

**Testimony of Kevin P. Mitchell**  
**Chairman, Business Travel Coalition**  
**Before the House Committee on Transportation and**  
**Infrastructure's Subcommittee on Aviation**  
**Regarding Aviation Consumer Issues**

**April 20, 2007**

Kevin P. Mitchell  
Business Travel Coalition  
214 Grouse Lane, Suite 110  
610.341.1850

Mr. Chairman and Members of the Committee, thank you for inviting the Business Travel Coalition (BTC) to testify before this Committee again and to today provide our views on the subject of airline passenger service. I am here representing the interests of corporations that purchase billions of dollars of commercial air transportation services, and dispatch millions of travelers each day.

Formed in 1994, BTC has consistently advocated on behalf of business travelers the need for improved airline service and has provided the Congress and U.S. Department of Transportation specific suggestions on how to ensure such improved service in the marketplace. However, federal legislation in this area is not needed and, in BTC's view, would make matters worse, not better, in terms of reduced safety margins, more flight cancellations and higher airfares.

### **BACKGROUND**

BTC testified in 1999 against proposed passenger rights legislation. The Coalition believed it was a bad idea then, and believes it still is today. Congressional mandating of customer service standards in any industry represents a dangerous precedent. In the case of the airline industry, such legislation would increase business travel costs, stifle innovation and raise safety issues.

The proximate cause of the legislative initiative in 1999 was a Northwest Airlines' plane and its passengers that had been stuck on the tarmac in Detroit during a horrendous snow storm in January of that year. Investigative reporters at *The Wall Street Journal* later uncovered that it was managerial incompetence manifest in a series of poor decisions that led to the customer service meltdown. That discovery certainly would not have appeased any passenger that was on that plane that day.

### **THRESHOLD FOR LEGISLATION**

However, like the present day's issue during recent storms in Texas and New York, these unfortunate incidents do not rise to a level of national seriousness to warrant federal laws governing airline industry customer service. Massive delays are unusual. According to the *Bureau of Transportation Statistics*, in 2006 just 36 out of 7.1 million commercial flights sat on the ground for five hours or more.

In vivid contrast, an aviation issue that has reached the threshold of national seriousness, sufficient to warrant federal legislation, is, by way of example, that of outsourcing aircraft heavy maintenance to overseas contractors with less expertise, virtually no background checks on mechanics and woefully inadequate oversight. It is literally an accident waiting to happen.

### **THE BULLY PULPIT**

This is not to say that Congress does not have an important role to play. Indeed, this hearing is timely in a much larger airline industry customer service sense. Progress at the beginning of the decade against airline voluntary customer service commitments was recorded for several quarters, but then fell off.

Suddenly in early 2001, a fundamental marketplace shift caught the airlines off guard. Then the tragedy of September 11 and new security requirements struck, followed by SARS, the Iraq war, sky-high jet fuel prices and \$40 billion dollars in losses. Painful restructurings eliminated more than 147,000 airline industry jobs — many were customer-facing. During this period, cutbacks in customer service and passenger amenities were implemented just for basic survival. Airlines, passengers, consumer groups, press and government all lost their focus on the industry customer service commitment.

Indeed, it is time for airlines to refocus on customer service. Importantly, the U.S. Department of Transportation (DOT) is already moving on the issue. Secretary Mary Peters recently issued an urgent call for the department's Inspector General to review the current state of airline customer service and to develop proposals to address any problems. In addition, the FAA is examining its own role in contributing to extended delays. For example, the confusion created during the New York storm by the varying interpretations of the FAA regulation concerning ice pellets.

DOT, Congress, passenger groups and the press are a potent combination, a highly visible bully pulpit to inform consumers who in turn make purchasing decisions that drive the market. Reporters and customers, for example, pounded JetBlue in the aftermath of its customer service fiasco.

"Thousands of fuming JetBlue passengers were grounded this weekend"...said the *New York Post*. "JetBlue red-faced over strandings at JFK" read a *Star-Ledger* headline. "In today's society we as citizens/customers have the opportunity to disrupt a company's reputation," stated the founder of JetBlueSucks.net. "The cancellations raise new questions about whether JetBlue's management is equal to its ambitions," exclaimed the *New York Times*.

