

QUESTIONS, ANSWERS, AND PERSPECTIVES ON THE CURRENT STATE OF AIRLINE TRAVEL

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION OPERATIONS,
SAFETY, AND SECURITY

OF THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

MAY 4, 2017

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ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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QUESTIONS, ANSWERS, AND PERSPECTIVES ON THE CURRENT STATE OF AIRLINE TRAVEL

THURSDAY, MAY 4, 2017

U.S. SENATE,
SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY AND
SECURITY,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:35 a.m. in room SR-253, Russell Senate Office Building, Hon. Roy Blunt, Chairman of the Subcommittee, presiding.

Present: Senators Blunt [presiding], Thune, Wicker, Fischer, Sullivan, Heller, Inhofe, Capito, Gardner, Nelson, Cantwell, Klobuchar, Blumenthal, Markey, Booker, Peters, Duckworth, Hassan, and Cortez Masto.

STATEMENT OF HON. ROY BLUNT, U.S. SENATOR FROM MISSOURI

Senator BLUNT. The hearing will come to order.

We're certainly pleased to have our witnesses today and members of the Committee. We're going to all try to minimize the time we spend talking so we can maximize the questions and what we can learn from those.

It is certainly impossible to ignore the public outcry with incidents that have involved passengers as recently, I believe, even as yesterday. One of the most widely reported incidents, of course, was at Chicago with United Flight 3411. Lots of lessons to be learned, and I'm sure we're going to hear what some of those lessons learned, both with the airport and the airline and the industry, are today in looking at what happened.

Senator Cantwell and I, along with Chairman Thune and Senator Nelson, sent an immediate letter, and that letter said the last thing a paying airline customer should expect is to be physically taken off an airline. The purpose of today's hearing is to follow up on the letters we sent, the responses we got, and really to find out what went wrong and what we are going to do to be sure that doesn't happen in the future.

This is the year where FAA reauthorization needs to occur, between now and September the 30th. Part of this hearing is to determine what's going to be taken care of without the Congress and what needs to be taken care of in the Federal law itself.

So I'm going to turn to Senator Cantwell for her opening comments and then we'll go to all of you.

**STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman, and before I start, I just want to enter into the record a letter from the Paralyzed Veterans of America discussing the challenges they have faced as disabled passengers when they fly, if I could do that.

Senator BLUNT. Without objection.

[The information referred to follows:]

PARALYZED VETERANS OF AMERICA
Washington, DC, May 3, 2017

Hon. ROY BLUNT,
Chairman,
Senate Committee on Commerce,
Science, and Transportation,
Subcommittee on Aviation Operations,
Safety, and Security,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
Senate Committee on Commerce,
Science, and Transportation,
Subcommittee on Aviation Operations,
Safety, and Security,
Washington, DC.

Dear Chairman Blunt and Ranking Member Cantwell:

Paralyzed Veterans of America respectfully requests to submit this letter for the record of the May 4, 2017, Senate Commerce, Science, and Transportation Committee, Subcommittee on Aviation Operations, Safety, and Security hearing, "Questions, Answers, and Perspectives on the Current State of Airline Travel." One of Paralyzed Veterans' core missions is to advocate for the civil rights of our members. As a result, we are strongly committed to improving the air travel experience of all passengers with disabilities.

The passage of the Air Carrier Access Act (ACAA) in 1986 broadly established the civil right of people with disabilities to access air travel. The ACAA was the result of a U.S. Supreme Court decision in *Department of Transportation vs. Paralyzed Veterans of America*, 477 U.S. 597 (1986). In this case, the Court held that air carriers were not subject to section 504 of the Rehabilitation Act of 1973, as amended, unless they received direct Federal financial assistance. Following this decision, Paralyzed Veterans and the larger disability community turned its attention to Congress and advocated for a statute that would end disability-based discrimination in air travel.

The ACAA is a civil rights law that protects not only members of Paralyzed Veterans, veterans with catastrophic disabilities, but also the rights of all individuals living with disabilities to access air travel. Prior to passage of the ACAA, people with disabilities were routinely forced to travel with an attendant at their own expense, whether they needed the assistance of an attendant or not; required to sit on a blanket for fears that they might soil the seat; or refused passage. The ACAA has provided passengers with disabilities improved consistency and increased access to air travel. Through this law, passengers with disabilities are provided the opportunity to preboard, if additional time or assistance is required in boarding the aircraft; timely assistance in boarding and deplaning from trained air carrier and contract personnel; accessible in-flight communications; stowage of assistive devices; and seating accommodations.

Although access for passengers with disabilities has improved since the passage of the ACAA, disability-related problems in air travel remain widespread. Members of Paralyzed Veterans routinely incur bodily harm in boarding and deplaning aircraft; and their wheelchairs, particularly power wheelchairs, are often damaged while stowed. In addition, members have expressed difficulty in receiving appropriate seating accommodations on aircraft and often encounter air carrier personnel and contractors who are not appropriately trained in assisting passengers with catastrophic disabilities. Consequently, some of our members and other individuals with disabilities choose to drive long distances rather than risk injury or damage to their mobility devices.

The difficulties encountered by passengers with disabilities on a regular basis, across airlines, often have profound consequences. For example, in the March 2016 issue of Paralyzed Veterans' PN Magazine, Paralyzed Veterans of America Gateway Chapter President Stan Brown recounted a 2009 air travel incident that resulted

in a visit to the emergency room. The incident reflects the problems that occur when air carriers and their contractors do not listen to passengers with disabilities:

“They started to unstrap my top from the aisle chair. I’ve got no control, and they don’t understand that. . . . I kept saying, ‘Don’t do that. I’ll fall out.’ They did it anyway, and I tumbled out of the chair right in the front of the plane.”—Stan Brown¹

Fortunately, Mr. Brown did not sustain major injuries from the fall.

The consequences of air travel problems are of course not unique to people who use wheelchairs. People who are deaf, blind, autistic, and those with other disabilities also have trouble accessing needed accommodations. Not receiving proper guide assistance or announcements can mean missed flights and opportunities.

Passengers who have disability-related problems may file complaints directly with air carriers. In 2015, domestic and foreign air carriers reported that passengers filed 30,830 such complaints.² This represents a nearly twelve percent increase over 2014 despite a 4.75 percent increase in enplanements.³ U.S. air carriers account for the vast majority of disability-related complaints filed (26,401).⁴ Top complaints with U.S. carriers for passengers with paraplegia or quadriplegia include failure to provide assistance and seating accommodations.⁵ In addition, DOT reported receiving 862 complaints related to disability in the most recently completed calendar year.⁶

Under the ACAA, DOT must investigate every complaint filed with the agency. DOT remedies do not allow passengers to receive monetary damages or other relief. The agency can issue cease and desist orders and civil fines. Civil fines are often invoked only in situations involving a pattern or practice of discrimination. Unlike most civil rights laws, the ACAA lacks a guaranteed private right of action. Thus, people with disabilities generally receive little resolution to complaints.

People with disabilities, including those with catastrophic disabilities, must have improved access to safe and efficient air travel. Otherwise, people with disabilities will continue to be left behind, and unable to compete in today’s job market or enjoy the opportunities available to other Americans. It is simply unacceptable that catastrophically disabled veterans may be unable to safely travel to receive needed health care, participate in recreation, or visit family members due to concerns for their health, safety, and dignity.

Paralyzed Veterans has worked for more than three decades to improve the air travel experience for our members and all passengers with disabilities. Recently, we have worked with partners in the disability community to develop suggested reforms to further this goal. Consequently, we were pleased that disability-related provisions were included in both the House and Senate versions of the FAA Reauthorization in the 114th Congress.

The Aviation Innovation, Reform, and Reauthorization Act of 2016 (H.R. 4441), included a requirement for DOT to move ahead with issuing pending regulations, including those governing access to lavatories on single-aisle aircraft, the definition of a service animal, and seating accommodations. The Federal Aviation Administration Reauthorization Act of 2016 (S. 2658), included four provisions directly aimed at the concerns of passengers with disabilities. The first provision involved a requirement for the Government Accountability Office (GAO) to review ACAA training policies. The second provision involved dissemination of best practices to improve airport accessibility. The third provision addressed the feasibility of in cabin wheelchair restraint systems. The final provision concerned the creation of an advisory committee on the air travel needs of passengers with disabilities.

We were pleased that the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190) included two of these provisions. Specifically, Section 2107 required GAO to submit a report to Congress about air carrier personnel and contractor training programs, including variations among policies between air carriers, how frequently since 2005 DOT has requested corrective action following reviewing a training policy, and the actions taken in response. After the report is issued, DOT must develop and disseminate best practices that will improve training. We are

¹ Jennifer Best, *Security Rules*, PN, March 2016, at 26, 29.

² Department of Transportation, Annual Report on Disability-Related Air Travel Complaints Received During Calendar Year 2015, <https://www.transportation.gov/sites/dot.gov/files/docs/2015%20Summary%20Report.pdf>.

³ *Id.*

⁴ *Id.*

⁵ Department of Transportation, 2015 Summary Totals for U.S. Carriers (Appendix B), <https://www.transportation.gov/sites/dot.gov/files/docs/2015%20Summary%20Totals%20for%20US%20Carriers.pdf>.

⁶ Department of Transportation, Air Travel Consumer Report (Feb. 2017), <https://www.transportation.gov/sites/dot.gov/files/docs/2017FebruaryATCR.pdf>.

pleased that GAO is currently engaged in completing this requirement and has consulted with disability stakeholders regarding its efforts.

Section 2108 of the FAA Extension requires DOT to issue a Supplemental Notice of Proposed Rulemaking for certain pending ACAA regulations by July 2017. These regulations include whether accessible lavatories should be required on single-aisle aircraft of a certain size, seating accommodations, and service animals. This requirement is particularly important in light of the outcome of a 2016 negotiated rulemaking conducted by DOT.

In May 2016, DOT convened the Advisory Committee on Accessible Air Transportation (ACCESS Advisory Committee) to conduct a negotiated rulemaking.⁷ The disability community was represented by a diverse group of organizations including Paralyzed Veterans, American Council of the Blind, National Association of the Deaf, National Council on Independent Living, National Disability Rights Network, and National Federation of the Blind. The issues included in the negotiation involved in-flight entertainment and communications, accessible lavatories on single-aisle aircraft, and the definition of a service animal.

After seven months of negotiations between air carriers, original equipment manufacturers, the disability community, researchers, and other allied groups, a consensus was reached on access to lavatories on single-aisle aircraft and in-flight entertainment. We expect DOT to move forward in issuing regulations in line with these agreements, later this year. We also expect DOT to issue proposed rules governing the remaining issues covered by Section 2108 of Public Law 114–190.

These regulations, along with other current and pending ACAA regulations, are vital to the health and safety of veterans and other passengers with disabilities. We were dismayed by DOT's recent decision to allow a one-year delay in the requirement for domestic air carriers to report the number of wheelchairs and scooters embarked and disembarked on their aircraft.⁸ Under the rule, air carriers will also be required to report the number of assistive devices that were “mishandled.” This decision was made without a formal request for stakeholder comment on the delay. We were pleased that members of this Subcommittee formally expressed their concerns about the delay directly to Secretary Chao.

In addition to moving forward with and protecting vital ACAA regulations, passengers with disabilities need Congress to act to improve the ACAA and the air travel process. We hope that the remaining provisions included in S. 2658 will be included in the Senate's 2017 FAA Reauthorization. These provisions which address airport accessibility, the feasibility of in-cabin wheelchair restraints, and the creation of an advisory committee addressing the experience of passengers with disabilities are common-sense measures to improve air travel for people with disabilities.

We further believe that additional provisions should be included in the Senate's Reauthorization to advance access for passengers with disabilities. Specifically, we propose harmonizing aspects of the ACAA statute with definitions and protections included in the Americans with Disabilities Act (ADA), as amended. This includes the definition of disability and prohibited discriminatory actions.

One of the most important changes needed to the ACAA statute concerns enforcement. The statute must be amended to require DOT to refer alleged violations that are matters of general importance to the Department of Justice. Furthermore, the statute must be amended to include a private right of action.

Unlike other civil rights laws, including section 504 of the Rehabilitation Act of 1973, as amended, and the ADA, the ACAA does not explicitly allow people with disabilities to enforce their civil rights via the court system, if needed. Prior to 2001, some courts had held that the ACAA allowed for a private right of action. Following the U.S. Supreme Court's decision in *Alexander v. Sandoval*, 532 U.S. 275 (2001),⁹ however, the Second,¹⁰ Tenth,¹¹ and Eleventh¹² Circuits have ruled that there is no private right of action under the ACAA. Passengers with disabilities must seek remedies, if any, that may be available under state law.

We also support improving accessibility within aircraft for people with disabilities. Unlike other forms of transportation, aircraft have few accessibility features for people with disabilities, including those who are deaf, blind, or have cognitive or mobility impairments. Even if a person with a disability is able to choose a seat that best

⁷ ACCESS Advisory Committee, <https://www.transportation.gov/access-advisory-committee>.

⁸ Reporting of Data for Mishandled Baggage and Wheelchairs and Scooters Transported in Aircraft Cargo Compartments; Extension of Compliance Date, 82 Fed. Reg. 14,437 (Mar. 21, 2017).

⁹ In *Sandoval*, the Court held that a private right of action should not be implied absent obvious congressional intent.

¹⁰ *Lopez v. Jet Blue Airways*, 662 F.3d 593 (2d Cir. 2011).

¹¹ *Boswell v. Skywest Airlines, Inc.*, 361 F.3d 1263 (10th Cir. 2004).

¹² *Love v. Delta Airlines*, 310 F.3d 1347 (11th Cir. 2002).

meets his or her needs, neither the seat nor the path to reach the seat meet any accessibility standards, other than a requirement for lowering of armrests on some seats.

In order for a person with a permanent disability such as a spinal cord injury to board or deplane an aircraft, he or she has to be transferred from his or her customized wheelchair to an aisle chair prior to entering the aircraft. This process may involve one or more contractors or airline employees physically lifting and maneuvering the passenger onto the aisle chair. Once strapped into the aisle chair, the passenger is then pulled backwards onto the aircraft and down the aisle to his or her seat. Within the confines of the cabin, the individual is then transferred to an aircraft passenger seat, where he or she will most likely remain until the process is repeated when the individual departs the aircraft.

Until such time as aircraft are fully accessible and passengers with disabilities are able to travel by air without any more difficulty than any other passenger, we must improve the assistance and service they receive. Thus, we propose a requirement for hands on training for personnel who provide physical assistance in moving passengers with disabilities. This specifically includes personnel who are assisting in transfers to aisle chairs and aircraft passenger seats. Although current regulations require training to proficiency, the experience of Paralyzed Veterans members shows that too many of these personnel are not sufficiently trained. We also support increased civil fines for damage to wheelchairs or other mobility aids or injury to passengers.

All passengers with disabilities have the right to a dignified air travel experience. Thus, we propose that the Secretary of Transportation establish an Airline Passengers with Disabilities Bill of Rights using plain language to describe the basic civil rights and responsibilities of air carriers, their contractors, and people with disabilities under the ACAA. These civil rights should be transmitted to passengers who self-identify as a person with a disability and should be widely available from air carriers. Their personnel and contractors must also be trained on these rights, which are unique to the experience of passengers with disabilities.

While many air passengers are concerned about flight delays, overbooking, lost luggage, or cramped seats, people with disabilities likely have all of these concerns plus many more. Will my wheelchair be broken when I arrive? Will I be injured trying to get off of the aircraft? Will I be informed of gate changes? Will I be left alone without needed assistance? As a nation, we have made a lot of progress in improving the air travel experience for passengers with disabilities, but these real questions are important reminders that more remains to be done.

We appreciate the opportunity to express our concerns about the air travel experience of passengers with disabilities. We are eager to work with the Subcommittee to improve air travel for people with disabilities. If you have any questions, please contact Heather Ansley, Associate General Counsel for Corporate and Government Relations.

Respectfully,

CARL BLAKE,
Associate Executive Director, Government Relations
Paralyzed Veterans of America.

Senator CANTWELL. Thank you, Chairman Blunt, for convening this hearing, and thanks to the witnesses for being here to discuss the many important topics that are being raised today.

It would be safe to say that all of us were deeply disturbed by the images of Dr. Dao, bloodied and dazed, being dragged from the aisle of a plane last month in Chicago. For a passenger who presented no threat to safety or security of a flight to be treated that way is completely unnecessary and unacceptable. United has acknowledged as much, and we owe it to the traveling public to make sure that this doesn't happen again.

The United incident in Chicago has not been the only airline incident to gain national attention recently, and we need to look at the policies and procedures across the entire industry to help address and improve the experience for the flying public. You need to ask yourselves as providers: Are you prioritizing those shareholder profits over the basic needs of consumers?

The airline industry as a whole needs to explore sensible ways to fix the traveling experience for passengers. As our commercial air system continues to grow, airports are more congested, travelers have fewer options—the flying public understands because they see it every time when they fly—the seats are fuller and becoming smaller, by the way; tempers are flaring; and if you run into trouble, if your flight is canceled, or you miss a connection, you're out of luck.

