Coalition for an Airline Passengers Bill of Rights

Testimony of

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COALITION FOR AN AIRLINE PASSENGERS BILL OF RIGHTS

on

AIRLINE DELAYS AND CONSUMER ISSUES

Before the
Subcommittee on Aviation
Committee on Transportation and Infrastructure
U.S. House of Representatives
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Mr. Chairman, Members of the Subcommittee:

I am Kate Hanni and I appreciate the opportunity to testify on behalf of the 20,000 Coalition members for an Airline Passenger's Bill of Rights on these timely and important topics. In addition, I'd like to thank those Members who sent staffers to attend our "Strand-In" on the Mall last week. Most importantly, the Coalition is most grateful for the many Passenger Rights provisions that were included in the Manager's Amendment to H.R. 2881, FAA Reauthorization, or were accepted during floor action last Thursday.[1] We look forward to working with you to support the retention of these provisions in the House-Senate Conference.

Need to Cover Passengers in 30-60 Seat Aircraft

We hope you can fill one gap in last week's legislation when you conference with the Senate. Under HR 2881 as passed the House, there's no protection for passengers flying in airline aircraft with fewer than 60 seats. … And that ignores about 25% of all passenger flights in the U.S. Fully 167 million airline passengers last year traveled on aircraft with 30-60 seats that are not protected by this legislation. Approximately 5000 of the 16,000 plus diverted flights that occurred last year, according to our estimates, are eliminated by the House-passed language.

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Members of the Subcommittee, some of your communities aren't served at all by larger aircraft so, without a language change in conference, your communities and passengers won't get the protection of the airline contingency programs that you voted for last week.

Airline Delays

Incidents Since April

I'd like to share just a few of the dismal tarmac delays that have occurred since our last meeting here on April 20th.

- April 24th - 13 American Airline jets stuck on tarmacs for 4 hours or more in Texas. Eighty-one year old Virginia Head, a pancreatic cancer survivor and her diabetic husband on American Airlines flight 556 were held on the tarmac for over eight hours on a in Midland Texas. Shortly thereafter, American stated that their 4-hour tarmac policy was really just a guideline.
- May 8th, Miami, American Airlines diverts a jet to Palm Beach, setting passengers on the tarmac for 8 hours, 3 ambulances later they take off for their destination.

And what about the extended tarmac delays for scores of stranded international flights lately?

- 17000 passengers stranded on the tarmac for several hours at LAX last month.
- Flight 1669 at BWI last month – where when passengers were finally allowed off the plane after 12 hours on the plane for a four hour flight they passengers were guarded by attack dogs in the terminal.
- Air France flight 050 that sat on the tarmac at O'Hare for seven hours

On June 13th CAPBOR released a report card at a press conference, and announced a toll-free hotline, all handled by myself and our volunteers. We had 900 calls in the first three hours from angry travelers who had been stranded on either diverted or cancelled flights. Since then we've received a steady stream of calls, on average 70 calls a day. We also receive hundreds of e-mails through our website, and our membership has grown by over four thousand since April – all a symptom of increasingly poor airline customer service.

Meanwhile, the ATA continues to play fast and loose with the facts, and are still being quoted in articles about only 36 flights were delayed on the tarmac last year for five hours or more. Yet every day we collect reports from our members that don't match up with the data being reported to the BTS by the airlines. For example:

- June 10, 2007 – Delta Flight 149 – passengers sat at the gate and on the tarmac for six hours – BTS record shows 4 hours and 55 minutes, just five minutes under the magic 5 hour threshold.
- June 26th 2007 – AA Flight 740 sat on the tarmac for six hours. The BTS record for this flight shows a taxi-out time of 16 minutes.

Unfortunately, because the BTS records are not accurate, it takes us about ½ hour per flight to investigate each one using other means. We urge the DOT to audit BTS submissions periodically based on public input. We would be happy to supply information about future incidents as input to this process.

■ Delays for Reasons Under Control of Airlines

We appreciate the Subcommittee's attention to the issue of delayed airline flights, given the recent, painful experiences of passengers during the summer months. Most extended airline delays – but not all -- seem to be caused by bad weather and the inadequacies of FAA's antiquated Air Traffic Control equipment.

There are two elements of the airline delay equation that are often mentioned by the passengers who contact our website, and each is under the complete control of the airlines themselves. First, the airlines who schedule more departures (or arrivals) at hub airports than those runways can handle in a given period of time and under the best of weather conditions (Visual Flight Rules) are simply *deceiving* their passengers. They're collectively promising – for marketing reasons – a service that they all logically cannot provide.

