

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC**

**Advanced Notice of Proposed Rulemaking  
for Airline Passenger Rights**

**Docket OST-2024-0062**

**RIN 2105–AF20**

**COMMENTS OF THE TRAVEL TECHNOLOGY ASSOCIATION**

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The Travel Technology Association (“Travel Tech”) is pleased to submit these comments in response to the Department of Transportation’s (“DOT”) Advance Notice of Proposed Rulemaking (“ANPRM”) regarding airline passenger rights. Travel Tech’s members serve a vital role in the air transportation marketplace, and we appreciate DOT’s focus on addressing consumer welfare and fostering a competitive and balanced travel ecosystem.

A robust and competitive air transportation marketplace is essential for consumers and the Travel Tech member companies that serve them. This ANPRM raises important questions about the role of ticket agents, including whether their existing responsibilities for refunds should extend to compensation and whether they should bear additional duties related to consumer notifications or mid-journey rebooking.

Travel Tech’s members are technology-based platforms, including Online Travel Agencies (“OTAs”), Global Distribution Systems (“GDSs”), metasearch platforms, Travel Management Companies (“TMCs”), and other travel technology innovators that enable the sale of travel services through means separate from the airlines themselves – *i.e.*, the indirect sales channel. These platforms connect consumers with travel providers, empowering them to make informed decisions about their travel options. By facilitating comprehensive fare and service comparisons, Travel Tech members enhance price transparency, promote consumer choice, and foster competition among airlines and other travel suppliers.

Travel Tech welcomes DOT’s focus on consumer protection and its consideration of regulatory approaches to ensure that passengers are treated fairly in cases of controllable delays or cancellations. As outlined in the sections below, Travel Tech maintains that any regulatory changes must be firmly grounded in the operational realities of the air travel ecosystem. Airlines are the only parties that control flight operations and possess the operational data required to determine the causes of disruptions. They alone are equipped to handle responsibilities related to compensation, rebooking, and notifications effectively.

We look forward to working with DOT to develop policies that enhance transparency, empower consumers, and sustain a competitive air transportation marketplace, delivering meaningful benefits to both travelers and the broader industry.

**I. Principles for Effective Regulation**

**1. Operational Control Determines Responsibility**

A core element of effective consumer protection is assigning obligations to the parties that are directly involved in an action and possess actual control of the relevant processes. Airlines are responsible for any controllable delays and cancellations. They alone oversee flight operations and retain the operational data to determine whether a disruption is within their control. As such, any new rule imposing compensation, rebooking, or notification responsibilities must remain with the carrier.

## **2. Refunds Are Distinct from Compensation**

While ticket agents process refunds when they serve as the merchant of record, compensation presents a fundamentally different issue. Refunds involve returning payments already made for services not rendered – an administrative function tied to the agent’s role handling the transaction. By contrast, compensation requires a deeper operational assessment, including determining causation, fault, and appropriate remedy. Only airlines have the operational insight to determine the causes of disruptions, whether mechanical or weather-related, controllable or uncontrollable, and to decide on and issue compensation.

## **3. Clarity and Proportionality in Regulations**

Overly broad or vague mandates risk assigning ticket agents tasks for which they lack the necessary authority or information. This can create consumer confusion, impede rapid resolution of travel disruptions, and inflate costs across the marketplace. Clear delineation of duties based on who holds operational control helps preserve both transparency and accountability. It also prevents duplicative processes – such as a passenger seeking relief from both an airline and a ticket agent – while minimizing disruptions to established industry practices that consumers have come to rely on.

These foundational principles – aligning responsibilities with operational control, distinguishing refunds from compensation, and tailoring regulations clearly and proportionally – should guide DOT’s efforts to enhance passenger protections without unintentionally hindering the efficient functioning of the air travel marketplace.

## **II. Potential New Responsibilities and Scope of Coverage**

### **Scope of Coverage**

**ANPRM:** *“The Department also seeks information about whether it may be necessary and appropriate to impose any requirements on ticket agents or indirect air carriers.”* (89 FR 99767)

Airlines maintain direct responsibility for the operation of flights and are therefore accountable for any controllable delays or cancellations. By contrast, ticket agents’ role is confined to facilitating bookings, a function that relies entirely on the operational information carriers provide – particularly regarding real-time updates about delays, cancellations, or other disruptions. Consequently, airlines are the only entities equipped with the requisite authority and data to determine whether a disruption is controllable, as well as to process any attendant compensation. Imposing new regulatory obligations on ticket agents – particularly in light of the limited set of transactions in which they operate as the merchant of record – would invite disproportionate burdens, creating both confusion for consumers and misaligned responsibilities within the ecosystem.

Imposing compensation obligations on ticket agents would be neither feasible nor equitable. To determine a passenger's eligibility for compensation, one must first ascertain whether a disruption is due to factors within the airline's control (e.g., mechanical issues) or those outside it (e.g., weather events). Only airlines can make these operational assessments, and importantly, these assessments are not shared with ticket agents. Ticket agents have no mechanism to verify whether an assessment was made, whether it was accurate, or whether a customer was compensated accordingly. Placing the compensation burden on ticket agents, who lack both flight-level data and direct operational oversight, would be impractical and counterproductive.