Airplanes are flying full, and, in many cases, seats aren't available to accommodate displaced passengers, and capacity, in many cases, is rising slowly, if at all, as competition has disappeared, even as those 83 percent of seats being filled. In the state of Washington, Sea-Tac International has been one of the fastest growing airports for three consecutive years, and passengers have been feeling that squeeze as well. We've had hearings here about how we're addressing that from a TSA and Homeland Security perspective.

But as a result of the industry's growth in passengers, too many airports are facing long lines at security, and they are facing crowded terminals and gateways. So we need to do our part and make sure the flying experience for the public is also focused on the needs of the flying public. We need to find improvements at our airports that will allow for room and competition, and I believe that we need to make sure that our airports have access to our customers.

I do appreciate the steps that United and their partners in the many industries are taking to improve passenger experience, and as airlines have brought in record profits, they have made some investments back into their product. But the fact that we're here today to hear about is that across the industry, we need to continue to take more steps toward improving the passenger experience.

I know that when my former colleague was here, Senator Boxer, we talked about those elements of a Passenger Bill of Rights, just making sure when passengers were delayed on runways or held on flights for an extraordinary amount of time, that they just got basic needs taken care of, like access to water or food, and making sure that they had clear understanding of their rights. I think it may be time for a new Passenger Bill of Rights to make sure that we're focusing on the consumer experience, making sure that consumers aren't left, that we are doing things that are appropriate and necessary to make sure that they are protected in these incidents.

So thank you, Mr. Chairman, for having this hearing.

Senator BLUNT. Thank you, Senator Cantwell, and Senator Nelson, the Ranking Member of the Full Committee is here.

Senator Nelson, if you'd like to make a few comments before we start, that would be great.

**STATEMENT OF HON. BILL NELSON,
U.S. SENATOR FROM FLORIDA**

Senator NELSON. Thank you, Mr. Chairman. I would, because of the gravity of this situation.

What happened to Dr. Dao is just simply unconscionable, and I'm sorry, Mr. Kirby, that you're sent here as the President, number two, to be the sacrificial lamb. It ought to be your CEO, who I know personally and who is a wonderful person and who has over-

come great personal medical challenges and was beginning to get such a good reputation. But anybody who has served in the military understands that the captain of the ship is, in fact, responsible, and it ought to be the CEO.

For the life of me, barring any safety reasons or security reasons, which was certainly not the case here, no passenger should ever be treated like this on an airline. Now, I understand that you've made several changes following the incident, and we all appreciate those efforts, but this is a subtext and a foretelling of larger issues, because the airline industry in this country has become anti-competitive and consumers are being hurt in the process.

Talk to most any passenger, and they feel like they're being treated as self-loading cargo rather than the way they should be, as very valued customers. They feel taken advantage of, and they're getting sick and tired of it. You talk to anybody that travels. What I'm worried about—is this a consequence of all the mergers so that we only have a handful of airlines, and they basically don't have the competition?

So many of the passengers now have become self-described detectives by using their cell phone to record incidents where their fellow passengers are being unfairly or unjustly treated. And I take no pleasure in beating up on the airlines, but in this case, it is warranted, and it's a good thing we're having this hearing because of what it portends for the future.

So all of us have experienced firsthand or we've heard from folks back home about incidents—the explosion of fees, such as checked baggage, priority boarding, assigned seating, that are not always clear. We tried to straighten out some of this in last year's FAA bill. We're going to get another crack at it this year.

The IT systems of airlines are failing and causing prolonged confusion and delays, and passengers with disabilities—and that's why I'm glad you put in the disabled veterans' letter—they're having to deal with poorly trained personnel or the wheelchairs are mishandled and damaged. And then to add insult to injury, just yesterday, we learned that American Airlines—and I wish we had had the CEO of American here—we learned that American Airlines is getting ready to buy 100 new Boeing 737 jets—they call them Max Jets—and they're going to cram another 10 seats in.

So in an article—and I will enter this into the record, Mr. Chairman, with your permission.

Senator BLUNT. Without objection.

[The information referred to follows:]

CNNMoney (Seattle)—May 3, 2017

AMERICAN AIRLINES IS CUTTING MORE LEGROOM IN ECONOMY CLASS

by Jon Ostrower

Just when you thought your legroom in economy class couldn't get tighter.

American Airlines (AAL) is planning to decrease the front-to-backspace between some of its economy class seats by another two inches.

The airline says it plans to add more seats on its coming Boeing (BA) 737 Max jetliners. To do that, it will shrink the distance between seats, also known as pitch from 31 inches to 29 inches on three rows of the airplane, and down to 30-inches in the rest of its main economy cabin.

American isn't the only big airline heading in this direction. United Airlines (UAL) is considering a similar move, according to a person briefed on its evaluations. United declined to comment.

The move signals a new step in the shrinking of U.S. airline cabins, and comes even as carriers are promising to improve overall customer service.

With the change, American will become the first large U.S. carrier to offer legroom with a pitch that's nearly on par with Spirit and Frontier, whose seats are at an industry-minimum 28 inches.

By comparison, economy class pitch on Delta Air Lines (DAL) and United ranges between 30 and 31 inches, while JetBlue Airways (JBLU), Southwest Airlines (LUV) and Alaska Airlines (ALK) have between 31 and 33 inches.

Related: American Airlines eliminating in-seat screens on new jets

The one advantage the big U.S. carriers still have over their lowest-fare rivals was a few more inches in economy.

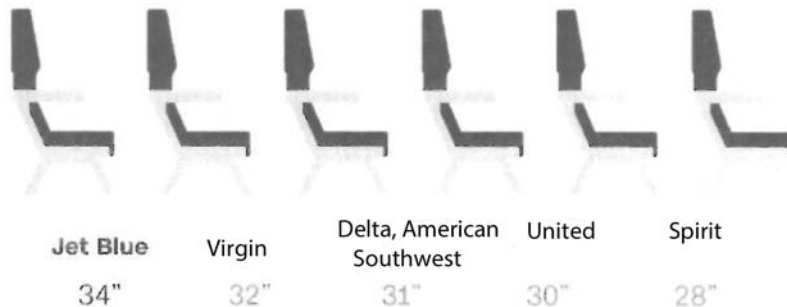
The bathrooms on American's 737 Max jets will also be smaller, one person familiar with the planning said.

The new Max jets will have more than 170 seats, two sources said, compared to 160 on its existing 737-800s. The airline said it is keeping its extra-legroom "Main Cabin Extra" economy seats, as well as its 16 first class seats.

These new single-aisle aircraft will go into use later this year and will primarily be flown on routes in North America.

Fliers will still pay regular economy fares for the 18 seats with two inches less leg room. Two of those three rows of 29-inch pitch will be in the back of the plane and a third farther forward. These seats won't be part of *its new basic economy fares*, which sell for less because fliers don't get access to overhead bins, a seat assignment or frequent flier miles.

An American spokesman said the airline will add 40 Max jets to its fleet by the end of 2019. It has 100 on order. The airline also said it might make similar changes to its existing fleet of 737-800s after the Max arrives, but no decisions have been made.



As the big airlines match each other move for move, the risk is that 29 inches becomes the standard for flying economy in the United States. American has been a bellwether before for the airlines. For instance, it was the first big U.S. airline to introduce bag fees in 2008.

Airlines have enjoyed strong profits and low fuel prices after a decade of consolidation. They're adding seats now to help *offset rising employee wages*.

"This is one of the best economic environments the U.S. airline industry has seen in decades," said Harteveltdt. "There is no need to race to the bottom."

Correction: A previous version of this story misidentified the rows that would be condensed

Senator NELSON. American Airlines is cutting more leg room in the economy class. They say that in ordering these Boeing 737 Max Jetliners, that they'll shrink the distance between seats, which is known as pitch, from 31 to 29 inches. In this article, it points out that, right now, Delta, American, and Southwest are 31 inches,

United is 30, Spirit is 28, and American buys these new jets with 10 more seats cramped in—I wonder how you'll handle, Ms. Nelson, flight attendants having to deal with 10 more passengers cramped in—29 inches. It'll only be rivaled by Spirit at 28, and Virgin has 32 inches, and Jet Blue has 34 inches. But Jet Blue and Virgin aren't the big four.

So while these are certainly not new complaints, they seem to be getting worse in the public's eye, and the fact is that we wouldn't be sitting here today if the traveling public believed that the airlines cared more about them than they're caring about the Do-Re-Mi, and this is happening, and you all need to face it.

Two years ago, the Democrats on this committee released a report on the airlines' lack of transparency on the growing number of fees charged to passengers that called on the airlines to stop nickel-and-diming the traveling public. And what's happened since? Fees continue to go up while the airlines fight behind the scenes in Washington to kill any proposal. We had that where they killed some of them in last year's FAA bill. Some of them we got in.

But compounding all of this is the fact that many consumers don't have a lot of choices if they are fed up with the service at their local airport. So where is the competition? According to one recent study of the U.S. Travel Association, the big four currently control over 50 percent of the seat capacity on flights out of 155 airports. That doesn't sound real competitive to me. So here we are with an industry facing self-inflicted PR problems sitting before us asking for our forgiveness and to allow them to fix their own problems.

Mr. Chairman, I am a strong believer in being saved and redemption, and I truly hope the airlines are sincere and their corrective actions match their words. But when I see 10 more passengers being crammed in to the same size aircraft, I have questions. So I think most Americans would want to return to the friendly skies.

With that said, let this Senator be clear. If I have anything to do with it as the Ranking Member of the Full Committee, this Committee is not going to sit back with a wait-and-see approach. We've acted in a bipartisan fashion in the past to protect the flying public, and we're prepared to do so again when we begin later this year on the FAA authorization bill.

Thank you, Mr. Chairman, for this opportunity.

Senator BLUNT. Thank you, Senator Nelson.

We have with us today Ginger Evans, who is the Commissioner of the Chicago Department of Aviation; Scott Kirby, the President of United Airlines; Sharon Pinkerton, Senior Vice President of Legislative and Regulatory Affairs for Airlines for America; Sara Nelson, the International President of the Association of Flight Attendants; and Sally Greenberg, the Executive Director of the National Consumer League.

So we are pleased that you're here. We look forward to your testimony. We have your testimony, but would love to have you handle your 5 minutes however you want. But we will run that clock pretty tight, so in no more than 25 minutes, we'll go to questions.

Commissioner Evans, we'll let you start.

**STATEMENT OF GINGER EVANS, COMMISSIONER,
CHICAGO DEPARTMENT OF AVIATION**

Ms. EVANS. Good morning. Thank you, Chairman Blunt, Ranking Member Cantwell, and members of the Committee for asking me to be here today to testify on the important issue of safety at our airports. We can all agree that the events that took place on the night of Sunday, April 9, 2017, were completely unacceptable. And, on behalf of the Chicago Department of Aviation, I want to offer Dr. Dao and his family my sincerest apology.

As someone who has spent more than three decades in the aviation industry, that a passenger at one of our airports was injured in this way is deeply saddening and personally offensive to me. This is not how we do business and these actions will not be tolerated. As the Commissioner of Chicago's Department of Aviation, overseeing both O'Hare and Midway International Airports, the safety and well-being of the flying public remains our highest priority. It is imperative that our employees interact with passengers in a manner that not only protects their safety, but also conveys dignity and respect.

We have strong security plans in place, coordinated with our partners in the Federal Government. These plans establish roles and responsibilities for a multilayered security response system. This system works together to prevent terrorist threats and breaches of security, while ensuring continued confiscation of weapons, explosive detection, and general security for persons working in and traveling through our airports.

These plans help ensure that more than 100 million passengers safely travel through O'Hare International Airport and Midway International Airport each and every year. We continue to adapt our safety and security policies, procedures, and practices in order to respond to new and changing threats, both external and internal.

However, based on my review, the security officers involved in the incident on United Flight 3411 broke from our standard procedures and failed to provide Dr. Dao and his family the respect we demand be given to all of the traveling public flying in and out of Chicago. These actions are not condoned by the Chicago Department of Aviation.

To address what occurred, we initiated an immediate administrative review. Based on that review, four personnel were put on leave. The interviews and findings of our administrative review were given to the City of Chicago's Office of Inspector General. The details of the communication and actions during the response to the request for officers are now the subject of an expedited disciplinary investigation by the Inspector General.

Our immediate review showed that the actions of these officers were not in accordance with the Chicago Department of Aviation's directives. Our policy is clear that force should only be used when absolutely necessary to protect the security and safety of our passengers. Our policy states, and I quote, "The safety of innocent persons and bystanders must be given primary consideration whenever the use of force is contemplated." Further, my department launched a separate review of our security resources and policies

to identify changes that might clarify and strengthen security roles and procedures.

While we cannot reverse what took place, as a department, we are taking action to ensure this never happens again. We have moved quickly to institute several changes that I would like to share with you today.

First, United Airlines announced that effective April 12, they will request officers only for issues involving safety and security. We are working with our other tenant airlines to standardize this policy and ensure complete consistency throughout our two airports.

Effective April 10, Chicago Department of Aviation airport security officers will no longer board aircraft unless there's an immediate medical issue or imminent physical threat on board with great bodily harm at risk. The Chicago Police Department will continue to take the lead in responding to disturbances on aircraft, which they have done very ably, while the main duty of airport security officers will continue to be to enforce Federal regulations governing airport safety and security in restricted areas of the airport. While the airport security officers are specifically trained on airfield perimeter patrol and aircraft movement areas, they are not designated law enforcement authority at our airports.

Third, we are in the final stage of obtaining an international aviation security expert to partner with us to conduct a comprehensive review of our security program, including policies, procedures, staff functions, facilities, and technology, to ensure that we are not only meeting current best practices but also thinking forward and positioning ourselves to respond to the ever-changing security environment.

While these measures represent an important step forward, more work remains to be done. We will continue to assess both our staff and our facilities to meet our most important mission of safely supporting each and every passenger that moves through our airports. We are also initiating a very comprehensive plan with our airline partners to modernize and improve Chicago O'Hare for the purpose of serving our customers more comfortably.

In closing, I'd like to state once again that we are deeply sorry for the events that took place on April 9. We are redoubling our efforts to strengthen our security systems, policies, procedures, and training programs to ensure they work together to keep all of our passengers safe.

[The prepared statement of Ms. Evans follows:]

PREPARED STATEMENT OF GINGER EVANS, COMMISSIONER,
CHICAGO DEPARTMENT OF AVIATION

Good morning.

Thank you, Chairman Blunt, Ranking Member Cantwell and members of the Committee for asking me to be here today to testify on the important issue of safety at our airports.

I think we can all agree that the events that took place on the night of Sunday, April 9, 2017 were completely unacceptable. And, on behalf of the Chicago Department of Aviation, I want to offer Dr. Dao and his family my sincerest apology.

As someone who has spent more than three decades in the aviation industry, that a passenger at one of our airports was injured in this way is deeply saddening and personally offensive. This is not how we do business and these actions will not be tolerated.

As the Commissioner of Chicago's Department of Aviation, overseeing both O'Hare and Midway International Airports, the safety and well-being of the flying public is and has always been our highest priority. It is imperative that our employees interact with passengers in a manner that not only protects their safety but also conveys dignity and respect.

In Chicago, home to two of the country's biggest airports and one of the world's busiest airports, we take security and safety very seriously. Furthermore, managing these large and complex operations in the current global environment demands the highest safety standards.

We have strong security plans in place, coordinated with our partners in the Federal Government. These plans establish roles and responsibilities for a multi-layered security response system that engages Federal Officers, including the Transportation Security Administration, Federal Air Marshals, Customs and Border Patrol, and the FBI, Chicago Police Officers and aviation security officers to respond to different levels of concerns and issues.

This system works together to prevent terrorist threats and breaches of security, while ensuring continued confiscation of weapons, explosives detection and general security for persons working in and travelling through our airports.

These plans help ensure that more than a hundred million passengers safely travel through O'Hare International Airport and Midway International Airport each year. We continue to adapt our safety and security policies, procedures and practices in order to respond to new and changing threats, both external and internal.

However, based on my review, the security officers involved in the incident on United flight 3411 broke from our standard operating procedure and failed to provide Dr. Dao and his family with the respect we demand be given to all of the traveling public flying in and out of Chicago. These actions are not condoned by the Chicago Department of Aviation.

To address what occurred, we initiated an immediate administrative review for the purpose of determining if there was sufficient reason to place the officers on leave. One of the officers was placed on leave April 10, two others were placed on leave April 12, and a supervisor was placed on leave on April 18. The interviews and findings of our administrative review were given to the City of Chicago Office of Inspector General (OIG). The details of the communication and actions during the response to the request for officers are now the subject of an expedited disciplinary investigation by the City of Chicago's Officer of Inspector General (IGO).