This overscheduling situation was first quantified in FAA's Airport Capacity Benchmark Report (2001), and was recently re-emphasized by the departing FAA Administrator in her farewell address. The Coalition wholeheartedly endorses the provision for mandatory reductions of airline schedules that was added to HR 2881 by the Committee leadership and we will urge the Senate to adopt this approach in its legislation. This provision requires joint action by all the airlines.

However, individual airlines should also bear responsibility for their own individual acts of deceptive behavior toward their passengers. An airline that continues to schedule a flight that is chronically cancelled or chronically delayed is deceiving its passengers and should be penalized and forced to correct the situation. We will urge the Senate and the House-Senate Conference to amend existing law to make individual airlines eliminate these deceptive acts.[2]

Lastly, the airlines set flight schedules and airport staffing levels on the assumption that nothing will go wrong. When flights are delayed (for whatever cause) or cancelled, as happened so often this past summer, the airlines of today simply don't have enough staff on duty to make alternative flight arrangements for the hundreds of passengers standing in lines or who are getting busy signals when they call the airline reservations number.

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[2] The Coalition recommends that 49 U.S.C. 41712, Unfair and deceptive practices and unfair methods of competition, by amending by adding a new subsection:

"(c) Chronically Cancelled and Chronically Delayed Flights. -- It shall be an unfair or deceptive practice under subsection (a) for any air carrier or foreign air carrier to continue to operate flights that have been determined by the Secretary of Transportation to be chronically cancelled flights or chronically delayed flights. In proceedings under this subsection, the Secretary may consider evidence that the carrier has since taken or has agreed to take steps that would eliminate the deceptive practice."

Consumer Issues

The Missing Report from the DOT Inspector General

Mr. Chairman, our Coalition members were extremely disappointed that the long-overdue DOT Inspector General's report on Airline Customer Service Issues was not released last week or earlier so that your Subcommittee and the full House could have reviewed his findings to determine whether H.R. 2881's passenger bill of right provisions needed to be further strengthened before last week's House floor action. That's a lost opportunity for all of us, including all airline passengers.

At this writing that report is still not public, although policy officials at the Department of Transportation and the airlines have been briefed on its results. We respectfully request the opportunity to file comments on the IG's report after we have had a full opportunity to review it. We hope the Senate will modify its S. 1300 on the Senate floor if the IG's report makes a convincing case for further legislation.

Our Coalition has been further disadvantaged. Both the Inspector General and the airlines have denied us the opportunity to review the customer service plans submitted by the individual airlines to the IG. Imagine, the Inspector General ruled that whether the submitted airline plans promised to deplane stranded passengers after four hours, or five hours, or nine hours, or not at all was the airline's "proprietary business information" and denying access to the Coalition "protects the commercial or financial interests of companies from the competitive disadvantages that could result from disclosure."

Mr. Chairman, only the enactment of a comprehensive Passenger Bill of Rights, as envisioned under both the House and Senate bills, will give passengers access to the essential information they need to make informed choices about the possible "downside" of today's air travel.

We understand that the there are no easy solutions to the complex commercial aviation problems that exist in the United States today. However, deregulation wasn't intended to give Carte Blanche to the airlines to do whatever they pleased. It was intended to provide increased competition and more choices for air travelers, not to let airlines violate the basic human rights of their passengers. So it is time for Congress to set minimum industry standards and for the DOT to monitor and enforce performance to those standards.

Summary:

If I may summarize:

- Chronically delayed and chronically cancelled flights should be declared a deceptive business practice. Solution: Follow EU Rules for Delays and Cancellations and impose civil penalties after a 2 hour delay equivalent to EU Compensation (we can determine this)

- Mandate that the DOT be responsible for making the CSP's enforceable and that their language is such that it's not a unilateral contract benefiting the airlines, that both sides have protections built in, (i.e. no wiggle language).
- Mandate that DOT has an equal number of Consumer Advocates as they do Airline and Airport Representatives on the Committee to oversee the airlines so that any decisions are fair and unbiased.
- Mandate that jets with 30 to 60 seats are included in statistics and Contingency plans so that most travelers are protected instead of only 3/4 of them.

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Again I would like to thank Chairman Oberstar and Chairman Costello, whom I've grown quite fond of and appreciate his personal phone calls. Also thanks to my congressman Mike Thompson for taking the lead on this important legislation and to Chairman Rangel for his incredibly courageous leadership. And finally thanks to Congressman John Hall for being the first person to RSVP to our "Strand In", and for sitting in the MOCK-I airplane and subjecting himself to the horrid conditions that all stranded passengers endure. I know it has taken a great deal of courage for all of you to pass the first Airline Passengers' Bill of Rights in history.