



Monday, March 25, 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 write to thank you for your leadership in advancing S. 1939, the FAA Reauthorization Act of 2023, and to share our policy views as you prepare to conference this year’s legislation to reauthorize the Federal Aviation Administration (FAA). 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”).

As you work to align S. 1939, the FAA Reauthorization Act of 2023, with H.R. 3935, the Securing Growth and Robust Leadership in American Aviation Act of 2023, we humbly request the following changes within the conferenced bill to support consumers best as they purchase airline tickets:

1. **Adding Ticket Agents** to the U.S. Department Of Transportation’s Advisory Committee for Aviation Consumer Protection
2. **Align Sec. 702, § 42305 of S.1939 with Sec. 710 of H.R. 3935 regarding Ticket Agent Refund Obligations to Ensure Fiscal Solvency of Ticket Agents**
3. **Clarify Ticket Agent Responsibilities within Section 702, §42306 in S. 1939. Refund portal and Exempt Metasearch Engines and Ticket Agents that Provide Services Pursuant to a Corporate or Government Contract.**
4. **Disclosure of Ancillary Fees:**
 - a. Travel Tech strongly supports Sec. 704 in S. 1939 as it provides Ticket Agents and air carriers with flexibility in designing appropriate displays of ancillary fees.
 - b. Travel Tech also strongly supports that an additional provision should be added to Sec. 704 as you align with H.R. 3935 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.
5. Travel Tech **recommends removing** the inclusion of Section 701 in H.R. 3935, which repeals the DOT’s Full Fare Advertising Rule.

I. Advisory Committee for Aviation Consumer Protection

A. Travel Tech supports Section 701 in S. 1939 and Section 704 in H.R. 3935, which 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.

II. Refunds

A. Align Sec. 702, § 42305 of S.1939 with Sec. 710 of 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 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.

Sec. 710 of 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 align with the House bill, H.R. 3935, by utilizing the House-passed provision.

B. Clarify Ticket Agent Responsibilities regarding Section 702, §42306 in S. 1939. Refund portal and Exempt Metasearch Engines and Ticket Agents that Provide Services Pursuant to a Corporate or Government Contract

Section 702, §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 in the conferenced bill 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. Disclosure of Ancillary Fees:

- A.** Travel Tech strongly supports Sec. 704 in S. 1939 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. 704 as you align with H.R. 3935 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 704, 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)).

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.**



Finally, Travel Tech **opposes** the inclusion of Section 701 in H.R. 3935, which repeals the DOT's Full Fare Advertising Rule. This rule requires that the entire price for airfare, including taxes and fees, be disclosed to consumers in the first instance following an itinerary search. Its repeal will undermine consumers' ability to effectively comparison shop and choose the best travel option to meet their needs and budget. We recommend that it is not included in the final conference bill.

Thank you for considering our recommendations. 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.

Sincerely,

Laura Chadwick
President & CEO
The Travel Technology Association
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