Our immediate review showed that the actions of these officers were not in accordance with the Chicago Department of Aviation's standard operating procedures. Our policies are clear that force should only be used when absolutely necessary to protect the security and safety of our passengers. Our policy states that "the safety of innocent persons and bystanders must be given primary consideration whenever the use of force is contemplated."

Further, my department launched an additional review of our security resources and policies to identify changes that might clarify and strengthen security roles and procedures to ensure nothing like this happens again. In addition, we have provided requested documents and communications to the public and press to ensure full transparency about these events.

While we cannot reverse what took place, as a department we are taking action to ensure this never happens again. We have moved quickly to institute several changes in our policies, procedures and training programs that I would like to share with you today.

- (1) Following this incident, it has become clear, and all stakeholders agree, that neither the Chicago Police Department nor airport security officers should be called to aircraft to deal with any customer service matters including overbooking situations. United Airlines announced that effective April 12, that they would call airport security and CPD only for issues involving safety and security. We are working with other airlines to standardize this policy to ensure consistency.
- (2) Effective April 10, Chicago Department of Aviation Airport Security Officers will no longer board aircraft, unless there is an immediate medical issue or imminent physical threat on board.

The Chicago Police Department will continue to take the lead in responding to disturbances on aircraft, while the main duty of airport security officers (ASOs) will continue to be to enforce Federal regulations governing airport safety and security in restricted areas of the airport. While ASOs are certified peace officers specifically trained on airfield perimeter patrol and aircraft movement areas, they are not the designated law enforcement authority at our airports.

We've also made changes internally regarding how calls are dispatched through the O'Hare Communications Center to ensure that, as stated above, Chicago Police Department officers will be the lead responders for disturbances onboard aircraft.

- 3.) We are in the final stage of obtaining an international aviation security expert to partner with us to conduct a comprehensive review of our security program—including policies, procedures, staff functions, facilities and technology—to ensure that we are not only meeting current best practices but also thinking forward and positioning ourselves to respond to the ever-changing security environment.

This thorough review will give us an outside perspective on our policies and practices that will help us improve and better-serve our passengers.

While these steps represent an important step forward, more work remains to be done. We will continue to assess both our staff and our facilities to meet our most important mission of safely supporting each and every passenger that moves through our airports.

In closing, I'd like to state once again that we are deeply sorry for the events that took place on April 9.

We will continue to strengthen our security systems and policies to ensure they work together to keep all of our passengers safe.

We are re-doubling our efforts to strengthen our policies, procedures and training programs, and to learn from this incident and ensure that something like this never happens again.

As we move forward, we will take action based on the City of Chicago Office of Inspector General's review, and we will release our own report with further findings and policy actions.

Senator BLUNT. Thank you, Commissioner.
Mr. Kirby?

STATEMENT OF SCOTT KIRBY, PRESIDENT, UNITED AIRLINES

Mr. KIRBY. Chairman Blunt, Ranking Member Cantwell, Senators, thank you for the opportunity to address the Subcommittee on this important matter today. My name is Scott Kirby, and I am the President of United Airlines, here today representing our 87,000 employees.

On April 9, our airline broke the public trust in an incident that should have never happened. I apologize again to Dr. Dao, his family, to every passenger on Flight 3411, and to all our customers and employees around the world, and I'm very sorry for our company's inadequate response to the initial incident. No customer should have ever been treated the way that Dr. Dao was.

We promised to complete a full analysis of what happened on Flight 3411, including where we fell short and the actions we needed to take to change the customer experience at United. One week ago today, we released our report, which identified four key failures.

First, we called on law enforcement when a safety or security situation did not exist. Second, we booked crew at the very last minute, even though Flight 3411 was full. Third, we failed to provide our employees with the authority to offer enough compensation or alternative travel options to give the incentive to a passenger to give up a seat. Fourth and perhaps most importantly, our employees did not have the authority to do what was right for our customers. A series of United Airlines' policies put our employees, law enforcement, and our customers in an impossible position.

In an industry like ours, safety is always our top priority, and rules are critical to ensuring a safe operation. But in this instance,

where safety wasn't the issue, we let rules and operating procedures stand in the way of common sense.

Our report announced several immediate and near-term changes that we're making to prevent an issue like this from happening again and to improve the customer experience. First, unless safety or security is an issue, we will never again ask a customer to give up their seat once they're on board or ask law enforcement to remove a customer from a flight.

We're giving our employees more authority to offer up to \$10,000 to customers when we do have an oversold situation. When a customer chooses to give up their seat, we'll have a team dedicated to finding them alternative travel options. And when crew needs to travel on a flight, we'll ensure they're booked at least an hour before departure. At the same time, we've also eliminated the red tape around lost bags by instituting a no-questions-asked, \$1,500 reimbursement for permanently lost luggage.

This is a turning point for United Airlines. I do believe that we're a better airline today than we were before because of this terrible incident. And we'll be a better airline tomorrow as these changes are fully implemented. All of us at United are working incredibly hard to re-earn your trust and the trust of our customers around the world and to provide our customers with the respect and service that they deserve.

Thank you, and I look forward to answering any questions that you may have.

[The prepared statement of Mr. Kirby follows:]

PREPARED STATEMENT OF SCOTT KIRBY, PRESIDENT, UNITED AIRLINES

Chairman Blunt, Ranking Member Cantwell, Senators, thank you for the opportunity to address the Subcommittee on this important matter.

My name is Scott Kirby. I am President of United Airlines.

On April 9, our airline broke the public trust in an incident that should have never happened.

I again apologize to Dr. Dao and his family, to every passenger on Flight 3411, and to all our customers and employees around the world.

And I am very sorry that our company's immediate response was so inadequate. No customer should ever be treated in the way that Dr. Dao was.

We promised to complete a full analysis of what happened on Flight 3411, including where we fell short, and the actions we needed to take to change the customer experience at United.

On April 27, we released our report which is submitted for the record. In it, we identified four key failures.

First, we called on law enforcement when a safety or security issue did not exist.

Second, we rebooked crew at the very last minute even though flight 3411 was full.

Third, we did not provide our employees with enough authority to offer enough compensation or travel options to incentivize a passenger to give up a seat.

Fourth, and perhaps most important: our employees did not have the authority to do what was right for our customers. A series of policies put our employees, law enforcement, and our customers in an impossible position.

In an industry like ours, safety is our top priority and rules are critical to ensuring a safe operation. But in this instance, where safety wasn't the issue, we let rules and operating procedures stand in the way of commonsense.

In tandem with releasing our analysis, we announced several changes we are making immediately to become more customer-focused; to reduce incidents of involuntary denial of boarding to as close to zero as possible; and to avoid putting our customers, employees and partners into impossible situations due to policies we control. They are the following:

1. *United will limit the use of law enforcement to safety and security issues only.* We will not ask law enforcement officers to remove customers from flights un-

less it is a matter of safety and security. This policy was implemented on April 12.

2. *United will not require customers already seated on an airplane to give up their seat involuntarily, unless safety or security is at risk.* This policy was implemented on April 27.

3. *United will increase customer compensation incentives for voluntary denied boarding to up to \$10,000.* Compensation levels are being increased to up to \$10,000 for customers willing to volunteer to take a later flight. This policy went into effect on April 28.

4. *United will establish a customer solutions team to provide agents with creative solutions.* We will create a team to proactively identify and provide gate agents with creative solutions. These could include using nearby airports, other airlines or ground transportation to get customers and crews to their final destinations. We expect the team to be operational by June 2017.

5. *United will ensure crews are booked onto a flight at least 60 minutes prior to departure.* Unless there are open seats, all crew members traveling for work on our aircraft must be booked at least 60 minutes before departure. This policy was implemented on April 14.

6. *United will provide agents with additional annual training.* United will provide annual training for frontline employees to enhance their skills on an ongoing basis. These trainings will equip employees to handle the most difficult of situations. This training will begin in August 2017.

7. *United will create an automated system for soliciting volunteers to change travel plans.* Later this year, we will introduce a new automated check-in process, both at the airport and via the United app, that will gauge a customer's interest in giving up his or her seat on overbooked flights in exchange for compensation. If selected, that customer will receive their requested compensation and be booked on a later United flight.

8. *United will reduce its amount of overbooking.* United has evaluated its overbooking policy. As a result, adjustments have been made to reduce overbookings on flights that historically have experienced lower volunteer rates, particularly flights on smaller aircraft, and the last flights of the day to a particular destination.

9. *United will empower employees to resolve customer service issues in the moment.* Later this year, United will launch a new "in the moment" app for our employees to handle customer issues. This will enable flight attendants and gate agents to compensate customers proactively—with mileage, credit for future flights or other forms of compensation—when a disservice occurs.

10. *United will eliminate the red tape on lost bags.* We will adopt a new, no-questions-asked policy on permanently lost bags. In these instances, United will pay a customer \$1,500 for the value of the bag and its contents. This process is expected to be in place in June 2017.

This is a turning point for United.

I do believe that we are a better airline today than we were before—because of this terrible incident. We will be a better airline tomorrow as these changes are fully implemented.

We will work incredibly hard to re-earn your trust and the trust of our customers around the world, and to provide our customers with the respect and service that they deserve.

Thank you.



United Express Flight 3411 Review and Action Report

April 27, 2017

Introduction

This is United Airlines' promised review of events from United Express Flight 3411 on April 9, 2017, when a customer flying from Chicago's O'Hare International Airport to Louisville International Airport was forcibly removed from our aircraft. This report outlines what we have already done and what we will do to prevent a terrible event like this from happening again.

We can never apologize enough for what occurred and for our initial response that followed. United Airlines takes full responsibility for what happened. The intention of this report is to communicate concrete and meaningful actions that will avoid putting our customers, employees and partners into impossible situations. Our goal is to reduce incidents of involuntary denial of boarding to as close to zero as possible and become a more customer-focused airline. And this is just the beginning of our commitment to you.

Our entire company is dedicated to making this right, working harder than ever to serve you and live up to our shared purpose and values of making decisions with empathy, respecting every voice and delivering what you expect and deserve.

Summary of What Happened on United Express Flight 3411

Sunday, April 9, 2017

United Express Flight 3411 is regularly scheduled to fly Sunday through Friday from O'Hare to Louisville, with a planned departure of 5:40 p.m. CDT and an arrival of 8:02 p.m. EDT. Seating capacity is 70 customers.

Before boarding, flight 3411 was overbooked by one customer. Despite early attempts by United, via website/kiosk and multiple announcements at the gate asking for customers willing to take later flights, there were no volunteers. As a result, one customer who had not yet been given a seat assignment, was involuntarily denied boarding (see Involuntary Denied Boarding Selection Process sidebar). The customer received a check as compensation and was booked on another United flight. The other customers were then called to board the plane.

At the same time, an earlier flight to Louisville, originally scheduled to depart O'Hare at 2:55 p.m. CDT was experiencing a maintenance issue (it was unclear if this issue could be fixed, but regardless, it would depart after flight 3411). Booked on this flight were four crew members, scheduled to operate the early Monday morning United Express flight from Louisville to Newark. Without this crew's timely arrival in Louisville, there was the prospect of disrupting more than 100 United customers by canceling at least one flight on Monday and likely more. With this in mind, the four crew members were booked on flight 3411, creating the need to identify four customers who would not be able to take the flight.

Involuntary Denied Boarding (IDB) Selection Process

United's involuntary denied boarding (IDB) process is automated and customers are not subject to discretionary choice by agents. This is our process:

- First, agents will deny boarding if a passenger does not have a seat assignment prior to boarding the aircraft.
- Customers are then sorted by fare class (estimated fare paid) and type of itinerary.
- Customers with the lowest paid fare are placed at the top of the list for involuntary denial of boarding.
- If a group of customers paid the same fare, then the group is sorted by time of check-in.
- Customers with frequent flyer status will not be involuntarily denied boarding, unless all of the remaining passengers have frequent flyer status, in which case the lowest status will move to the top of the IDB list.
- Customers with special needs (unaccompanied minors, passengers with disabilities) are excluded and are not involuntarily denied boarding.



United agents began to seek four volunteers, this time while customers were seated on the aircraft. The agent offered an \$800 travel credit plus the cost of meals and hotel accommodations for the evening, but no customers were willing to accept the offer. The agent then followed the involuntary denial of boarding selection process to determine which customers would be asked to leave the airplane.

Once the four customers on flight 3411 were identified, the United supervisor spoke with two of the customers, a couple, who then departed the aircraft and received compensation. The next customers approached were Dr. Dao and his wife. The supervisor apologized and explained they would also need to depart the aircraft, but Dr. Dao refused. The supervisor was unable to convince Dr. Dao to depart the aircraft. Given Dr. Dao's unwillingness to deplane, the supervisor left the plane and spoke to the United zone controller, who indicated that authorities would be contacted. The supervisor went back on the plane to request again that Dr. Dao deplane and advised him that authorities would be contacted. At this point, one customer onboard the aircraft volunteered to change flights for \$1,000 but United needed two volunteers in order to avoid having to remove the Daos. No other customers would volunteer unless United could guarantee an arrival in Louisville later that night. Given the fact that the 2:55 p.m. CDT departure remained on a maintenance delay, with a possibility of cancelling, United could not make that commitment.

Officers from the Chicago Department of Aviation, which has authority to respond to such airline requests and historically has been effective in getting customers to voluntarily comply, answered United's request for assistance. These security officers were unable to gain Dr. Dao's cooperation to depart the plane voluntarily.

At this time, the United supervisor left the aircraft and attempted to call a manager about the situation, and Dr. Dao, as evidenced by widely reported video footage, was physically removed from his seat by the Chicago Department of Aviation Officers. After being forcibly removed from the aircraft, Dr. Dao ran back onto the airplane and Chicago Department of Aviation Officers removed him for a second time. He was later taken to a local hospital.

All customers then deplaned. After approximately 40 minutes, the flight re boarded without the Daos and departed for Louisville.

United Failures Related to United Express Flight 3411

1. Calling on law enforcement to assist with policy enforcement when a security or safety issue didn't exist.

United's policies and procedures in non-safety or security situations did not adequately address instances in which customers refused to comply with requests.

2. Rebooking crew at the last minute.

The crew was booked and arrived at flight 3411 during the boarding process. Our policies did not prohibit this.

3. Offering insufficient compensation and not providing transportation/destination options to entice more customers to give up their seats willingly.

Agents did not have the authority to act independently and authorize higher levels of compensation or provide other modes of transportation and/or the right destination options.

4. Providing insufficient employee training and empowerment to handle a situation like this.

United does not provide regular training to prepare its team for denied boarding situations and individual interactions with customers during these potentially difficult situations.

Goals of United Policy Changes

With the policy changes it already has made or that are forthcoming, United seeks to:

Become more customer-focused.

Avoid putting our customers, employees, and partners into impossible situations due to policies we control.

Reduce incidents of involuntary denial of boarding to as close to zero as possible.

United Policy Changes Made or Forthcoming

1. United will limit use of law enforcement to safety and security issues only.

United will not ask law enforcement officers to remove customers from flights unless it is a matter of safety and security. United implemented this policy on April 12.

2. United will not require customers already seated on the plane to give up their seat involuntarily unless safety or security is at risk.

United implemented this policy on April 27.

3. United will increase customer compensation incentives for voluntary denied boarding up to \$10,000.

United's policy will be revised to increase the compensation levels up to \$10,000 for customers willing to volunteer to take a later flight. This will go into effect on April 28.

4. United will establish a customer solutions team to provide agents with creative solutions.

United will create a team to proactively identify and provide gate agents with creative solutions such as using nearby airports, other airlines or ground transportation to get customers and crews to their final destinations. Separately, the team also will work to provide solutions to help get crews to their final destinations. United expects the team to be operational by June. Examples include:

- Suggest flights to close-by airports and then provide transportation to the customer's preferred destination.
- If a customer's travel includes a connecting flight, provide options that would eliminate the connection and still get the customer to the destination.
- Offer ground transportation where practical.

5. United will ensure crews are booked onto a flight at least 60 minutes prior to departure.

Unless there are open seats, all crew members traveling for work on our aircraft must be booked at least 60 minutes before departure. This policy was implemented on April 14.



6. United will provide agents with additional annual training.

United will provide annual training for frontline employees to enhance their skills on an ongoing basis that will equip them to handle the most difficult of situations. This training will begin in August.

7. United will create an automated system for soliciting volunteers to change travel plans.

Later this year, United will introduce a new automated check-in process, both at the airport and via the United app, that will gauge a customer's interest in giving up his or her seat on overbooked flights in exchange for compensation. If selected, that customer will receive their requested compensation and be booked on a later United flight.

8. United will reduce its amount of overbooking.

United has evaluated its overbooking policy. As a result, adjustments have been made to reduce overbookings on flights that historically have experienced lower volunteer rates, particularly flights on smaller aircraft and the last flights of the day to a particular destination.

9. United will empower employees to resolve customer service issues in the moment.

Rolling out later this year, United will launch a new "in the moment" app for our employees to handle customer issues. This will enable flight attendants (by July) and gate agents (later this year) to compensate customers proactively (with mileage, credit for future flights or other forms of compensation) when a disservice occurs.

