

April 18, 2018

The Hon. Bill Shuster
Chairman
House Committee on
Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Hon. Peter DeFazio
Ranking Member
House Committee on
Transportation and Infrastructure
2164 Rayburn House Office Building
Washington, DC 20515

The Hon. Frank LoBiondo
Chairman
Subcommittee on Aviation
House Committee on
Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Hon. Rick Larsen
Ranking Member
Subcommittee on Aviation
House Committee on
Transportation and Infrastructure
2164 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen/Ranking Members:

On behalf of the American Society of Travel Agents (ASTA) and the more than 100,000 Americans who work at travel agencies across the country, I am writing to present our industry's views on key air travel distribution issues in the context of H.R. 4, the FAA Reauthorization Act of 2018.

By way of introduction, ASTA was established in 1931 and currently represents 2,900 domestic travel agency and allied travel companies, as well as more than 600 international member companies. Our members range in size from independent home-based agents to storefront travel agencies in every Congressional district to large travel management companies such as Carlson Wagonlit to household-name online agencies such as Expedia. Of note, our ranks include substantial numbers of members in Pennsylvania (196), New Jersey (258), Oregon (73) and Washington (144). Travel agents – whether online, brick-and-mortar or hybrid business models in between – play a critical role in our country's commercial aviation system and the broader travel and tourism industry. Agents are responsible for the sale of the majority of air travel in the U.S., selling \$86 billion worth of tickets in 155 million transactions in 2016 alone, or over 300,000 air tickets *per day*.

With regard to the FAA Reauthorization Act of 2018, we believe that on the whole the legislation meets its goals to improve the safety of air travel and the flying experience for consumers, foster innovation in unmanned aircraft systems, fund the nation's airport infrastructure and modernize the nation's air traffic control system. In terms of airline consumer issues, the historic focus of ASTA and its members, H.R. 4 contains several common-sense provisions that will benefit travelers and those who serve them, including in particular a prohibition on in-flight voice communications¹ and

¹ ASTA strongly supports this provision and much prefers H.R. 4's Section 402 to the Senate bill softer "may" language (S. 1405, Section 3117). We hope the House version prevails in conference. For a full accounting of ASTA's views on this topic, see our comments at Docket No. DOT-OST-2014-0002.

the creation of a seat for independent travel distributors on the Department of Transportation's (DOT) Advisory Committee on Aviation Consumer Protection.

While you have done great work in putting together a package as comprehensive as the FAA Reauthorization Act of 2018, we are concerned about several provisions in the bill. As you prepare to go to the House floor and in the spirit of making a good bill better, we respectfully urge you to consider making the following changes to H.R. 4.

Large Ticket Agent Customer Service Standards

Section 535 of the FAA Reauthorization Act of 2018 would impose new customer service standards on ticket agents with \$100 million or more in annual revenue. (Similar language was added to the Senate version of the FAA Reauthorization bill in committee but it provides DOT more flexibility in implementing the new requirements.) The rationale for these provisions is unclear to us, given that the number of customer service complaints filed with DOT against airlines dwarfs the number filed against travel agents – 1,397 to 40 according to the DOT's March 2018 air travel consumer report.²

Travel agencies face extensive competition in virtually everything they do and there is no meaningful record of consumer mistreatment by or dissatisfaction with these agencies. As such, we don't believe Section 535 is justified given that if consumers are mistreated by a travel agency they can, and do, take their business elsewhere with low or no "switching costs" while they can't always do the same in a domestic air travel marketplace where four companies control 80 percent of the market.

Further, while airlines are protected from enforcement of state and local consumer protection laws by federal preemption, travel agencies are subject to the full force of all those laws and regulations, including small claims courts where even the slightest claim can find a forum.

