



Wednesday, February 7, 2024

The Honorable Maria Cantwell  
Chairman  
Senate Committee on Commerce,  
Science, & Transportation  
Washington, D.C., 20510

The Honorable Ted Cruz  
Ranking Member  
Senate Committee on Commerce,  
Science, & Transportation  
Washington, D.C., 20510

Dear Chair Cantwell, Ranking Member Cruz, and Members on the Senate Committee on Commerce, Science, & Transportation:

On behalf of the Travel Technology Association (“Travel Tech”) and our members, I submit the following comments concerning S. 1939, the FAA Reauthorization Act of 2023. Travel Tech is the voice of the travel technology industry, advocating for public policy that promotes transparency and competition in the travel marketplace, encourages innovation, and empowers traveler choice. We represent the leading innovators in travel technology, including Online Travel Agencies (“OTAs”) and metasearch engines, short-term rental platforms, travel management companies (“TMCs”), and Global Distribution Systems (“GDS”).

In advance of the Committee’s upcoming consideration of S.1939, we provide the following recommendations which will support travelers and the Travel Tech member companies that serve them:

**I. Sec. 701: Advisory Committee for Aviation Consumer Protection**

- A.** Travel Tech supports Senator Rosen’s amendment incorporated into the Manager’s Amendment that adds Ticket Agents to the U.S. Department of Transportation’s Advisory Committee for Aviation Consumer Protection (“ACPAC”). Ticket Agents (which include GDSs, OTAs, TMCs, and “brick-and-mortar” or offline travel agents) annually sell 50% of all airline tickets to consumers. Millions of consumers visit our members’ websites daily to make their travel plans and comparison shop. Ticket Agents are the largest travel industry segment not represented on this key advisory committee. Allowing a Ticket Agent to become a member of ACPAC will provide valuable insights currently not reflected in the advisory committee and help the Department of Transportation meet its consumer protection mission.

**I. Sec. 703: Refunds**

**A. Align S.1939 with H.R. 3935, Securing Growth and Robust Leadership in American Aviation Act regarding Ticket Agent Refund Obligations to Ensure Fiscal Solvency of Ticket Agents**

Sec. 703 of S. 1939 directs the Secretary of Transportation to issue a final rule to apply refund requirements to Ticket Agents in the case of canceled flights and significantly delayed or changed flights. The U.S. Department of Transportation (DOT) has already issued such a proposed rule – the Airline Ticket Refunds and Consumer Protections Notice of Proposed Rulemaking (DOT-OST–2022–0089) – which would direct Ticket Agents to provide refunds “regardless of whether the ticket agent is in possession of the ticket purchase funds.” However, Ticket Agents are not in a fiscal position to provide refunds without first receiving the passengers’ funds back from the airlines, especially during mass refund events like the recent COVID-19 pandemic.

H.R. 3935 included the following common-sense provision to address this issue in the proposed rule: “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.” The Senate should amend S.1939 by replacing the current language with the House-passed provision.

**B. Clarify Ticket Agent Responsibilities regarding Section 703, §42306. Refund portal and Exempt Metasearch Engines and Ticket Agents that Provide Services Pursuant to a Corporate or Government Contract**

Section 703, §42306. Refund portal will require 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.” Online Travel Agents (OTAs) are types of Ticket Agents. Many OTAs offer services beyond airfare comparison shopping and booking on their sites. Providing such a link for airline refunds at the top of their public internet website will likely cause confusion among consumers seeking refunds for hotel, car rental, or tour operators. OTAs should be provided with flexibility in the placement of such a link for passengers eligible for an airline refund.

Additionally, as written, this provision would require Ticket Agents who do not serve the general public but have a public website to comply. Some Ticket Agents known as Travel Management Companies (TMCs) provide specialized travel services through non-public websites pursuant to corporate or government contracts. The method by which

employees of these corporate or government entities seek refunds is already defined through the existing contract between the Ticket Agent and its corporate or government client. Travel Management Companies maintain public websites for business development and marketing purposes only; their websites have no role in the support of travel bookings or refunds for the employees of the contracted corporate or government entities. As such, the Refund portal provision should exempt Ticket Agents that provide travel services pursuant to corporate or government contracts.