10. United will eliminate the red tape on lost bags.

United will adopt a new no-questions-asked policy on permanently lost bags. In these instances, United will pay a customer \$1,500 for the value of the bag and its contents. For claims or reimbursement over \$1,500, additional documentation may be required. This process is expected to be in place in June.

Conclusion

This has been a defining moment for our United family and it is our responsibility – our mission – to make sure we all learn from this experience. The changes we have announced are designed to better serve our customers and empower our employees. This is how we begin to earn back your trust.

Appendix

Background on Denied Boarding

While very rare, denied boarding occurs when more customers have checked in and are at the gate than there are seats on the flight. There are several conditions that may result in this situation, which usually occur prior to boarding, but can take place after the plane has been boarded. We've identified the five causes of denied boarding below.

While United strives to avoid any denied boarding situations, it also seeks to disrupt as few travelers as possible when they occur. Further, whenever possible, it seeks to compensate customers to relinquish their seats voluntarily. If it can provide compensation that a customer considers compelling enough to volunteer, then that customer will remain a satisfied customer. In 2016, 95.6 percent of United's denied boarding customers were volunteers.

United's DOT statistics in 2016 show 3,765 incidents out of 86.8 million United customers, of involuntary denied boarding (representing fewer than 1 in 23,000 customers). The rate of involuntary denials was a 44 percent decline from 2015 and 30 percent below the average among airlines reporting to the DOT (this data reflects mainline flights departing the United States only).

Causes of denied boarding:

- **Restrictions placed on the capacity of the aircraft:** In some circumstances, the weight of the aircraft and its contents must be reduced for a flight to operate safely. Weather conditions at the departure airport, arrival airport or somewhere along the route of the flight are the most common reasons for a flight to be subject to weight restrictions. When possible, United tries to reduce weight by removing cargo, but in some circumstances the aircraft simply cannot carry a full load of customers and operate within United's safety requirements. The restrictions usually occur close to departure time, as weather is developing, and sometimes even after a flight has boarded. As an example, when winter snowstorms result in a runway with snow at the departure airport, a reduction to the maximum takeoff weight for the aircraft may be required.

Unlike overbooking denials of boarding, which typically impact one or two customers, weight restrictions can require up to dozens of customers to be denied boarding. As the number of customers without seats increases, it becomes increasingly difficult to get enough volunteers. As a result, weight restrictions are much more likely to cause involuntary denial of boarding. This is a no-win situation: Get most of the customers to their destination, but create a difficult situation with the customers who are required to be denied boarding, or cancel the flight entirely. For the customers who get seats

on the aircraft, the outcome is better than cancelling the flight. But for the customers involuntarily denied boarding, the process seems very unfair and arbitrary and leads to some of United's and the industry's worst customer service experiences. As in all involuntary denied boarding situations, the customers are selected based on the criteria described in the Involuntary Denied Boarding Selection Process sidebar.

- **Aircraft downsizing (down-gauging):** This can occur when an aircraft is unable to make it to its intended destination either because of weather or due to a mechanical issue that would prevent it from completing its scheduled flight. United has spare aircraft; however, there are times when the substitute aircraft's number of seats is different from the flight it is intended to replace. Sometimes the only option to avoid a cancellation is to use a smaller aircraft that can accommodate fewer customers. This also can lead to the need to move customers from the cabin they were booked in originally. Like weight restrictions, this is more likely to lead to involuntary denial of boarding because the substituted aircraft may have as many as 40-50 fewer seats.
- **Crew movement:** As in the case of flight 3411, customers can be denied boarding involuntarily if a plane is full and a flight crew, under airline policies, must be allowed to take that flight. This is done to avoid further operational disruptions, which would impact even more customers (such as cancelling a future flight that a crew is scheduled to fly).
- **Overbooking:** Like most airlines, United overbooks flights, typically by less than 0-3 percent of the plane's seat capacity, to account for normal customer no-shows. United's forecast of no-shows is usually quite accurate and approximately four percent of its flights have more ticketed customers seeking to board the aircraft than available seats. The vast majority of denied boardings from overbooking are voluntary – customers agree to take another flight for compensation and incentives, reflecting the low overbooking levels.
- **Situations at the departure gate or on the aircraft resulting in safety or security concerns:** Airlines infrequently must deny boarding involuntarily on a flight when an unexpected situation arises at the departure gate or on a plane before departure. An example could be if a customer becomes unruly or disruptive for any reason and, for safety or security reasons, airline personnel consider it necessary to deny boarding or require the customer to leave the plane.

Senator BLUNT. Thank you, Mr. Kirby.
Ms. Pinkerton?

**STATEMENT OF SHARON PINKERTON, SENIOR VICE
PRESIDENT, LEGISLATIVE AND REGULATORY POLICY,
AIRLINES FOR AMERICA**

Ms. PINKERTON. Good morning, Chairman Blunt, Ranking Member Cantwell, and members of the Subcommittee. My name is Sharon Pinkerton. I'm the Senior Vice President of Policy at Airlines for America.

We appreciate the opportunity to be here today. We want the traveling public and this committee to know that the nation's airlines are listening. Like you, we found the events that transpired around the April 9 incident unacceptable. The industry fully accepts that it is our responsibility to ensure that such behavior and disrespect of a passenger can never happen again.

We also know that deep regret and apologies, however sincere, are no substitute for meaningful solutions and action. To meet that responsibility, our carriers immediately reviewed why and how this situation developed and, importantly, where necessary, are making systemic changes based on that review, and these aren't superficial changes. They range from changes in overbooking policies, the processes in place for decisionmaking, and enabling frontline employees more discretion in managing certain situations.

Just a few examples of the concrete steps that a variety of carriers are taking: completely eliminating or reducing overbooking; ensuring that no passenger is involuntarily removed from a flight for another passenger; renewing their focus—and I think this is very important—on training for all customer-facing staff to make sure they're taking care of passengers, not just getting them safely from point to point; and, finally, providing passengers with more transparency and understanding about what their rights are as consumers.

While these are some of the policy changes already being implemented, carriers are continuing to review a broad array of policies to improve customer service, because we know passengers have choices in who they fly. Carriers compete not only on price but also on customer service. So every one of the 800 million passengers who fly U.S. carriers annually deserve both a safe and pleasant experience.

The results of competition, which I've heard a lot about, can be directly seen in our record-breaking improvements in the 2016 DOT customer service metrics for better on-time flight arrivals, better flight completion, and nearly 100 percent properly handled bag delivery. When our operational service metrics improve, it's no surprise that so does customer satisfaction. This relationship has been shown in independent surveys that J.D. Power has done, which recently reported that "North American airline satisfaction has climbed to a 10-year high."

While we've made progress, I know we need to improve. For context, I do think it's important to recognize that the turmoil of the bankruptcies in this industry, 9/11, mergers that many carriers went through impacted our employees. They lost pensions. So

many carriers weren't making the necessary investments in their product and their people. We've got some catching up to do.

The financial stability of the last 6 years has enabled the industry to make record investments of up to \$1.5 billion per month in the customer experience. That investment includes: new contracts for employees, new and cleaner planes, and new service, which is all driving the improvements we see today.

This committee, we hope, should recognize the facts, the official data, that clearly show that airline competition is intense. In fact, it's thriving. More people are flying today. They're doing so at lower prices to more destinations than ever. Consumers have seen enormous and quantifiable benefits from a thriving and competitive marketplace. Just last month, the Bureau of Transportation Statistics reported that the fourth quarter 2016 average fare was down 26 percent from 2000, and if you include ancillary fees, 22 percent down. Since 1995, real fares declined 23 percent, and if you include ancillary fees, still down almost 20 percent.

In addition, communities across America have seen benefits from the thriving competitive aviation marketplace. While all types of U.S. airports have gotten more air service over the last several years, 176 small and non-hub airports have seen more seats in their market. In addition to seats, airlines have added 198 new routes in 2016 and 151 in 2017. Flyers have seen, on net, a net expansion of 54 nonstop routes to and from U.S. airports.

Senators, this industry does good things for people by connecting them to their families and friends and being an enabler of business. We hope that the recent but rare, although unacceptable, incidents don't completely eclipse the dignity and respect shown by airline employees to millions of travelers every day.

Airlines recognize the onus is on us to foster a customer centric culture at each airline. We commit to you and the traveling public that this industry will continue to work diligently and quickly to address any actions needed to ensure that all passengers are treated with dignity and respect.

[The prepared statement of Ms. Pinkerton follows:]

PREPARED STATEMENT OF SHARON PINKERTON, SENIOR VICE PRESIDENT,
LEGISLATIVE AND REGULATORY POLICY, AIRLINES FOR AMERICA

Good morning Chairman Blunt, Ranking Member Cantwell, and members of the Subcommittee. My name is Sharon Pinkerton and I am the Senior Vice President of Legislative and Regulatory Policy at Airlines for America (A4A). We appreciate the opportunity to be here today. We want the traveling public and this Committee to know: the Nation's airlines are listening.

Like you, we found the events that transpired around the April 9 incident unacceptable. The industry fully accepts that it is our responsibility to ensure that such behavior and disrespect of a passenger can never happen again. We also know that deep regret and apologies, however sincere, are no substitute for meaningful solutions.

To meet that responsibility our carriers immediately reviewed why and how this situation developed and, importantly, where necessary, are making systemic changes based on that review. These are not superficial changes. They range from changes to overbooking policies, the processes in place for decision making and enabling front line employees more discretion in managing specific situations.

Seven examples of concrete steps a variety of carriers are taking surrounding this specific issue are:

1. Completely eliminating or reducing overbooking;

2. Prohibiting use of law enforcement to remove passengers from a flight, except in cases of safety or security;
3. Ensuring that no passenger is involuntarily removed from a flight for another passenger;
4. Ensuring that crews traveling must be booked at least 60 minutes prior to departure;
5. Giving gate agents the discretion to offer higher amounts of money as an incentive for customers to voluntarily take a different flight;
6. Airlines are renewing their focus on training for all customer-facing staff to make sure they are taking care of passengers, not just getting them from point to point; and
7. Efforts are underway to provide passengers more transparency and simplified information about their rights as consumers.

While these are the policy changes already being implemented, carriers are continuing to review a broad array of policies to improve customer service because we know passengers have many choices of airlines in what is a highly competitive marketplace. We compete not only on price, but also on customer service. The 800 million passengers who fly on U.S. carriers annually deserve a safe and pleasant experience. The results of competition can be directly seen in our record-breaking improvements in the 2016 Department of Transportation (DOT) customer service metrics for on-time arrivals, flight completion and nearly 100 percent bag delivery.

When our operational and service metrics improve, so does customer satisfaction. This relationship is shown in independent surveys including J.D. Power reporting “North American Airline Satisfaction Climbs to 10-Year High” in 2016 and The American Customer Satisfaction Index stating “Airline customer satisfaction was up again in 2017”.

So, while we have made progress, we know we need to improve. It’s important to recognize, that the turmoil of bankruptcies in this industry meant that many carriers weren’t making the necessary investments in their products and people. The financial stability of the last six years has enabled the industry to make record investments of up to \$1.5 billion per month in the customer experience. That investment includes new contracts for employees, new planes and new service and is driving the improvements we see today.

This Committee should recognize that the facts, based on official data, clearly show airline competition is alive and well. In fact, it is thriving with more people flying, doing so at lower prices and to more destinations than ever. Consumers have seen enormous and quantifiable benefits from a thriving and competitive aviation marketplace. Just last month the Bureau of Transportation Statistics (BTS) reported:

- The fourth-quarter 2016 average air fare was down 26.5 percent from the average fare in 2000, the highest inflation-adjusted fourth quarter average fare recorded in the 21 years since BTS began collecting air fare records in 1995; and
- Since 1995, inflation-adjusted fares declined 23.4 percent.

In addition to consumers, communities across America have seen enormous and quantifiable benefits from a thriving and competitive aviation marketplace:

- U.S. Airports of all sizes have realized air service gains over the past two years with 176 Small- and Non-Hub markets seeing available seat numbers grow; and
- Airlines added 198 new U.S.-based routes in 2016 and have added 151 more in 2017. Over two years, flyers have seen a net expansion of 54 nonstop routes to/from U.S. airports.

This industry does good things for people by connecting them to their families and friends and being an enabler of commerce. We hope that rare, but unacceptable incidents do not completely eclipse the dignity and respect shown by airline employees to millions of travelers every day. Airlines recognize that the onus is on each carrier to foster a customer-centric environment. We commit to you, and to the traveling public, that the industry will continue to work diligently and quickly to address any actions needed to ensure that all passengers are treated with dignity and respect.

Airlines strive for perfection and the ultimate industry goal is to provide a safe, efficient and enjoyable travel experience for all passengers every time they fly and carriers will continue to work and invest in delivering on that commitment each and every day.

Thank you, we appreciate the opportunity to testify and look forward to your questions.

Senator BLUNT. Thank you, Ms. Pinkerton.
Ms. Nelson?

**STATEMENT OF SARA NELSON, INTERNATIONAL PRESIDENT,
ASSOCIATION OF FLIGHT ATTENDANTS—CWA, AFL-CIO**

Ms. NELSON. Thank you, Chairman Blunt, Ranking Member Cantwell, and members of the Committee, for the opportunity to testify today.

The Association of Flight Attendants represents 50,000 flight attendants at 20 airlines, and we partner with the Communications Workers of America, who represent nearly 20,000 customer service agents. Together, we help tens of thousands of flights get up in the air safely and even often sometimes inspire smiles.

But in order to recognize the realities of aviation today, we must look back to the events of September 11, 2001. Following the grief of losing our friends and flying partners, our profession and industry changed forever. Over 100,000 aviation jobs were lost nearly overnight. Most airlines entered bankruptcy and some did not emerge. We lost, on average, 40 percent in pay. Pensions were terminated. Work rules were eviscerated. Staffing was cut to minimums, and many of the amenities of flying were removed as we had fewer tools to appease weary travelers.

Airlines lost billions of dollars, and for nearly 10 years, the driving force was to cut costs in every area but executive compensation. Cabin interiors were redesigned with smaller seats closer together. Bankruptcies gave way to airline mergers to cut capacity in the industry so that planes are fuller than ever with more seats, less leg room, and carry-on baggage at all time highs as check baggage fees drove more luggage to the airplane door.

Flight attendants are working anywhere from 25 percent to 50 percent more hours on the job to make ends meet, while fatigue studies commissioned by Congress show that cabin crew are not getting enough rest. Even though ticket prices are 40 percent below 1980 levels when adjusted for inflation, airlines are making money again through capacity cuts, ancillary fees, and reduction in fuel prices.

Today, U.S. carriers must also compete with predatory gulf carriers, who enter the U.S. market and boast lavish amenities because they are subsidized with over \$50 billion from their governments. As long as our government fails to enforce the open skies agreements that prohibit this, the burden of cost cutting will hit further on employees and consumers.

American announced just this week the airline is adding more seats to the aircraft by reducing leg room to 29 inches. This is going to have a direct impact on flight attendants, who will have to answer to angry passengers enraged by the lack of room. Meanwhile, these same flight attendants are reporting they are sick from toxic uniforms and contaminated cabin air. And Wall Street was in an uproar when their pay was adjusted to an industry average a few weeks ago at the rate that might cover a family's utility bill because shareholders whined it might be taken out of their returns.

When Delta had another IT crew scheduling meltdown that left passengers stranded for nearly a week, the flight attendants with-

out a union contract were left on duty in excess of 24 hours, facing passengers and having to de-escalate tensions while standing on hold to get through to the company for more than 10 hours.

Every day, flight attendants working at U.S. airlines that are based in the U.S. help tens of thousands of flights and millions of passengers travel safely to their destination and without incident. This has become more challenging in recent years, with task saturation at boarding and staffing cut significantly to FAA minimums.

There is a rising tension on board in our flights, in our experience, exacerbated by a national narrative full of disrespect for authority, decency, and decorum, and fewer of aviation's first responders to manage it. Deescalating conflict between passengers has become a significant portion of the work flight attendants perform on each flight. Without recognition of our role and authority in the cabin, we are very concerned about the dangerous conditions flight attendants may be facing at work.

When flight attendants simply attempt to do safety compliance checks, they are greeted with refusal and the response, "What are you going to do, drag me out of here?" We don't have the option to call for help from authorities in the air, and on the ground, we are experiencing some authorities refusing to respond because they don't want to end up on the news, either.

Flight attendants are caught in the middle, and safety and security will suffer. Aviation safety regulations didn't materialize out of thin air. It was a deadly crash of British Air Tourist Flight 28M in 1985 where some deaths were attributed to seat configuration at the exit rows and children seated there who couldn't get the exits open that led to the requirements in exit row seats. Six years later in 1991, U.S. Airways Flight 1493 crashed with Sky West Flight 5569 and further exit row requirements were identified as necessary.

When tragedy strikes, we make changes and vow never again. We have to mean it. Now, flight attendants are challenged, ignored, or chastised for these safety checks. Cabin crew are left to wonder what's worse, failing to comply with Federal regulations as part of our job, or doing the safety sensitive work and ending up on the evening news or facing discipline from management because someone didn't like the instruction they gave.