### **Liability Tied to Merchant of Record Status**

*ANPRM: "Should the Department consider requiring the merchants of record to be responsible for providing compensation for controllable delays and cancellations? How would the Department account for situations where the merchant of record is a ticket agent with no control on whether a flight is delayed or canceled? The Department requires merchants of record to be responsible for providing required refunds for airline ticket transactions because they have direct visibility of the passengers' payment instruments information and the total amounts paid for the itineraries. Does that rationale apply to compensation?" (89 FR 99767)*

Airlines are, by definition, the parties responsible for controllable delays and cancellations. Determining whether compensation is owed requires identifying the root cause of the disruption, judging if it was within the airline's control, and calculating the appropriate remedy. These steps are inseparable from operational oversight, which rests exclusively with the carriers.

While existing regulations require agents to issue refunds promptly when they are the merchant of record, that responsibility is fundamentally different from providing compensation. Refunds involve the straightforward return of funds for undelivered services – a process that does not require operational insights into flight disruptions. In contrast, compensation requires a nuanced evaluation of the delay or cancellation's cause and the authority to issue new payments or vouchers based on that assessment.

Assigning compensation responsibilities to ticket agents would be inappropriate and impossible for agents to fulfill. Ticket agents do not manage flight operations and lack the necessary data to determine whether disruptions are controllable. Only carriers are able to determine whether compensation is due. Agents are in no position to know when a disruption occurs, why it occurred, and if a passenger is eligible for compensation.

Any suggestion that ticket agents should bear any financial responsibility for compensating passengers for disruptions – essentially paying for the operational failures of airlines – is categorically absurd and must be rejected outright. Ticket agents neither operate flights nor determine the causes of delays and cancellations and therefore must not be required to advance or disburse compensation funds under any circumstances. The Department should maintain a clear distinction between the administrative role of ticket agents and the operational responsibilities of airlines. By ensuring that compensation for controllable delays and cancellations remains with the carriers, the Department can promote a compensation system that would be workable, efficient, clear, and consumer-friendly.

### **III. Responsibilities for Disruption Management**

#### **Obligations to Notify Passengers**

**ANPRM:** *“The Department also seeks comment on whether some protections should be provided during any type of disruption, how to determine whether a cancellation or delay is within an airline’s control, and how to ensure that passengers receive the correct information from the airline in a timely manner.” (89 FR 99760)*

Airlines alone manage flight operations and possess the operational data needed to determine the cause and nature of any given disruption. Consequently, they are uniquely positioned to decide whether a delay or cancellation is “controllable.”

In general, ticket agents excel at assisting consumers with itinerary adjustments when a flight is cancelled well in advance of departure. However, when disruptions occur close to departure – particularly once the passenger is already at the airport – airlines are unequivocally in the best position to rebook or otherwise accommodate the traveler. Agents will often field calls from stranded passengers and do their best to facilitate solutions, yet what they can offer depends almost entirely on the airline’s own policies, processes, and real-time data-sharing capabilities.

Furthermore, ticket agents typically do not hold passenger funds at the time a disruption arises. Even when they are the merchant of record, they pass proceeds to the airline shortly after the transaction. A regulatory framework that assigns disruption-management obligations, including the advancement of compensation, to ticket agents – who neither control flight operations nor retain access to passengers’ money – would be unworkable and could confuse travelers.

#### **Aligning Responsibilities with Operational Control**

Effective regulation hinges on assigning responsibilities to the entities who are equipped to manage them. By ensuring that airlines, which oversee flight operations, retain obligations for compensation and rebooking during delays and cancellations, regulators can minimize confusion and guarantee that travelers receive timely assistance. This approach reinforces the U.S. market’s reputation for consumer-focused air travel by maintaining clear lines of accountability aligned with operational control.

Travel Tech urges the DOT to adopt this pragmatic framework, fostering a streamlined and efficient process that benefits both consumers and the industry.

#### **Rebooking and returning passengers to the Point of Origin**

**ANPRM:** *“The Department also seeks information about whether it may be necessary and appropriate to impose any requirements on ticket agents or indirect air carriers. For example, should the Department require ticket agents or indirect air carriers to ... refund the fare to consumers if the ticket agent or indirect air carrier is the merchant of record and the passenger elects to return to his or her origination point after the passenger is delayed at a connecting airport?” (89 FR 99767)*

Successful rebooking or refunds during a journey require operational decision-making, real-time data on available flights, and authority over the logistical aspects of a traveler's itinerary. These are fundamentally airline-centric responsibilities.

Suggesting that ticket agents be accountable for compensation in controllable delays or cancellations is neither reasonable nor practical. Agents exist primarily to help passengers book and manage their travel, but the extent to which they can rebook a flight depends on the carrier's policies and system permissions. By contrast, existing rules require agents to issue refunds promptly when they are the merchant of record and a flight is cancelled.