Similarly, metasearch engines, which are at times categorized as Ticket Agents, should likewise be exempted from the Refund Portal provision. Unlike OTAs, metasearch engines do not offer airline bookings on their sites and instead direct customers to individual airline and/or OTA websites and apps to book their travel. Metasearch engines have no records on which airline or OTA their users ultimately chose to book through and certainly not on whether passengers are eligible for a refund.

To best achieve the intent of the Refund Portal provision, it should be amended as follows:

**“§ 42306. Refund portal.**

“(a) In General.—Not later than the date that is 270 days after the date of enactment of this section, the Secretary of Transportation shall require covered entities to ~~prominently~~ display ~~at the top of the homepage of~~ on the covered entity’s public internet website a link that passengers ~~who may be~~ eligible for a refund may use to request a refund.

“(b) Covered Entity Defined.—In this subsection, the term ‘covered entity’ means—

“(1) an air carrier or foreign air carrier that provides scheduled passenger air transportation by operating an aircraft that as originally designed has a passenger capacity of 30 or more seats; and

“(2) ~~an ticket agent~~ entity but not an air carrier or foreign air carrier that sells scheduled passenger service on an aircraft that as originally designed has a passenger capacity of 30 or more seats ~~and offers places of short term lodging but does not include those that sell scheduled passenger service for purchase pursuant to a corporate, government, or institutional travel management program.~~

(c) Placement of Link.— Air carriers and foreign air carriers that are covered entities shall prominently display the refund link at the top of the homepage of their public internet websites. All other covered entities shall have flexibility as to the location of the link on their public internet websites.

**III. Sec. 705: Disclosure of Ancillary Fees:**

- A.** Travel Tech strongly supports Sec. 705 as it provides Ticket Agents and air carriers flexibility in the design of appropriate displays of ancillary fees. The provision ensures that these costs are presented to the consumer in a reasonable and transparent manner prior to booking and displayed in a format that assists the consumer in making more informed decisions.
- B.** Travel Tech also strongly supports that an additional provision should be added to Sec. 705 to continue to recognize the distinction between ticket agents that provide services pursuant to a corporate or government contract and other types of ticket agents in the DOT’s current proposed rulemaking that seeks to enhance the transparency of airline ancillary service fees.

Specifically, in Section 705, with regard to the disclosure of ancillary fees, Travel Tech recommends exempting corporate travel (and travel subject to a government contract to book travel) from enforcement of this requirement. As described above, these ticket agents known as Travel Management Companies (TMCs) provide specialized travel services pursuant to corporate or government contracts. Unless exempted, the proposed requirement would be problematic and unnecessary as the systems that TMCs provide for their business customers’ use for booking business travel differ from an airline website or travel booking site that is accessible to the general public. An inherent function of a TMC is to provide necessary travel information to its corporate customers and to facilitate airline transactions between an airline and a corporate customer, not the general public. Further, TMC business customers often contract with a third-party booking tool provider to allow for the ability of their employees and other business travelers to self-book travel. In this circumstance, the display content may be negotiated between the booking tool provider and the customer.

If corporate travel were subjected to this requirement, the additional data required to be displayed in a corporation’s self-booking tool would be burdensome, unnecessary, and potentially frustrate the corporations and their frequent business travelers purchasing airline tickets with business, not personal funds.



Such an exemption would be in direct alignment with the 2018 FAA Reauthorization Act that recognized the distinction between corporate and leisure travel, and as such, exempted ticket agents that provide services pursuant to a corporate contract from disclosure and other rules DOT was directed to adopt at the time. (See Section 427(e) of the FAA Reauthorization Act of 2018, Pub. L. No. 115–254 (Oct. 5, 2018)).

Thank you for your consideration of our recommendations to S.1949. If you or your staff have any questions concerning our recommendations or any issues impacting travel technology, please contact Nicole Brewin, Vice President of Government Affairs for Travel Tech at (703) 966-3319 or at [nbrewin@traveltech.org](mailto:nbrewin@traveltech.org).

Sincerely,

Laura Chadwick  
President & CEO  
The Travel Technology Association