The reality is that the vast majority of passengers come to the plane with kindness in their hearts and a desire to have a peaceful, uneventful flight. Look at the focus on aviation. It is a fascinating topic for the public and garners more publicity than almost any other industry. Our airlines, the crews, and passengers fly to every corner of the Earth when some can only dream of crossing borders. It is one of our greatest symbols and expressions of freedom.

Our U.S. industry generates \$1.2 trillion in economic activity and supports 10 million jobs, and for these reasons, it continues to be a target of those who wish to wage war against America. We can't afford to get this wrong. We can't afford to dismiss safety and security. Flight attendants cannot effectively do our jobs without passengers recognizing the necessity of following crew member instructions.

Thank you so much for the opportunity to be here today. There is so much more to discuss about staffing, surveillance of crew

movement, security concerns, and all of the realities of aviation today, and I look forward to your questions.

[The prepared statement of Ms. Nelson follows:]

PREPARED STATEMENT OF SARA NELSON, INTERNATIONAL PRESIDENT, ASSOCIATION
OF FLIGHT ATTENDANTS-CWA, AFL-CIO

The Communications Workers of America (CWA) represents 700,000 workers in private and public sector employment in the United States, Canada and Puerto Rico. CWA members work in telecommunications and information technology, the airline industry, news media, broadcast and cable television, education, health care and public service, law enforcement, manufacturing and other fields.

In aviation, the CWA represents 30,000 Passenger Service Agents at American Airlines, Envoy and Piedmont. These agents are cross-trained and work between the ramp, ticket counter and gates. Their jobs include assisting passengers, loading and unloading baggage, guiding aircraft to and from the gates, de-icing and cleaning the planes.

The Association of Flight Attendants-CWA (AFA), an autonomous sector of the CWA, serves as the expert voice from the aircraft cabin with 50,000 flight attendant members at 20 airlines including mainline, niche, regional, international and charter airlines.

For the purpose of this written statement, we are organizing our remarks into the specific job categories Flight Attendants and Customer Service Agents.

In the Cabin—Flight Attendants

Flight attendants are Federal Aviation Administration (FAA) certified to carry out cabin safety checks, crew coordination, passenger briefings, and all related safety, health and security regulations related to the aircraft cabin. Every effort is made to avoid emergencies, but when they happen flight attendants are charged with an immediate response to ensure the safety of all passengers onboard the aircraft. The role of aviation's first responders and last line of defense in aviation security is performed by cabin crew members who cannot effectively do their jobs without passengers recognizing the necessity of following crew member instructions.

Every day, flight attendants working at U.S. airlines or based in the U.S. help tens of millions of passengers on thousands of flights to safely travel to their destination without incident. This has become more challenging in recent years with task saturation at boarding and significant staffing cuts down to FAA minimums in domestic markets. The changes to the aircraft cabin with smaller seats closer together and record-high load factors through reduced capacity have led to greater human contact in the confined space. There is a rising tension on board our flights and fewer of aviation's first responders to manage it. De-escalating conflict between passengers has become a significant portion of work flight attendants perform on each flight. Without recognition of their role and authority in the cabin we are very concerned about the dangerous conditions flight attendants may be facing at work.



***Crewmember jumped on a CRJ-900
regional aircraft***

The horrific viral video from Republic flight 3411, operating as United Express, and the force used by the Chicago Aviation Security Officers led to a mob mentality Internet attack on the front-line employee of United Airlines who had no role in the shocking event itself. Such an event of violence should never take place against any person on our planes—we all know this and we also know it can never happen again. The reality is that under the leadership of Oscar Munoz, United Airlines has transformed in a very short period of time. Employees are engaged, management is showing a respect for workers through good relations with unions, which has also resulted in improved contracts and the reverse of outsourcing begun by the former CEO.

The attack against United and the frontline employees was wrong. It has been pervasive at the airports, on the planes, on several media and broadcast television stations, and even in our schools, churches, and neighborhoods. It is demoralizing and has created incredible anxiety for flight attendants and other airline employees coming to work. It was especially challenging as the spread of incredible misinformation and misrepresentation of the facts could not be challenged without a vitriolic attack against the people of United Airlines. This reverberated for aviation workers throughout the industry. Flight attendants had no role in this event and never would. We are aviation's first responders and last line of defense. We save lives.

It is important for the world to look at flight attendants and see the hero who revived someone's son, daughter, mother, father, sister or brother from a heart attack.

. . . to see the crew of three flight attendants delivering a baby in flight even through complications during the birth and without a single passenger being aware that at the same time these heroes were expertly handling a potential security threat.

. . . to see the flight attendant who was responsible for saving the lives of an entire airplane as she revived both pilots from unconsciousness following a decompression.

. . . to see the flight attendant who, despite sustaining injuries during a crash landing returned repeatedly to the burning aircraft to pull people to safety.

. . . to see the flight attendant who, with his crew, contained a bomb and stopped a terrorist act.

There are thousands of examples of heroic acts performed by flight attendants and millions of examples where, every day, a flight attendant is seen as someone's hero. Aviation connects people as diverse as the communities we serve around the country and the world, every creed and conviction, background and belief. Flight attendants care for and safely usher passengers to the big business deal, the family vacation, the times of celebration, times of grief and times of battle. Respect for our work is critical.

Flight attendants need clear direction and support in doing our jobs. We are charged with keeping a safe cabin, yet we are challenged daily when instructing passengers according to our training and required safety procedures. We are encouraging our members to "continue to lean on each other to maintain the best of who we are. We can't be second guessing ourselves when we need to protect the safety of the flight. We make every effort not to react to attempts to provoke us and stay focused on our mission as aviation's first responders."

The fallout from these viral video events is creating damage that we believe is far-reaching and threatens aviation safety and security. We have reports of passengers allowed to remain onboard refusing to comply with crewmember safety instructions during boarding jeering and harassing at crewmembers across the country. We have reports of airport security refusing to respond to passenger incidents of threats, assault or failing to comply with crewmember safety instruction. We have aviation "experts" encouraging the public on TV to continue to film the crew and broadcast it, which offers free video surveillance of crew movement and tested disruptive tactics for terrorists. This has to stop before the consequences are tragic.

We need regulators, lawmakers, and airline management to provide clear instruction to the public about the necessity of flight attendants in aviation safety. Flight attendants are caught in the middle between the role we must play to help ensure the safest aviation system in the world and the "us against them" mentality created by these viral video events and the response to rushed public judgment quickly rendered without all of the facts.

We recognize the need to study the conditions in air travel today and respond to the concerns of the millions of people who buy tickets on our airplanes. But we also need to make sure we are not creating a system where people are able to dismiss their responsibility as travelers who must comply with regulations and policies in place to keep them safe.

Airlines originally hired "stewardess" to make flights comfortable and stress-free for passengers. As the aviation industry grew, so did the role and responsibilities of flight attendants. It wasn't until 1952 that the Civil Aviation Authority (CAA) required airlines to provide flight attendants for the safety and security of passengers. In September of 2001, the role of flight attendants profoundly changed as we added the last line of defense in aviation security to our responsibilities.

After nearly a decade of financial struggles, the increased use of regional carriers to supplement route structures and a series of high profile consolidation travel transformed from a glamorous luxury to a necessary mode of transportation. Flight attendant utilization increased significantly when airlines moved from a "staffing for service" standard to staffing at FAA minimums.

Flight attendants are dealing with an increasing range of demands due to this reduced staffing. The boarding process is especially stressful as the passengers look for bag storage while flight attendants perform both safety and service related duties. While dealing with customer service, flight attendants must remain ever vigilant for anything "out of the ordinary" which could be a threat to the safety and security of the flight.

In light of the recent events, airlines have begun to implement changes to policies and procedures to improve the passenger experience. We urge everyone to resist a "knee jerk" reaction and take time to thoroughly review any proposed changes to prevent unintended consequences. All stakeholders must be involved in this process. Let us note too that studies show front line employees are helping to turn out passenger satisfaction metrics including more on-time arrivals, fewer lost bags and less customer complaints. While we identify concerns, we also want to recognize the wonderful passengers on our planes who have taken the time to recognize our work and thank us for our efforts.

As a result of pressure from crewmembers and AFA, Federal law affirms flight attendants' authority in the cabin of an aircraft and expressly prohibits passenger interference in these duties. 49 U.S. Code Sec. 46504 states, "An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crewmember or flight attendant of the aircraft, interferes

with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, or attempts or conspires to do such an act, shall be fined under title 18 imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.”

Passengers are required to comply with crewmember instructions and we encourage them to wait for crewmember instructions before inserting themselves into incidents to prevent situations from escalating. We care deeply for our passengers and providing them a safe journey. It is also critically important for our security in a post-9/11 world that we keep calm in the cabin and recognize our mutual interest in maintaining procedures that keep us all safe.

At the Airport—Customer Service

In 2001, following the 9/11 attacks, President George W. Bush signed into law the Aviation and Transportation Security Act, which provided sweeping reforms to airport security protocols. Included in the Act was an amendment, Section 114, offered by former Senator John Kerry (D-MA), setting Federal penalties for interfering with airport and airline personnel who have security duties.

In January 2017, the Department of Transportation (DOT) and Department of Justice (DOJ) confirmed in a letter to Congressman John Garamendi (D-CA) that the original intent of Senator Kerry’s amendment was to include gate agents, ramp personnel and airline workers with access to aircraft or other secure areas because they have security functions.

As a result, an assault on agents would be a Federal criminal offense. 49 U.S.C. 46503 provides that “[a]n individual in an area within a commercial service airport in the United States who, by assaulting a Federal, airport, or air carrier employee who has security duties within the airport, interferes with the performance of the duties of the employee or lessens the ability of the employee to perform those duties, shall be fined under title 18, imprisoned for not more than 10 years, or both.”

Passenger service agents at every airport in the Nation were reassured that “airport rage” incidents they face as they perform their critical safety roles could be properly dealt with. Not only would offenders be charged but also prosecuted. Unfortunately, that is not the case as we have seen in numerous examples and as daily verbal and physical assaults continue.

Passenger service agents have a variety of responsibilities depending on the airline and size of airport. They play a vital role in ground operation including both “above the wing”—providing customer service to all passengers—and “below the wing”—loading planes and ensuring they are handled with care.

At many airports, agents are cross-trained and go back and forth between the ramp, ticket counter, and gates. Their job responsibilities can include handling and tagging checked bags, check-in process at the gates and kiosks, working at ticket counters, operational support, loading and unloading the aircraft, guiding aircraft to and from gates, de-icing, and cleaning, prepping and securing the aircraft for the next flight.

Federal regulations require air carriers to comply with security measures set forth in the Transportation Security Administration (CFR) Part 1544. This CFR requires U.S. carriers to adopt and carry out an approved security program. The Transportation Security Administration (TSA) is responsible for ensuring that required security measures are carried out. Passenger service agents have the responsibility to comply with these regulations when doing their job. Passenger service agents receive training including online computer work, classroom training, and on-the-job training but no specific training on managing air rage.

Agents’ jobs are stressful and challenging. While working inside the airport, agents encounter angry passengers who blame them for mishaps. Working outside loading and unloading planes is physically demanding. In both areas, agents are pressured to avoid flight delays at all costs.

Passenger service agents have reported incidents where they are verbally and physically assaulted. Agents have been attacked, hit, had luggage and equipment thrown at them, been pulled over counters and been spat upon. Since the carriers offer absolutely no training on dealing with violent passengers, they rely on intervention from other agents, employees, and even passengers. Passenger service agents report that rage is at an all-time high and employees sometimes feel like companies reward passenger’s bad behavior especially now that passengers are using the threat of posting videos to social media.

Sometimes the airport police get involved but in many cases, the carrier takes over to assist the passenger and not their hardworking employee. Too often, passengers face no consequences and in fact, are often escorted to their flights by air-

line supervisors. We have recently received reports of passengers who have exhibited disruptive or criminal behavior being boarded on flights where flight attendants have far fewer options to contain the problem and far greater consequences if the behavior continues or escalates.

Customer behavior in the airport also affects the safe operation of flights and should be treated in a consistent manner. Given the patchwork of protocols to deal with assaults on passenger service agents at airports across the country, it is critical that a clear and mandated process is developed and shared with carriers, police/airport security, airports, and the agents to assure immediate attention warranted by a Federal assault.

It is urgent that this protocol and education be developed and mandated by the DOT and distributed to carriers, local and airport police/security, airports, and the agents. It is only through clear national protocols and education that passenger service agents will know how to deal with abusive passengers; that airports and carriers have clear procedures to quickly manage these situations and take appropriate action; and that passengers understand the penalties for assaulting passenger service agents.

The mandate must include clear instructions for educating passengers on the Federal penalties of assaulting an "airport, or air carrier employee who has security duties within the airport"; training passenger service agents on how to de-escalate hostile situations and procedures for filing Federal charges; having airport management, airline supervisors and airport law enforcement focus on protecting and supporting agents and filing Federal charges; and ensures the presence of law enforcement personnel who are able to file Federal charges in the case of an assault on a passenger service agent.

While we certainly understand, given the news lately, the interest in protecting passengers, we urge Congress to also consider the serious assaults that passenger service agents deal with every day. CWA will continue to speak out on behalf of our members who are simply doing their jobs and following the rules. These aviation workers deserve to work in a safe environment free from assaults by irrational and irate passengers. We ask Congress to protect these workers.

Recommended Policy and Regulatory Changes

AFA-CWA believes several steps can be taken to assist with supporting flight attendants and passenger service agents in performing safety duties and trust in aviation:

- Public statements from regulatory bodies, Congress and industry leaders about the need to follow crewmember instructions to keep aviation safe and secure.
- Increase flight attendant and passenger service agent staffing and provide de-escalation tools and techniques.
- A study of evacuation standards, including the reality of today's aircraft cabin configuration.
- Improved reporting of safety and security concerns to the proper authorities and enhanced enforcement of Federal laws pertaining to passenger treatment of flight attendants and passenger service agents.
- Banning the use of voice communications in the aircraft cabin.
- Develop guidance for use of portable electronic devices on aircraft.
- Announcements in the gate area reinforcing safety regulations, the role of the flight and cabin crew and reminders about videotaping for personal use only.
- Involve the representatives of frontline aviation workers in any proposed policy or regulatory changes.

AFA and CWA are committed, in concert with our airline partners, to maintaining the safest mode of transportation in the world, through an efficient and friendly aviation experience.

Senator BLUNT. Thank you, Ms. Nelson. We'll see if we can get to this so much more here in a minute.

Ms. Greenberg?

STATEMENT OF SALLY GREENBERG, EXECUTIVE DIRECTOR, NATIONAL CONSUMERS LEAGUE

Ms. GREENBERG. Good morning, Chairman Blunt, Ranking Member Cantwell, members of the Aviation Subcommittee. I'm Sally

Greenberg, Executive Director of the National Consumers League, and we appreciate the invitation to be here today.

Three weeks ago, America saw the shocking video of David Dao's violent removal from United Flight 3411, the predictable result of a lack of effective competition and consumer protection in the U.S. airline industry. What happened on that flight symbolizes a problem that is not unique to United. Indeed, as subsequent incidents on American Airlines and Delta and countless others which did not go viral, demonstrate power in the airline industry has become dangerously unbalanced. It's time for Congress to take action to assure consumers that the next time they fly, they won't become the unwitting star of their own viral video.

How have we gotten to this point? In a word, competition, or, more specifically, the lack thereof. In the last decade alone, mergers have reduced nine large airlines to four: American, Delta, Southwest, and United. Together, these four control more than 80 percent of all domestic flights. At a staggering 93 of the top 100 airports, only one or two airlines control a majority of the seats. According to the GAO, from 2007 to 2013, 1.2 million scheduled domestic flights were eliminated. As the big four carriers gobbled up competitors, smaller communities, in particular, were hard hit by this march toward oligopoly.

For example, in 2008, San Antonio lost approximately 600 jobs when AT&T relocated its corporate headquarters to Dallas. The company actually said in a press release, "Being headquartered near leading air transportation facilities is critical to global companies like AT&T, as the airline industry continues to consolidate and reduce hubs and flights."

The industry has also sought to generate profits by literally squeezing passengers. Last year, average load factors topped 80 percent for the eighth consecutive year, and the average distance between rows, as Senator Nelson has described in great detail—the average distance—before regulation, it was 35 inches, and today, it's about 31 inches. American Airlines, as Senator Nelson has indicated, is set to even reduce those distances to smaller sizes. So Americans are getting bigger. We're getting heavier, and we are being crammed into smaller and smaller spaces.

So all of this consolidation has resulted in higher prices for consumers, despite what you might hear this morning. A *Wall Street Journal* analysis of air fares, including add-on fees, found that from 2007 to 2014, a period coinciding with the worst economic crisis since the Great Depression, the price of the average round trip domestic flight increased nearly 16 percent. These independent numbers stand in contrast to industry claims that it's never been better or cheaper to fly.

