ For additional justification for this provision, see ASTA’s February submission to the committee.⁹ We encourage the committee to incorporate Section 709 of the House bill into the Senate FAA Reauthorization Act of 2023.

We thank you again for the work you’ve put in on this critical legislation, and appreciate your consideration of our views on behalf of the more than 160,000 Americans who work at travel agencies across the country. If you or your staff have any questions on these or any issues related to the travel industry, please don’t hesitate to contact me at (703) 739-6842 or epeck@asta.org.

Yours Sincerely,



Eben Peck
Executive Vice President, Advocacy

⁶ Pub. L. 115-254, § 427.

⁷ See for example 49 USC 41712(c), 49 USC 42303, 14 CFR §399.88 & 89, 49 CFR 175.25 and 49 USC 41712(b).

⁸ [Revisions to Civil Penalty Amounts](#), Final Rule, Notice of Proposed Rulemaking, Docket DOT-2022-28580 88 Fed. Reg. 1114-1132 (January 6, 2023).

⁹ American Society of Travel Advisors. [ASTA to House & Senate Authorizing Committees re: FAA Reauthorization](#). February 24, 2023.