Agents should not be compelled to rebook or issue refunds for mid-journey disruptions without explicit authorization from the operating airline. The carriers control whether a passenger can be re-accommodated, whether any fare differences apply, or whether ancillary benefits (like meal or hotel vouchers) are available. Likewise, only the airlines can properly determine whether compensation is due, as this involves analyzing operational factors beyond the scope of an agent's function.

Accordingly, Travel Tech believes DOT should maintain the principle that airlines are responsible for rebooking, refund decisions, and any compensation obligations during mid-journey disruptions. Airlines have operational control, logistical resources, and immediate data to handle these situations efficiently and minimize passenger inconvenience.

#### **IV. Refunds vs Compensation**

##### **Existing Refund Responsibilities**

**ANPRM:** *“Does that rationale apply to compensation?”* (89 FR 99767)

The logic underlying a ticket agent's responsibility to process refunds simply does not transfer to compensation scenarios. When a ticket agent acts as the merchant of record, it has the ability – and indeed the duty – to reverse charges for a service (*i.e.*, a flight) that was never provided. This purely administrative function aligns with an agent's role in handling the initial payment transaction.

In contrast, requiring compensation for delays or cancellations entails operational determinations that reside exclusively with the airline. Agents are not responsible for causing disruptions and are in no position to ascertain whether a delay was caused by a mechanical malfunction (arguably controllable) versus a severe weather event (uncontrollable) without relying on the airline's own systems and judgment.

Compensation thus demands assessments of causation, control, and fault, all of which are beyond the scope of a ticket agent's role in the marketplace. Whereas a refund transaction is essentially a reversal of a payment, compensation requires the creation and distribution of new payments or credits, and it hinges on flight data that agents do not possess.

Consequently, Travel Tech strongly encourages DOT to uphold a clear boundary between the administrative nature of refunds (e.g., where a merchant of record can promptly reverse charges) and the operational nature of compensation, which is inseparable from the airline's real-time authority and datasets.

#### **V. Practical and Operational Considerations**

## Feasibility of Automatic Compensation and Notification

**ANPRM:** “*The Department also solicits comments on whether it should require certain aspects of the process to be automatic.*” (89 FR 99760)

Implementing automated compensation and notification systems requires major technological investments and close coordination between airlines and ticket agents. Each entity in the distribution chain uses its own platforms and processes, with varying capabilities for real-time data exchange. The Department’s recent automatic refund rule underscores these challenges, requiring airlines to implement sophisticated automated systems that can instantly identify refund-eligible situations, and process refunds without manual intervention.<sup>1</sup> Establishing these systems requires costly upgrades to booking, payment, and compliance monitoring tools.

## VI. Policy and Competition

### Impact on Business Models

**ANPRM:** “*The Department also seeks information about whether it may be necessary and appropriate to impose any requirements on ticket agents or indirect air carriers.*” (89 FR 99767)

Ticket agents primarily exist to facilitate consumer choice, allowing travelers to shop and compare flight options across multiple carriers, often packaging those flights with hotels, car rentals, or other services. They do not possess the operational apparatus needed to monitor and manage flight disruptions, nor should they be forced to develop one at the expense of their core functions.

Imposing airline-like obligations on ticket agents would be inappropriate and impossible for agents to fulfill. The cause of any disruption is in the hands of the carriers, and so too should they be responsible for any compensation that is due.

## VII. Conclusion

The Travel Technology Association appreciates the Department’s efforts to enhance consumer protections and ensure equitable treatment during flight disruptions. We respectfully urge the Department to consider the importance of aligning regulatory responsibilities with the operational realities of the air travel ecosystem to prevent inefficiencies, confusion, and unintended consequences.

Airlines are responsible for any controllable delays and cancellations. They alone control flight operations and are equipped to handle compensation, rebooking, and notifications. They have the operational authority and real-time data required to address disruptions effectively. While ticket agents can process refunds as merchants of record, compensation involves oversight and causation assessments – responsibilities suited to airlines.

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<sup>1</sup> *Refunds and Other Consumer Protections*, 89 Fed. Reg. 31246 (Apr. 26, 2024).

Passengers depend on accurate, timely, and comprehensive information during disruptions. Airlines must provide clear, consistent communication to ensure transparency and build consumer trust. Transparency in pricing and disruption management is crucial to maintaining a competitive marketplace. Ticket agents excel at assisting consumers find and book travel. They are in no position to know when a passenger is eligible for compensation. The cause of any disruption is in the hands of the carriers, and so too should they be responsible for any compensation that is due.

By prioritizing transparency and aligning responsibilities with operational control, the Department can protect consumer trust, support competition, and sustain a thriving air transportation marketplace. Travel Tech looks forward to collaborating with the Department to craft policies that benefit passengers and the broader travel ecosystem.

Sincerely,



Laura Chadwick  
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The Travel Technology Association