There are steps that Congress could take and should take in the near term to address the worst impacts of the lack of competition. First, as the United incident vividly illustrated, airline bumping policies can lead to shockingly negative outcomes for consumers. Involuntary bumping should never occur in a competitive market. So airlines should be required to maintain interline agreements with other airlines to ensure that paying passengers who are bumped make it to their final destination with as little delay as possible.

Second, the power imbalance between airlines and their passengers can no longer lie solely with the airlines. For example, consumers should be made aware in clear and conspicuous language of their rights at the time that they purchase their tickets via posters at the gate and at ticket counters. Passengers need access as well to the legal system to hold airlines accountable for their promises.

Third, there seems to be no limit to outrageous charges for basic necessities, such as guaranteed seats, a piece of luggage, or the need to reschedule a flight. NCL along with 10 other national consumer and passenger organizations supported and do support Senator Markey's and Senator Blumenthal's Fair Fees Act, which would prohibit airlines from charging cancellation, baggage, and other ancillary fees that are unreasonable or disproportionate to the cost incurred by the air carrier.

The DOT should also strengthen its consumer protection policies to match or exceed those that are available to consumers in the European Union for things like compensation for delays, cancellations, or involuntary bumping. Finally, Congress should pass a comprehensive Passenger Bill of Rights which addresses these and other pressing consumer protection priorities, such as minimum seat standards and fair policies overall.

In conclusion, consumers are angry. They're frustrated. We need members of this subcommittee to be in our corner to promote consumer rights and protections and to restore some semblance of balance and fairness between passengers and the airlines.

Thank you to members of the subcommittee for inviting the consumer perspective. I look forward to your questions.

[The prepared statement of Ms. Greenberg follows:]

PREPARED STATEMENT OF SALLY GREENBERG, EXECUTIVE DIRECTOR,
NATIONAL CONSUMERS LEAGUE

Good morning Chairman Blunt, Ranking Member Cantwell and members of the Subcommittee. My name is Sally Greenberg and I am the Executive Director of the National Consumers League ("NCL"). Founded in 1899, NCL is America's pioneering consumer advocacy organization. Our nonprofit mission is to promote social and economic justice for consumers and workers in the United States and abroad. On behalf of NCL and the millions of Americans who travel by air every year, thank you for inviting me to testify today.

Three weeks ago, America saw in the shocking video of Dr. David Dao's violent removal from United Flight 3411, the predictable result of the lack of effective competition and consumer protection in the U.S. airline industry. To be clear, what happened on that flight symbolizes a problem that is not unique to United. Indeed, as subsequent incidents on American Airlines¹ and Delta² and countless others before which did not "go viral" demonstrate, consumers are increasingly forced to choose between giving up their basic rights or not traveling by air.

In a country where millions of consumers regularly depend on airlines to get them to business and family obligations, not traveling is simply not an option. So, consumers subject themselves to the whims of an industry that routinely demonstrates that customer service is a luxury that only the well-heeled can afford. The rest of us are relegated to "cattle class," paying exorbitant fees for "privileges" like bringing

¹Rosenberg, Eli. "American Airlines Suspends Flight Attendant After Altercation Over Stroller," *New York Times*. April 22, 2017. Online: <https://www.nytimes.com/2017/04/22/business/american-airlines-video-stroller.html>

²Stingl, Jim. "Stingl: Urgent trip to restroom gets man kicked off Delta flight," *Milwaukee-Wisconsin Journal Sentinel*. April 26, 2017. Online: <http://www.jsonline.com/story/news/columnists/jim-stingl/2017/04/26/stingl-need-pee-gets-man-kicked-off-delta-flight-milwaukee/100885528/>

a carry-on bag onboard or sitting in an actual, guaranteed seat and, in some cases, risking involuntary ejection from the airplane by the airline's version of a bouncer.

It is time for Congress to step in and restore consumers' rights in the airline industry. Only through Congressional action can American consumers be assured that the next time they fly, they won't become the unwitting star of their own viral airline video.

I. Unchecked Consolidation in the Airline Industry Has Led to Higher Prices, Fewer Flights, and Worse Service

There is a lack of effective competition to hold down the cost of flying and promote good customer service. Since deregulation in the late 1970s, there have been no fewer than 40 airlines mergers. In the last decade alone, mergers have reduced 9 large airlines to 4—American, Delta, Southwest, and United.³ Together, these 4 control more than 80 percent of all domestic flights.⁴ At 40 of the 100 largest U.S. airports, a single airline controls a majority of the market, as measured by the number of seats for sale, up from 34 airports in 1995. At a staggering 93 of the top 100 airports one or two airlines control a majority of the seats, an increase from 78 airports in 1995.⁵

This lack of competition has had negative impacts on consumers and communities across America. One reason that Dr. Dao may have been so insistent on not being bumped from United 3411 is that his was the last available flight from Chicago to Louisville that day. Decreasing competition is a big reason why Louisville, like so many other small and mid-sized cities, is underserved by the network airlines. According to the Government Accountability Office, from 2007 to 2013—a period that coincided with major mergers between Southwest and AirTran, Delta and Northwest, United and Continental, and USAirways and American⁶—1.2 million scheduled domestic flights were eliminated. Smaller communities in particular were hit hard by the adverse effects of airline consolidation. Scheduled departures at medium and small hub airports decreased by nearly 24 percent and 20 percent, respectively.⁷

These service reductions have negative impacts not just on consumers, but also on the communities who lose service. For example:

- In 2008, San Antonio lost approximately 600 jobs when AT&T relocated its corporate headquarters to Dallas, citing the need for access to more direct flights as a key reason for the move.⁸ In its press release announcing the move, AT&T stated that “[b]eing headquartered near leading air transportation facilities is critical to global companies like AT&T as the airline industry continues to consolidate and reduce hubs and flights amid higher fuel prices and industry economic pressures.”⁹
- In 2013, Decatur, Illinois lost 75 jobs when Archer Daniels Midland moved its headquarters to Chicago, citing the need for “efficient access to global markets,” and “better access to transportation” for its top executives.¹⁰
- Veritiv, a Fortune 500 distributor of packaging, print, and publishing products and solutions, moved 50 high-paying jobs from Cincinnati to Atlanta in 2015 after Delta abandoned Cincinnati/Northern Kentucky International Airport.

³Airlines for America. “U.S. Airline Mergers and Acquisitions.” Online: <http://airlines.org/dataset/u-s-airline-mergers-and-acquisitions/>

⁴Martin, Hugo. “Justice Department approves Alaska Airlines’ acquisition of Virgin America,” *Los Angeles Times*. December 6, 2016. Online: <http://www.latimes.com/business/la-fi-alaska-virgin-20161206-story.html>

⁵Associated Press. “Airlines carve U.S. into markets dominated by 1 or 2 carriers.” July 14, 2015. Online: <http://www.chicagotribune.com/business/ct-airlines-local-monopolies-20150714-story.html>

⁶Airlines for America. “U.S. Airline Mergers and Acquisitions.” Online: <http://airlines.org/dataset/u-s-airline-mergers-and-acquisitions/>

⁷United States Government Accountability Office. *Airline Competition: The Average Number of Competitors in Markets Serving the Majority of Passengers Has Changed Little in Recent Years, but Stakeholders Voice Concerns about Competition*, GAO-14-515. June 2014. Pg. 35. Online: <http://www.gao.gov/assets/670/664060.pdf>

⁸Poling, Travis and Pack, William. “AT&T leaving San Antonio for Dallas,” *San Antonio Express-News*. June 28, 2008. <http://www.chron.com/business/article/AT-T-leaving-San-Antonio-for-Dallas-1758611.php>

⁹“AT&T Corporate Headquarters to Move to Dallas,” AT&T press release. June 27, 2008. Online: <https://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=25882>

¹⁰Polansek. “Archer Daniels Midland pricks Chicago for new headquarters,” Reuters. December 18, 2013. Online: <http://www.reuters.com/article/adm-headquarters-chicago-idUSL2N0JX13X20131218>

"The airport here is not suitable for business travel," said Veritiv CEO Mary Laschinge at the time.¹¹

As if fewer flights to fewer cities by a dwindling number of competitors wasn't enough, the industry has also sought to generate profits by squeezing ever more passengers in its planes' limited space. Fifteen years ago, average load factors for domestic flights on U.S. airlines was 70.42 percent. Last year, thanks to consolidation, the increasing use of small-capacity planes, and advanced technology, average load factors again topped 80 percent for the 8th consecutive year.¹²

The airlines are also shrinking seat size in an effort to cram more customers into their planes. The average distance between rows of seats has dropped from 35 inches before airline deregulation in the 1970s to about 31 inches today. The average width of an airline seat has also shrunk from 18 inches to about 16½ inches.¹³ The shrinking seat size has caused many medical professionals to raise the alarm over adverse health problems related to squishing yourself into an ever shrinking seat like deep vein thrombosis.¹⁴ To add insult to injury, airlines are even reducing the size of on-board bathrooms. The reduced size has created significant concerns for the safety of crew and passengers as well as accessibility concerns for passengers with disabilities.¹⁵ With shrinking seats, aisles, and bathrooms, fuller planes, and adverse health effects and boarding delays due to overcrowding, is it any wonder that consumers and crew are increasingly at the end of their collective ropes when it comes to air travel?

Unsurprisingly, fewer flights on fewer airlines with more passengers competing for limited space has resulted in higher prices for consumers. Over 10 years, average domestic fares climbed 5 percent after adjusting for inflation according to an Associated Press analysis.¹⁶ Even that number excludes the record revenues that airlines have reaped from so-called "unbundling," a phenomenon consumers experience in the form of a litany of baggage fees, cancellation fees, standby fees, seat reservation fees and other forms of nickel-and-diming. In 2015 alone, American, Delta and United brought in \$14.69 billion in ancillary revenue, a staggering 177 percent increase from the \$5.3 billion they collected from such fees in 2008.¹⁷ A *Wall Street Journal* analysis of airfares, including add-on fees, found that from 2007 to 2014—a period coinciding with the worse economic crisis since the Great Depression—the price of the average round-trip domestic flight increased nearly 16 percent to \$291.30.¹⁸ These independent analyses stand in stark contrast to industry claims that it has never been a better and cheaper time to fly.

The increasing cost of flying is felt even more acutely by consumers in cities where consolidation has left only one or two dominant carriers. For example:

- Indianapolis was left with just two dominant airlines after ATA was bought by Southwest and Northwest was absorbed by Delta. The two airlines now control 56 percent of the seats and airfares are 6 percent above the national average.
- In 2005, U.S. Airways controlled nearly 66 percent of the seats in Philadelphia. After its merger with American, the combined airline had 77 percent of the seats. After the merger, airfares there went from 4 percent below the national average to 10 percent above it.

¹¹Hussein, Fatima and Williams, Jason. "Fortune 500 boss: CVG reason for leaving," *Cincinnati Enquirer*. October 16, 2015. Online: <http://www.cincinnati.com/story/money/2015/10/16/fortune-500-boss-cvg-reason-leaving/73605974/>

¹²Bureau of Transportation Statistics. "Load Factor (passenger-miles as a proportion of available seat-miles in percent (percent)) All U.S. Carriers—All Airports," Online: <https://www.transtats.bts.gov/DataElements.aspx?Data=5>

¹³Congressman Steve Cohen. "Reps. Cohen and Kinzinger, Senators Blumenthal, Schumer, Markey, Menendez and Feinstein Introduce Bipartisan, Bicameral SEAT Act," Press release. March 9, 2017. Online: <https://cohen.house.gov/media-center/press-releases/rep-cohen-and-kinzinger-senators-blumenthal-schumer-markey-menendez-and>

¹⁴"Safety risk of shrinking airline seats questioned," *Los Angeles Times*. April 14, 2015. Online: <http://www.latimes.com/business/la-fi-airline-seat-risks-20150414-story.html>

¹⁵Eng, Dinah. "Smaller Bathrooms on Planes Pose Challenges for Passengers," *New York Times*. December 23, 2016. Online: <https://www.nytimes.com/2016/12/23/travel/smaller-airplane-bathrooms-challenges-for-passengers.html>

¹⁶Koeing, David and Mayerowitz, Scott. "U.S. airports increasingly dominated by 1 or 2 carriers," *USA Today*. July 15, 2015. Online: <https://www.usatoday.com/story/todayinthesky/2015/07/15/us-airports-increasingly-dominated-by-1-or-2-carriers/30152927/>

¹⁷IdeaWorks. 2016 Yearbook of Ancillary Revenue. September 2016. Page 4. Online: <http://www.ideaworkscompany.com/wp-content/uploads/2016/09/2016-Ancillary-Revenue-Yearbook-R.pdf>

¹⁸Nicas, Jack. "Airline Consolidation Hits Smaller Cities Hardest," *Wall Street Journal*. September 10, 2015. Online: <https://www.wsj.com/articles/airline-consolidation-hits-smaller-cities-hardest-1441912457>

- From 2005–2015, Delta’s control of its Atlanta hub increased from 78 percent to 80 percent of the available seats. At the same time, AirTran merged with Southwest, which subsequently reduced its presence there. As a result, domestic airfares to Atlanta went from nearly 6 percent below average to 11 percent above.¹⁹

Conversely, when competition increases, fares tend to go down and service improves. For example:

- Prices in Denver were once 5.6 percent higher than the national average. When United’s market share there dropped from 56 percent to 41 percent, fares plunged to levels almost 15 percent lower than the overall average.
- In Seattle, where Delta is aggressively competing with Alaska Airlines, average fares are \$18 below the national average and Alaska added service to compete.²⁰

II. Lack of Effective Competition Requires Action by Congress to Restore Passenger Rights

The negative effects of unchecked consolidation in the airline marketplace have been decades in the making and is unlikely to be solved by a single piece of legislation, regulation, or the airlines themselves. However, there are steps that Congress can take in the near term to address the worst impacts of a lack of competition and restore balance to the relationship between airlines and their passengers.

First, as the United 3411 incident vividly illustrated, airline overbooking policies, and the resulting bumping practices, can lead to shockingly negative outcomes for passengers. Overbooking is a vestige of a time when consumers could make multiple reservations to maximize their travel flexibility and cancel their flights without penalty. To account for this, airlines began overbooking their flights to ensure that they flew with as few empty seats as possible. Airlines were safe in assuming that this practice would not actually overbook them as their planes regularly flew at less than half capacity.²¹

Fast forward to today and airlines no longer offer such conveniences and customer service. Average load factors are regularly above 80 percent²² and planes often reach full capacity. Yet, as the Dao incident highlighted, overbooking continues to be a standard operating practice in the industry. In 2016, because of airline overbooking practices, more than 430,000 passengers were voluntarily bumped. And while the industry likes to point to the low rates of involuntary bumping, many of the 40,629 consumers who were involuntarily bumped in 2016 almost certainly ended up losing hotel reservations and missing weddings, funerals or important meetings.²³ That first class ticket holders are typically last in line while those like Dr. Dao who try to save money get chosen first for involuntary bumping is just salt in the wound for the vast majority of consumers who can’t afford to fly luxury class.

Involuntary bumping should never occur in a competitive market. Airlines should be competing for customers by offering enticing compensation to encourage volunteers to take flights that aren’t overbooked. Airlines should be required to maintain interline agreements with other airlines to ensure that paying passengers who are bumped (whether voluntarily or involuntarily) make it to their final destination with as little delay as possible. United’s decision in the wake of the Dao incident to offer up to \$10,000 in compensation for voluntary bumping is to be commended.²⁴ Hopefully it won’t take another David Dao incident to get the other airlines to follow suit and eliminate the need for involuntary bumping altogether. If the airlines fail to heed the lessons of the United 3411, Congress and the Department of Transportation (“DOT”) must step in to make sure that overbooking never results in a paying passenger being violently removed from a plane against her or his will when he or she poses no safety or security risk. NCL supports, for example, Sen. Hassan’s

¹⁹ Associated Press. “Analysis sheds light on the impact of airline consolidation,” July 14, 2015. Online: <http://www.cbsnews.com/news/analysis-sheds-light-on-impact-of-airline-consolidation/>

²⁰ *ibid.*

²¹ Hargreaves, Steve. “Why planes used to fly half full,” CNN Money. April 29, 2015. Online: <http://money.cnn.com/2015/04/29/news/economy/planes-half-full/>

²² Waitzman, William. “No Room on the Plane: Why Airliners Are So Crowded,” *Barron’s*. April 15, 2017. Online: <http://www.barrons.com/articles/no-room-on-the-plane-why-airliners-are-so-crowded-1492232384>

²³ United States Department of Transportation. *Air Travel Consumer Report*. Pg. 35. April 2017. Online: <https://www.transportation.gov/sites/dot.gov/files/docs/resources/individuals/aviation-consumer-protection/278481/2017-april-atcr.pdf>

²⁴ Wise, Alana. “United to offer passengers up to \$10,000 to surrender seats,” Reuters. April 27, 2017. Online: <http://www.reuters.com/article/us-ual-passenger-idUSKBN17T0HC>

TICKETS Act of 2017, which would prohibit involuntary bumping after a passenger has boarded, eliminate limits on compensation for involuntary bumping, limit carrier overbooking practices, and require prominent disclosure of carriers' overbook policies.²⁵

Second, the power in the relationship between airlines and their passengers can no longer lie solely with the airlines. It has been well-documented that the airlines' Contracts of Carriage are indecipherable legal tomes that are not read or understood by consumers, but which nonetheless absolve the airlines of practically all responsibility when things go wrong.²⁶ They are in all senses Contracts of Adhesion. This works against consumer protections. We propose instead that consumers must be made aware in clear and conspicuous language of their rights at the time of purchase, on their tickets, and via posters at the gate and ticket counters. When airlines abuse the trust their customers place in them, passengers need to regain access to the legal system to hold airlines accountable for their promises.

