



March 29, 2024

The Honorable Maria Cantwell  
Chair, Senate Commerce Committee  
254 Russell Senate Office Building  
Washington, DC 20510

The Honorable Ted Cruz  
Ranking Member, Senate Commerce  
512 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Tammy Duckworth  
Chair, Subcommittee on Aviation  
Safety, Operations, & Innovation  
Senate Commerce Committee  
524 Hart Senate Office Building  
Washington, DC 20510

The Honorable Jerry Moran  
Ranking Member, Subcommittee on Aviation  
Safety, Operations, & Innovation  
Senate Commerce Committee  
521 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chair Cantwell, Ranking Member Cruz, Chair Duckworth, and Ranking Member Moran:

On behalf of the American Society of Travel Advisors (ASTA), the Travel Management Coalition ("Coalition"), and the Travel Technology Association ("Travel Tech"), we thank you for your leadership in advancing S. 1939, the FAA Reauthorization Act of 2023, and we write to share an important request as you prepare to conference this year's legislation to reauthorize the Federal Aviation Administration (FAA). All three of our organizations represent corporate travel management companies (TMCs) that are primarily engaged in arranging contracted business travel for corporate and government clients in the United States.

Services provided by contract to TMC customers include duty of care, management of complex itineraries involving larger groups of employees, and of course, changes, cancellations, and re-bookings. TMCs also manage travel for federal government agencies, including our nation's military. TMC customers do not book or manage travel using online travel platforms available to the general public, so provisions within S. 1939 intended to protect customers using such platforms impact theirs differently.

We ask that you consider our views as you align S. 1939 with H.R. 3935, the Securing Growth and Robust Leadership in American Aviation Act of 2023.

**Sec. 704 Disclosure of Ancillary Fees**

With respect to ancillary fees, we are requesting an exemption from compliance for any travel subject to a corporate or government contract. In its proposed rulemaking on the matter, [Department of Transportation \(DOT\)/Office of the Secretary Notice of Proposed Rulemaking Enhancing Transparency of Airline Ancillary Service Fees](#), the DOT rightly asks whether corporate travel agents should be exempted

from the proposed rule. Our organizations believe they should and note that Congress recognized the distinction between ticket agents that sell to the general public and ticket agents that sell to corporate customers in the FAA Reauthorization Act of 2018. In this legislation, [Public Law 115-254, in Section 427](#), page 156, Congress exempted certain large ticket agents from compliance with rules directed in the statute if the sale of an airline fare was made pursuant to a corporate contract.

We suggest that the provision be amended as per the red text below:

#### **SEC. 704. DISCLOSURE OF ANCILLARY FEES.**

(a) FLEXIBILITY.—

(1) IN GENERAL.—In determining whether a practice is an unfair or deceptive practice under section 41712 of title 49, United States Code, with respect to the disclosure of ancillary fees, the Secretary shall provide air carriers, foreign air carriers, and ticket agents with the flexibility to develop the manner in which such information is transmitted to consumers as long as such information (consistent with the objective of assuring that consumers are provided with useable, current, and accurate information on critical ancillary fees in a format that the consumer can easily compare multiple flight options)

is— (A) presented to the consumer in a reasonable and transparent manner prior to booking; and

(B) displayed in a format that assists the consumer in making more informed decisions.

(2) CRITICAL ANCILLARY FEES DEFINED.—For purposes of paragraph (1), the term “critical ancillary fees” means—

(A) fees for—

(i) the first and second checked bag of an airline passenger;

(ii) one carry-on bag of an airline passenger;

(iii) changing or canceling a reservation; and

(iv) adjacent seating when traveling with a child that is 13 years of age or younger; and

(B) any other fees for ancillary services that are identified by the Secretary in the rule finalizing the proposed rule published by the Secretary on March 3, 2023, and titled “Enhancing Transparency of Airline Ancillary Service Fees” (88 Fed. Reg. 13389) as being critical to consumers in choosing among air transportation options.

(b) TICKET AGENTS.—The Secretary shall not find that a ticket agent is out of compliance with a requirement in the final rule described in subsection (a)(2)(B) with respect to the disclosure of critical ancillary fees if the Secretary determines that such noncompliance is due to the failure of an air carrier or foreign air carrier to provide the ticket agent with the information required to comply with such requirement **or where the sale of air transportation is made by a ticket agent pursuant to a specific corporate or government travel contract.**

Unless exempted, the proposed requirement would be problematic and unnecessary for corporate agencies, as the systems that TMCs and their business customers use for booking business travel differ from an airline website or online travel agency (OTA) site accessible to the general public.

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.

**Sec. 702, § 42305. Refunds - Align S.1939 with H.R. 3935 regarding Ticket Agent Refund Obligations to Ensure Fiscal Solvency of Ticket Agents**

Sec. 702, § 42305 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 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, most 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.”** We respectfully request that the Senate align with the House bill, H.R. 3935, by incorporating the House-passed provision in the conference report.

**Clarify Ticket Agent Responsibilities regarding Section 702, §42306. Refund portal and Exempt Ticket Agents that Provide Services Pursuant to a Corporate or Government Contract**

In S. 1949, Section 702, §42306 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.” This provision would require ticket agents, such as TMCs, who do not serve the general public but have a public website, to comply.

As previously described, 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. TMCs 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 who provide travel services pursuant to corporate or government contracts.

To best achieve the intent of the refund portal provision, it should be amended per the red text below:

**“§ 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.

The above-described provisions would significantly impact TMCs and their business customers unless such legislation is appropriately designed to reflect the more unique role of corporate travel agencies. We request the Committee consider the unique views of our TMC members as it evaluates any legislation or action related to ancillary fees or airline refund and refund portal rules.

Thank you again for the opportunity, and we are happy to answer any questions.

Sincerely,



Laura Chadwick  
President & CEO  
Travel Technology Association



Kimberly Ellis  
Executive Director  
Travel Management Coalition



Zane Kerby  
President & CEO  
American Society of Travel Advisors

CC: Members of the Senate Commerce Committee