✓ *Request: Delete Section 535 of H.R. 4.*

Insecticide Disclosure

Section 404 of H.R. 4 requires airlines and ticket agents selling air travel to disclose "that the destination country may require the air carrier...to treat an aircraft passenger cabin with insecticides prior to the flight or to apply an aerosol insecticide in an aircraft cabin used for such a flight when the cabin is occupied with passengers," and to refer prospective passengers to the DOT's insecticide website when selling travel to said countries.³ This language is broader than that contained in the FAA Modernization and Reform Act of 2012 (P.L. 112-95, Section 42303), which simply required referral to the DOT website. Both current law and Section 404 present challenges to our industry in terms of regulatory burden and risk of DOT fines, especially when added to the multitude of disclosures travel agents already must make when selling air travel, disclosures whose impact is magnified in the case of over-the-phone transactions.⁴ While "disinsection" of aircraft is rare, agents must make disclosures in the case of any flight from the U.S. to the countries listed on the DOT website, which includes the United Kingdom and France (ranked first and third, respectively, in

² See <https://www.transportation.gov/airconsumer/march-2018-air-travel-consumer-report>.

³ See DOT website at <https://www.transportation.gov/office-policy/aviation-policy/aircraft-disinsection-requirements>.

⁴ Specifically, when selling air travel agents are required by law and regulation to make disclosures related to code-sharing, insecticide, price increases, airline baggage fees, hazardous materials, ticket expiration date, and others.

volume of 2015 outbound travelers from the U.S.).⁵ Further, this requirement adds an element of uncertainty and delays to the transaction that could result in the loss of affordable fares, seat assignments, or the sale in its entirety.

- ✓ *Request: Delete Section 404 in its entirety or make the requirement subject to the consumer's request instead of applying across-the-board to all flights to countries listed on the DOT website.*

“Transparent” Airfares

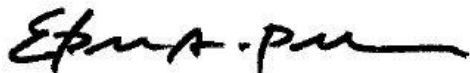
Section 405 of the FAA Reauthorization Act of 2018 would effectively overturn DOT's 2012 full-price advertising rule.⁶ Under this rule, advertised airfares must prominently state the full and final price to be paid by the consumer, including all government-imposed taxes and fees. In contrast to assertions that the rule forces airlines to “hide” taxes within the total price, the rule and associated guidance is crystal clear – so long as the total price is displayed most prominently, individual components the full price, including taxes and fees, can be listed separately. In July 2012, the rule was affirmed by the U.S. Court of Appeals for the D.C. Circuit, and the Supreme Court denied further review.⁷ Repealing the DOT's full-price rule would undermine a key consumer protection principle ASTA holds dear – that consumers should know the full cost of air travel *before* purchasing a ticket.

We believe public sentiment is with us on this issue. Last year the research firm Penn Schoen Berland conducted a wide-ranging scientific quantitative study of 1,522 Americans ages 25-70 to gauge perceptions on a wide range of travel topics and associated policy issues. An overwhelming number of respondents supported requiring airlines to advertise the full price of an airline ticket and not hide airline surcharges and government taxes in hyperlinks or fine print (as they would be able to do if Section 405 is enacted), including 79 percent of all respondents and 82 percent of those who identified as Republicans.

- ✓ *Request: Delete Section 505 of H.R. 4.*

We thank you again for the work you've put in on this critical legislation, and appreciate your consideration of our views. If you or your staff have any questions on these or any issues related to the travel industry, please don't hesitate to contact me at (703) 739-6842 or epeck@asta.org.

Yours Sincerely,



Eben Peck
Executive Vice President, Advocacy
American Society of Travel Agents

⁵ See http://tinet.ita.doc.gov/outreachpages/download_data_table/2015_Outbound_Analysis.pdf.

⁶ Code of Federal Regulations (14 CFR 399.84 a/b).

⁷ Spirit Airlines, Inc. v. United States Department of Transportation, 687 F.3d 403 (D.C. Cir. July 24, 2012), cert. denied, 133 S.Ct. 17235 (2013).