Third, the inexorable march of unbundling—charging for basic necessities such as a guaranteed seat, a piece of luggage, or the need to reschedule a flight—must be curtailed. Thanks to the rampant growth in add-on fees, the cost of “airfare” is becoming an increasingly irrelevant metric. Because the major network airlines are in relative lockstep when it comes to ancillary fees like baggage, (Southwest alone among the Big Four airlines doesn't charge cancellation or checked luggage fees, to their credit) cancellation, standby and other fees,²⁷ competition among the large airlines to offer the best fare is unlikely to have a significant impact on the overall cost of flying.

Requiring airlines to justify the prices they set for ancillary fees is a logical first step in reining in this trend. NCL—along with 10 other major national consumer and passenger rights organizations—is a strong supporter of Senator Markey's and Senator Blumenthal's FAIR Fees Act.²⁸ The bill, which enjoyed bipartisan support in the Senate Commerce Committee, would prohibit airlines from charging cancellation, baggage or other ancillary fees that are “unreasonable or disproportionate to the costs incurred by the air carrier,” under standards to be set by the DOT. The bill would not re-regulate the airlines, as the industry claims, but would remedy a systemic violation of the free market system that has been pointed out repeatedly by both DOT and Department of Justice.

Fourth, consumers must once again have the ability to compare apples to apples when it comes to finding the best deal for their desired flights. The growth in online travel agents (“OTAs”) in the 1990s was a key driver in reducing the cost of flying because they for the first time enabled flyers to easily compare fare and schedule information across various airlines and choose the best deal for their needs. Unfortunately, as ancillary fees have exploded, it has become increasingly difficult for consumers to compare true cost of flying from point A to point B. This is, in a word, anti-competitive.

Under the Obama Administration, the DOT initiated a proceeding to investigate whether airlines should be required to provide ancillary fee information to OTAs and metasearch websites. Unfortunately, Transportation Secretary Chao has put an indefinite hold on that proceeding.²⁹ Consumers should be able to input their specific requirements in a travel search engine (*e.g.*, traveling from Washington to Chicago with one checked bag, bringing a pet, need extra legroom) and get an accurate listing of the costs for flying on various airlines. Given DOT's likely inaction without Congressional mandate, we would ask this committee to instruct DOT to promulgate rules requiring airlines to provide schedule, fare, and ancillary fee data to OTAs and metasearch sites on an open and non-discriminatory basis.

Fifth, the DOT should seek to strengthen its consumer protection policies to match or exceed those that are available to consumers in the European Union (“EU”). Under current law, airline passengers in the EU enjoy substantially stronger consumer protections. For example, for flights originating in the EU (including

²⁵ Online: <https://www.congress.gov/bills/115/congress/senate/bills/947/cosponsors?q=%7B%22search%22%3A%5B%22s+947%22%5D%7D&r=1>

²⁶ See, *e.g.*, Testimony of William J. McGee Before the House Committee on Transportation and Infrastructure Concerns “Oversight of U.S. Airlines Customer Service.” Pg. 5. May 2, 2017. Online: https://transportation.house.gov/uploadedfiles/2017-05-02_-_mcgee_testimony.pdf

²⁷ *United States of America et al v. U.S. Airways Group, Inc. and AMR Corporation*. Complaint. Pg. 3, Para. 1. August 13, 2013. Online: <https://www.justice.gov/atr/case-document/file/514531/download>

²⁸ National Consumers League *et al.* “Consumer group letter to Sens. McConnell and Reid on FAIR Fees Act,” April 5, 2016. Online: http://www.nclnet.org/letter_fairfees#_edn9

²⁹ Jansen, Bart. “DOT to stop collecting comment on airfare, fee proposals,” *USA TODAY*. March 2, 2017. Online: <https://www.usatoday.com/story/travel/flights/todayinthesky/2017/03/02/airline-fees/98654914/>

flights operated by a U.S. carrier), when a flight is delayed passengers are entitled to up to €600 in compensation, plus meals and refreshments, hotel accommodations, transport to and from the hotel.³⁰ By comparison, under U.S. law, airlines are under no obligation to offer compensation for delays, even when the delay is due to factors within the airline's control.

Finally, Congress should pass a comprehensive Passenger Bill of Rights addressing these and other pressing consumer protection priorities, such as minimum seat size standards. Such action would be an important step in addressing the significant imbalance of power that exists between consumers and the airlines.

In conclusion, I would like to again emphasize the urgent need for Congress to take action to address the lack of competition that inhibits free market forces from working effectively to discipline the airlines' unconscionable treatment of their customers. It should not require millions of views of a video of a passenger being assaulted on an airplane to galvanize Congress into taking action. Consumers have spoken and they are demanding stronger protections from abuses by the airline industry. American consumers desperately need members of the Senate Commerce Committee to be in their corner, to protect and promote consumer rights and protections and to restore some semblance of balance to airline passengers' relationships to the carriers.

Chairman Blunt, Ranking Member Cantwell and members of the subcommittee, I appreciate your including the consumer perspective in this hearing. I look forward to answering your questions.

Thank you.

Senator BLUNT. Thank you, Ms. Greenberg.

There'll be a number of members here, and we'll try to keep our question time to 5 minutes in the order that people came to the Committee, with the exception of the Chairman. If he shows up, we'll give him the same courtesy we gave the Ranking Member when he was here.

Mr. Kirby, what kind of flexibility do your gate agents and your flight attendants have in terms of trying to deal with overbooking? And while you're dealing with that, it's my understanding, even in the normal rules, that nobody made an offer that was the maximum offer that a passenger could be offered under those rules?

Mr. KIRBY. Thank you, Senator. First, this situation was not because of overbooking. As most of our oversell situations occur for operational reasons, weight restrictions due to weather are the most common, where we can't take off with a full load of passengers or land with a full load of passengers. In this particular situation, our employees are authorized to go up to a certain limit, and they concluded on the airplane that no one was going to go even at that limit. So it's not clear why they didn't go all the way to the limit.

But what we have done and one of the clear findings from this is we need to give our employees more tools and more flexibility. That's why by going up to \$10,000 and by creating this alternative travel desk that can get people to different destinations that might be close to their home, we really believe that we're going to be able to drive our involuntary denied boardings close to zero, and that's one of our goals, is to get involuntary denied boardings close to zero, where we can accommodate all the customers in a way that customers view as a win-win solution.

³⁰ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance)—Commission Statement. Online: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1476179175834&uri=CELEX:32004R0261>

Senator BLUNT. Did you say that more people are taken off planes or not put on planes because of weight and safety issues than that you sold more seats?

Mr. KIRBY. Yes, sir. The vast majority of our involuntary denied boardings—at United, about two-thirds of our involuntary denied boardings come from operational issues, usually weight restrictions for weather or an aircraft swap, which is often because of maintenance or because of weather, where the airplane couldn't arrive at the destination in time to take the flight. Those operational issues, where you have to take 20 or 30 passengers off an airplane, are where we have involuntary denied boardings.

Overbooking usually has one to two passengers that are over the limit, and, generally speaking, we can get someone to volunteer by giving them alternative compensation and alternative travel arrangements. In the vast majority of those cases, we can get a customer that volunteers, and we view that as a win-win, that if a customer is willing to accept the alternative compensation, we've left a customer satisfied.

Senator BLUNT. Commissioner Evans, you said that what happened with the flight that Dr. Dao was on was not in accordance with your guidelines for the law enforcement or the police officials. How do you categorize, by the way, the people that do this job for you at the airport?

Ms. EVANS. Thank you, Senator.

Senator BLUNT. Push your button and turn your mike on, and let me sure I've got this right. How do we refer to the people that got on the plane?

Ms. EVANS. They are referred to as aviation security officers. They are non-sworn, non-armed security personnel. Their primary responsibility is to enforce the Federal security laws, so, you know, alarmed doors. They make sure that people who are in certain areas of the airport have the proper badge. They patrol the perimeters to make sure—

Senator BLUNT. Why do you think they didn't comport to what you say your procedures were?

Ms. EVANS. You know, the details of exactly what was said is being thoroughly investigated by the Inspector General. In terms of what they were thinking or why they did what they did, I have to wait for the findings of that report to know. I honestly don't know at this point why they—

Senator BLUNT. Do you think it's a lack of training?

Ms. EVANS. We certainly will enhance our training. I think that it's such an infrequent event. It really isn't ever an event. We can't actually find another instance. It's so infrequent for, in particular, those officers. Normally, it is Chicago police who boards the plane. We have made it clear in the future that those aviation security officers will not board the plane. They are to wait for Chicago police.

We've had—you know, we have six and a half million passengers a month who go through O'Hare—six and a half million a month. So this is a very rare occurrence. There's no question that training for such an infrequent event needs to be enhanced because of the severity of it. And, certainly, the directives need to be crystal clear.

Senator BLUNT. Ms. Nelson, just one quick question here, and you will have to be concise or I'll violate my own rule to try to keep

us to our 5 minutes. And I may have to ask it in a different round, but my question will be: Both United and Commissioner Evans suggest that people aren't going to get on planes anymore except with great—let's see, one phrase was great physical risk. What does that do if you're on the plane to your ability to deal with a passenger who doesn't want to be dealt with?

Ms. NELSON. Well, if we are on the plane and someone doesn't want to be dealt with, we have to advocate through the flight deck that we have a security concern, and in those cases, we should be having assistance from law enforcement. Or there are other tools that the airline can use, and we would be working together as a team with the flight deck, with the ground service coordinators, and it may be that the entire plane needs to be deplaned. So these are some of the tools that we have today to be able to deal with that. But we do need the assistance of law enforcement when it is a safety or security issue.

Senator BLUNT. We'll see how this goes and see if I need to come back to this topic later.

Ms. Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman.

I listened to the testimony across the board, and I just want you to know that nobody has fought harder during the time that Wall Street prices drove fuel for airlines up, quadrupling and costing us. So we were there, and many people came and participated in those press conferences on what it was doing to the industry.

I was also there when, last year, or 2 years ago, we put an FAA bill together and we didn't give flight attendants the same rest time as pilots. We should correct that this time and make sure that there is parity.

So I understand the larger challenges to the airline industry. But it is still no excuse for dehumanizing the aspects of passenger travel and just making them part of someone's business plan, and we have to come back and look at the stress that is being caused in the system as we have deregulated and put this in this game of monopoly but not giving the passengers a fair end of the stick.

So I do want to get to you, Ms. Greenberg, about what you think is in the Passenger Bill of Rights, because I have my own ideas about what should be in a Passenger Bill of Rights.

But, Mr. Kirby, I just want to make sure I understood you correctly. Are you saying that Mr. Dao's flight was not an overbooked flight?

Mr. KIRBY. No, ma'am. His flight was overbooked by one, but we had a customer compensated and removed from the flight before boarding. The situation with Mr. Dao was not caused by overbooking. It was caused by putting four crew members on the airplane after the flight was already boarded, policies that we've changed so it can never happen again.

Senator CANTWELL. What do you consider that, putting four crew members on a flight?

Mr. KIRBY. Well, in this case, it was just wrong. We booked—

Senator CANTWELL. I think it's your definition of overbooking that was wrong. So you're parsing words here, which does not give me the faith that you fully understand the severity of this situation. By that, I mean that the airlines are treating passengers as

an algorithm. They're part of a computer-based system where when you want to take someone off the flight, you go to the person, as in Mr. Dao's case, who doesn't have a frequent flyer, paid the lowest fare, checked in at the last boarding time, so you basically are picking by algorithms who you want to kick off of a flight.

And to now think that you would say that overbooking here at this hearing this morning does not include your crew members—you have to compensate for the traveling of your crew members. But you can't, then, get an exemption on, oh, well, that's not overbooking. So I'm really befuddled by the fact that you're parsing words this morning in a way that makes me think that—you know, this is what's going to end up in a Passenger Bill of Rights. We're going to tell you how you can and can't operate to protect consumers and the traveling public. We are not going to turn them into an algorithm with the cheapest purchased ticket is going to now get booted off because you're going to continue to communicate this way.

Mr. KIRBY. Ma'am, I'm sorry if I'm not communicating well. We do use the term, overbooking, to mean very specific—where the airline is selling more seats than there are on the airplane, and—

Senator CANTWELL. And you should compensate in a travel plan where your crew is part of that and stop using them as an addition to the overbooking. You need to compensate for them before.

Mr. KIRBY. Yes, ma'am. We—

Senator CANTWELL. If you want us to legislate that, we will, because we're not going to run into the same situation.

Mr. KIRBY. Yes, ma'am. We do do that. In this case, what happened was their previous flight got canceled. That's why they were being booked at the last minute. When we normally travel crews, we book them and take a seat out of inventory.

Senator CANTWELL. Ms. Greenberg, you mentioned this. What do you think we should do about this issue as it relates to the fact that I think they still want a little bit of room here on changes in flights and schedules and getting crew to a certain location? What do you think we should do about that?

Ms. GREENBERG. Well, I think the issue of overbooking these days is really a thing of the past. It ought to be, because every passenger who pays has paid up front for their ticket. There should be no instances when you paid for a ticket and you're sitting in your seat and you're taken off the flight. We don't understand why that needs to happen, since the airlines—in the old days, the airlines were out of pocket because people would make reservations on five different flights and wouldn't show up for perhaps four of them. But now the airlines have that money in the bank, and so we think that they ought to accommodate—be accommodating the fact that all those seats are paid for, and I don't understand why we continue to have this problem with overbooking and why airlines continue to overbook and are pocketing those profits sometimes twice over.

Senator CANTWELL. And what do you think—any of the panelists—who should be making these decisions in the context of—now, we're hearing from the airlines that they're no longer going to do this, that they're going to compensate people in a range of, you know, fees. But my question is who's going to decide that, and

who's going to make these decisions along the way? I just feel like the airlines are basically leaving too much of this to interpretation at the gate level, and we need to build a culture within the airlines who are going to have management who are responsible for these kinds of decisions and actions, and not just pushing it down either to the flight attendants or the gate people to enforce.

Ms. GREENBERG. One of the things we mentioned in our testimony is we would like to see a European Union style system, where you're guaranteed a certain level of compensation for a flight that's canceled, for a flight that's delayed, depending on how long the flight is delayed and the distance that you're traveling. European consumers have far more robust consumer protections than we do in the United States, and we don't understand why that should be.

Senator CANTWELL. Thank you, Mr. Chairman. My time is up.

Senator BLUNT. Senator Wicker?

**STATEMENT OF HON. ROGER F. WICKER,
U.S. SENATOR FROM MISSISSIPPI**

Senator WICKER. Mr. Kirby, since this incident in Chicago, how has business been at United?

Mr. KIRBY. Well, sir, while this was a horrible incident that was terrible and shameful to all of us at United, for the most part, everything else at United is going really well. That's one of the things that is also disappointing to us, because, operationally, United is running the best airline in history that we've ever run.

Senator WICKER. Well, how are your boardings? Have you had as many bookings as before?

Mr. KIRBY. Sir, it's impossible for us to see in the data—

Senator WICKER. Well, how has your stock been in the last 3 weeks since this incident?

Mr. KIRBY. Our stock initially went down, but has recovered since. But our—

Senator WICKER. In fact, it's higher now than it was the day of the incident. Is that correct?

Mr. KIRBY. Yes, sir.

Senator WICKER. You know, I think—what do you think that says? Well, let me try—

Mr. KIRBY. The stock price?

Senator WICKER. I think it says that you've got the passenger where you want him. I think it says there's not enough competition in the industry, and people that had to fly with United before still have to fly with United if they want to get somewhere, and there really is no choice, so business is really back where it was.

I remarked to my wife when I saw on TV how much the stock had dropped if—my disclosing it—if I weren't a public official, I would have seen it as a buying opportunity, because it was obvious to me that the passenger has nowhere else to go, and so it's not surprising to me that your stock has returned, because, basically, your boardings are going to be about the same. If the traveling public wants to boycott United as a result of this outrageous incident, which you say you've corrected, they really don't have a way to boycott you, do they?