## **MARKETPLACE SOLUTIONS**

In the marketplace for commercial airline services, customers do have choices and the power to effect change. In the case of JetBlue, the operational debacle cost it millions of dollars in near-term lost revenue and higher costs, and badly tarnished its superior customer service image. The effectiveness of management in responding with changes to policies and procedures will determine its future success. The marketplace is holding JetBlue accountable, and like competitors before them, the pounding has led to positive change with a passenger bill of rights and a compensation plan for inconvenienced customers.

JetBlue's CEO David Neeleman is a smart, world-class entrepreneur and an airline industry icon. He will be driven to make sensible adjustments for the benefit of his customers and shareholders. In the immediate aftermath of the terrible conditions American Airlines' customers endured on December 29, 2006, during a storm that paralyzed air traffic in Texas, the airline implemented new policies and procedures. The infamous January 1999 debacle at Detroit, during a horrendous snow storm, led to structural changes at Northwest Airlines and the justification of a new runway at Detroit Metro Airport.

## THE PROBLEM WITH A LEGISLATIVE SOLUTION

Legislation is not the answer. One proposal calls for the return of jets to gates after three hours. Consider this Friday afternoon scenario at O'Hare: arriving planes take up most of the gates, 50 jets are lined up, but unable to take off due to deteriorating weather. At the three-hour point, like a line of dominos, the aircraft become paralyzed in regulatory limbo with nowhere to go. The impact would ripple through the system. Travelers would be stuck in Chicago for the weekend; those in distant cities would likewise be stranded as their aircraft are at O'Hare. There is little doubt that such legislation would lead to higher airline staffing and operational costs, and increased business airfares.

Another proposal would require compensation to passengers when airlines fail to deliver services as promised. This may be well intentioned, but it is an example of a dangerous idea with all manner of potential unintended consequences. It is imprudent to mix government-imposed financial incentives and penalties with airline operations, go, no-go decisions and safety judgments.

On February 19, 2005, the No. 2 engine of a Boeing 747 failed after takeoff from LAX on a flight to Heathrow with 351 passengers on board. The captain decided to continue anyway with 3 engines. Because it was unable to attain normal cruising speeds and altitudes, the aircraft was forced to divert to Manchester, England. Under European Union passenger rights legislation, had the plane returned to LAX, BA would have had to compensate passengers some \$250,000. BA denies that the penalty influenced its go, no go decision.

A BTC survey underscores the safety concern. Of 144 corporate travel managers recently surveyed, only 10% would support a Passenger Bill of Rights in the absence of an ironclad guarantee that safety margins would not be decreased. There are safety concerns as well as questions regarding the efficacy of Congressional intervention. Consider this representative comment from survey participants:

*"Not to minimize this recent event, but let's focus on the millions of airline flights across America and the world that take place every day without incident. Do we really need the government legislating "common sense" customer service. No doubt, JetBlue will handle the bad publicity and attempt to appease those unfortunate passengers. No amount of vouchers or free tickets can undo their intolerable experience. How about we take a business approach and let the marketplace decide what retribution JetBlue should suffer, if any."*

The Coalition has never adopted the premise of ideological purists who insist the marketplace will solve all of the travel industry's ills. There's a place for regulation. It's just that it's not in this arena, and not at this point.

As aviation attorney Susan Jollie states, "The questions I wished politicians asked themselves are, 'Is there a significant persistent market failure that can only be remedied by government involvement?' And perhaps more importantly, 'Why do I believe that government personnel would have the necessary background, intelligence,

integrity and dedication to make better decisions than those in industry whose role they would be taking over?"

### **STEPS GOVERNMENT CAN TAKE TO IMPROVE THE FLYING EXPERIENCE**

There are actions the federal government can take to improve the experience of the flying public.

1. Increase airline competition through open skies agreements and the promotion of new entrants such as Virgin America. Prevent radical consolidation of the airline industry. The greater the level of competition, the more influence the consumer has in driving the market and airline service improvements.
2. Invest in a new satellite system for air traffic control to reduce delays and improve system efficiency, especially during times of severe weather systems. Pass FAA reauthorization so that the government and the industry can head off a real crisis in passenger service.
3. Build more runways such as the Chicago O'Hare modernization, which BTC supported.
4. Insist on better, more inclusive decision making on rules promulgated by the FAA to prevent highly confusing and service degrading circumstances such as the ice pellet regulation.
5. Require greater DOT enforcement of existing carrier commitments and existing regulations and laws.

While BTC believes that the airlines can and must do more to reduce delays and minimize consumer hardship during delays, we believe that federal customer service legislation would prove to be counterproductive and thus something BTC cannot support.

...