Mr. KIRBY. Sir, there are lots of competition, and they have a way to boycott us. I would like to think that our stock recovery is because we truly are going to fix the airline and make customers at the center of everything we do, and that commitment that we've adopted is going to help us not only improve for customers, but it's going to help us improve for our employees, and that will lead to better results for the shareholders. We absolutely are committed to improving, and our customers do have choices. There's great competition in the U.S. airline industry.

Senator WICKER. Ms. Greenberg, what is your view on that issue?

Ms. GREENBERG. We've got an extremely concentrated industry with 80 percent of flights across the country being controlled by four airlines.

Senator WICKER. If I fly out of Chicago, in many instances there's no place for me to go if I want to boycott United because of this. Is that correct?

Ms. GREENBERG. That's correct. Just to give you a statistic on that, at 40 of the largest 100 airports, a single airline controls a majority of the market. At a staggering 93 of the top 100 airports, one or two airlines control a majority of seats, an increase from 78 airports in 1995.

Senator WICKER. How are we doing on people with disabilities, particularly disabled veterans? It's my understanding that in 2015, more than 30,000 passengers filed disability-related complaints with the airlines, and in 2016, 862 complained directly to the Federal Government. In 2015, 944 complained directly to the Federal Government.

Ms. Pinkerton, how are the airlines doing in that regard?

Ms. PINKERTON. That's an issue that we have paid attention to in the last couple of years. In fact, the last FAA extension bill that this committee passed had two provisions relating to access for the disabled. I sat in on the first issue that was mandated, and that was a GAO study to look at how carriers are training our crew with respect to how they handle wheelchairs, damaged wheelchairs, et cetera. From that, DOT created new training that carriers incorporated into their own training.

The second issue was that you all required a rulemaking, and that rulemaking got underway. It was a negotiated rulemaking. Carriers sat down with the disabled community and DOT and engaged in a negotiated rulemaking. We came up with long-term and short-term solutions. There was agreement. For the long term, we agreed on a larger lavatory for single aisle planes. In the short term, there were three things. It was, again, relating to training and better information, both for the disabled community about what their rights were, but also for airline crew. Also, there is a label that will be put on planes that have an international standard that is like a *Good Housekeeping* seal of approval if they meet certain criteria.

And with respect—I know Senator Cantwell is not here, but she mentioned the paralyzed veterans. We have been ongoing, having a dialog with them. They've asked us not to talk publicly yet about what agreements we are coming to. But I can tell you that those conversations are progressing. So my response is that we recognize

that this is an issue, and we've been taking it seriously, working on it, and I think that things are changing.

But if I can, please, take the opportunity to respond to your concerns about competition, because it's a narrative I've heard. I think the reason the narrative about there's no competition doesn't work is because we've got proof that there's competition, and the proof is—and not according to a *Wall Street Journal* article, but according to the Bureau of Transportation Statistics, fares are lower today than they ever have been, as a percentage of disposable income. They're down 20 percent from 1995.

We've gotten more seats added. Small—I think you missed my opening statement, but small and non-hub airports have actually seen increases in seats. We've added a net of 54 new destinations. And you were talking about customer service earlier. The independent studies that J.D. Power and the American Consumer Satisfaction Index—I think one of the reasons maybe you haven't seen the stock change is because people realize that what was a completely unacceptable event and should never happen again, was extremely rare and is not indicative of the things that our employees serve to the traveling public in the 2.2 million passengers and 27,000 flights we fly every day.

Senator BLUNT. Thank you, Senator.
Senator Klobuchar?

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Well, thank you very much, Chairman Blunt, as well as Senator Cantwell, for holding this important hearing. I had asked for this hearing, as did many other Members that are here today because I think everyone was outraged by this video—deeply disturbing video of Dr. Dao being dragged off this plane. I think most everyone in this room, including the airlines executives, now agree that this should never have happened, and it was a result of a series of failures and some flawed policies.

Of course, the focus of today's hearing is on not just the single incident, but to make sure that passengers are treated fairly and with the respect they deserve. This has been a focus that I've had for quite a while with the Passenger Bill of Rights that I pushed hard for and some of these other safety and cost measures that we've worked on.

I guess I'd start with you here, Mr. Kirby. Clearly, one of the failures during this flight incident was not offering passengers greater compensation to volunteer to be bumped when there were so many overbookings on the flight. Your report states that the gate agent never offered more than \$800, and I understand United's new policy allows volunteers to be compensated up to \$10,000. Will front line employees be authorized to offer up to this level of compensation in all cases, or are there going to be restrictions?

Mr. KIRBY. Thank you, ma'am, for the question. Gate agents will have a certain limit, and then it escalates all the way up to \$10,000, but it does require an escalation of increasing levels of management, although the gate agents' limits are greatly increased from where they were before.

One of the other things we're doing is also having annual recurrent training to help gate agents with this process and with deescalating situations as well. One of our findings that was in our report is we didn't do an adequate job of giving recurrent training to gate agents so that they were able to deal with this really difficult situation, and our practices on going to the top of the limit were inconsistent, and this training, we hope, will get us to consistency with all of our employees.

Senator KLOBUCHAR. You mentioned in your testimony that United has made adjustments to its overbooking policies, that there will be a reduction in overbookings on flights that historically have experienced lower volunteer rates, smaller aircraft, last flights of the day. I want to make sure this will have a real impact. How significant will the reduction in overbooking be for these flights, and will United continue overbooking at the same rates for flights outside of these categories?

Mr. KIRBY. Thank you again, ma'am. The kinds of reductions we talked about—I'll give you one simple statistic. For 50-seat regional jets, for example, which is where we tend to have the highest problems, because if you're over by one, it's 2 percent. If you have a 200-seat airplane, you're over by half a percent. It's harder to get a volunteer with fewer passengers.

So on 50-seat regional jets, about 50 percent of our flights before were overbooked by one—could be overbooked by one, and those have now gone to zero. So on small regional jets, just as a data point, it's about a reduction of half of the flights. And as to the rest of the system, we will be lowering it across the board, partly because, you know, the cost of a denied boarding is now much higher, now that we'll go up to \$10,000.

Senator KLOBUCHAR. All right. I have about two minutes left, and I have two questions.

So I'll start with you, Ms. Greenberg. In your testimony, you call airlines' Contracts of Carriage indecipherable legal tomes. I like that. Do you have a suggestion for how to make it easier for airline passengers to understand their rights?

Ms. GREENBERG. We believe that there ought to be European style posters around letting consumers know what their rights are. We believe there ought to be a list of compensation, required compensation if you're bumped involuntarily, if your flight is canceled, if your flight is delayed after a certain amount of time. Those are critical rights and protections American consumers are not receiving.

Senator KLOBUCHAR. Do you mean those would be things that would be required to be put up in the airports?

Ms. GREENBERG. Right, and that's what you see in the European Union, and we want those kinds of protections and transparency and information for consumers in the United States as well.

Senator KLOBUCHAR. Thank you very much.

Ms. Nelson, thanks for the work from the flight attendants on human trafficking in the bill that we passed together. In your testimony, you discussed disturbing reports of verbal and physical assaults on flight attendants in the wake of some of these incidences. You say that flight attendants can get caught in the middle of an us-against-them mentality. This can make it harder for them to

perform their duties. What additional support, outside of the training that Mr. Kirby mentioned, do you think that airlines should give flight attendants to ensure that they can do their job safely and effectively?

Ms. NELSON. Thank you very much, Senator. One of the issues that we have seen over the last several years is that the FAA has moved from instruction on enforce to inform passengers, and this has put us in a quagmire of doing our safety compliance checks but not really having the ability to enforce those so that some people are able to sort of get away with not following the safety policies that could put everyone else in danger, and others are not. This is already a problem.

But the biggest problem that we see is that we do not have the staffing that we used to have prior to September 11, 2001. So as we have more passengers and capacity has been cut, and so our planes are fuller than ever, we do not have enough flight attendants to be able to get to situations and deescalate, because, frankly, the nation's flight attendants do an incredible job of deescalating conflict every single day with all of these flights getting out without incident, and we are seeing that this is something that we have to deal with every single day. So if there were more of us to be able to do that work, we could do it more effectively.

We also see that at the gate, we are now—because there are minimums on the plane and there are minimums at the gate, we can't effectively communicate with each other. Also, we have problems coming down to the airplane door more often because we do not have the staffing at the gate. The gate agents are not catching the things that they would normally be catching in the gate area, and that, then, is creating conflict on the plane.

So these are some of the issues that we are facing, and we would like to be a part of implementing the policies to make sure that they're done in a way that works on the plane.

Senator KLOBUCHAR. All right. Thank you very much.

Senator BLUNT. Senator Blumenthal?

**STATEMENT OF HON. RICHARD BLUMENTHAL,
U.S. SENATOR FROM CONNECTICUT**

Senator BLUMENTHAL. Thank you, Mr. Chairman.

Thank you all for being here today. My view is that today's hearing is the beginning rather than the end of Congress' oversight role in protecting not only consumers, but also people who work on airlines.

I just want to begin, Ms. Nelson, with a question to you and thank you and everybody who works with you, everybody who serves on our planes, for their immense service and, often, sacrifice to the airlines for whom they work and the customers who rely on them and the many heroic acts that you mentioned in your testimony.

Can you give me some assessment of air quality in that cabin? Because a lot of people get on the plane, and they have no concept of what they may be encountering.

Ms. NELSON. This has been an issue for our union for three decades. We worked to get smoking off the planes. We worked to decrease the spraying of pesticides so that people can have clean air.

But we have an issue that's still remaining, and that is the bleed air that is bled off the engines into the cabin can become contaminated and can bring poisons or toxins which will affect the crew, oftentimes at a higher rate because they are working harder, so their heart is pumping harder.

But this has caused from basic illness and feeling fatigued and having headaches to long-term effects of memory loss and inability to function. We have had crews who have actually become completely incapacitated because of this, and it's an issue that needs to be addressed. We thank you for working on this. We need to identify when these things are happening with sensors on the plane and have a data collection so that we can scientifically look at the problem and address it in a way to make sure that everyone is safe.

Senator BLUMENTHAL. These problems affect people who ride the planes as customers as well as the airline attendants who work on them.

Ms. NELSON. Our work space is your travel space, and we want it to be safe, healthy, and secure for all of us.

Senator BLUMENTHAL. And the only difference is that the airline attendants spend more time and are exercising more so they're breathing more deeply, but it affects the passengers as well.

Ms. NELSON. Absolutely. And let's not forget about the pilots who flying the plane, too.

Senator BLUMENTHAL. And the pilots, and probably more than anyone, children who are flying, because they have smaller bodies, smaller lungs, and so what they breathe at the same concentration is likely to affect them more.

Ms. NELSON. Yes.

Senator BLUMENTHAL. Let me just say to all of you in the short time I have that I am working on a Passenger Bill of Rights that will expand the current rights that are in our statutes. One thing is clear to me from this United episode and from countless other instances. Now there's the capacity for them to go viral, but that's only spreading more information about them. They've always occurred, and they will not be corrected by the airlines themselves acting voluntarily. We know that from history.

So the actions by United that have been done so far, which are only voluntary, and by other airlines, raising compensation levels, for example, or providing limits on the length of time airlines can keep passengers stuck on a tarmac, refunds for lost or damaged bags—many of those kinds of efforts are completely inadequate, and, again, many are completely voluntary. Many ought to be made a matter of statute, and they ought to be expanded, because consumers need real rights, and that's why I will introduce a Passengers Bill of Rights as this committee considers an FAA reauthorization bill in the coming weeks.

I am open to working with you. I've outlined some of the provisions, which are raising compensation levels from the present cap of \$1,350 to multiples of the ticket price when passengers are bumped. I understand the airlines' argument that it has to overbook for profits, but they also have to bear the financial burden that, right now, is passed to consumers when those flights are overbooked and the consumers are bumped.

So I will propose legislation that will stop the kind of bumping we see now and will provide for greater compensation for passengers, will prohibit taking passengers off planes involuntarily, and the use of law enforcement for that purpose, along with other measures, compensation for delays and cancellations, a right of action by individuals against airlines with a potential for punitive damages, which will send a financial as well as moral message, and other steps providing for greater disclosure of fees and charges in connection with bags, checked bags, carry-on luggage, and so forth and so on. That's a rough and incomplete outline, and I'd like the commitment of this panel that you will work with me on this endeavor. Is there anyone who would object to any of these ideas, or at least working with me on them?

Ms. NELSON. We'd be happy to work with you, Senator.

Senator BLUMENTHAL. Thank you.

Ms. PINKERTON. We'd be happy to work with you, Senator. I would just note that many of the things that you've outlined, whether it's eliminating the cap on compensation, saying we're not going to take a person off of the plane, not calling law enforcement—all of those things are things that carriers have said voluntarily they're willing to do, and they are doing those and implementing those today.

Senator BLUMENTHAL. My time has expired.

Senator BLUNT. Thank you, Senator Blumenthal.

Senator Thune?

**STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA**

The CHAIRMAN. Thank you, Mr. Chairman. Let me thank you and Senator Cantwell for holding this hearing today, and it's particularly timely. Unfortunately, there have been recent incidents that have involved airline passengers going way beyond even what seasoned travelers have ever seen, and, obviously, what we saw with the video of the United Express flight in Chicago three weeks ago really was shocking.

If there's anything positive in all this, I think it's the fact that many airlines seem to be changing policies as a result of some internal reviews and some self-examination, and that's exactly what should happen. I hope all of the attention that is now being paid to the treatment of passengers will lead to long-term and meaningful improvements in the passenger experience. If not, there's going to be increasing interest on this Committee and in the Congress.

I also want to say at the same time I think it's—I hope, because it's really important, that passenger frustrations don't lead to unnecessary confrontation. Safety is still the paramount consideration in air travel, and the current level of safety is something of which we all can be proud. We don't want anyone to resist lawful and appropriate instructions from airline personnel or others that might impact that laudable record, and I think everybody probably would agree that sometimes a little more patience and understanding would go a long way.

Commissioner Evans, before the recent United Airlines incident, how common was it for your department's aviation security officers

to board an aircraft, and what types of situations were they typically dealing with?

Ms. EVANS. It is very rare for the aviation security officers. Normally, Chicago police make those responses. We are correcting that. This was an aberrant situation. We don't know of anything similar in our records. Most commonly, the complaints that come are unruly passengers, someone who won't obey the instruction of a flight crew or an altercation between two passengers of some sort. That is the most common type of disturbance that we get on an aircraft.

It's fairly rare—I commented earlier we have six and a half million passengers a month through O'Hare. Total dispatches for disturbances in a month is somewhere between 15 and 20, and on an aircraft, maybe four or five. So in total, they're fairly rare, you know, a minuscule percentage, and they have been extremely well handled in the past. So we're terribly sorry that this one was not handled properly.

The CHAIRMAN. Mr. Kirby, that April 9 incident has had a big impact, obviously, on United Airlines and, frankly, the whole industry. How confident are you that the steps that you and your company are taking will actually prevent another incident like that from occurring?

Mr. KIRBY. Thank you, Senator. I'm highly confident that the situation that occurred here just can't happen again, because the policies wouldn't allow it to happen again. But we're going to take it beyond that—and we've used this to be really a watershed moment for United Airlines—and to go beyond just preventing this from happening again and to truly put the customer at the center of everything we do and hope that this is going to have a silver lining of actually making us—and we believe it will—make us a better airline today than we were before by that change of focus.

The CHAIRMAN. There are always—and we know this—factors that are outside of your control. But consumers do have an expectation that they'll get what they pay for when they buy an airline ticket. So as a follow up to that question, what steps is United taking to more generally improve what can sometimes be a stressful travel experience for your customers, especially in light of the knowledge that outside factors can upset the normal operating plan?

Mr. KIRBY. Yes, sir. It is true that travel can be a stressful experience. At United Airlines, while we had a terrible incident last month, we are proud of the progress we've made in running a better operation. In 2016, we set new all-time records, and in 2017, we're setting new records. In the month of April, we went 145 hours without a single flight cancellation. That's over 10,000 flights around the world without a single cancellation.

Our employees are delivering just phenomenal customer service. I can't walk around the City of Chicago without hearing from customers about what a great job our flight attendants and gate agents are doing. We're back to growing. We're growing 6 percent this summer, which creates more options for our customers. We feel really good about the future.

But something like this should have never happened, and we let our rules-based culture, which is appropriate for safety, get in the

way of common sense when it comes to customers, and that's a change which is going to make things even better.

The CHAIRMAN. And it just seems like there ought to be an operating plan in light of some of these contingencies and outside factors that are maybe not frequent but certainly occur.

Very quickly, Ms. Nelson, you and members of your—that are on the front line of an industry that's seeing more and more confrontation. So what are the possible consequences if passengers start questioning or refusing instructions from flight attendants, from your members?

Ms. NELSON. This could cause a safety problem for everyone on board. Take, for example, the seatbelt sign, when flight attendants are informing that you need to be in your seat when the seatbelt sign is on. We saw recently the incredible injuries on the flight where the airplane hit clear air turbulence, and people were thrown through the plane. If you are up, you can be injuring other people on the plane. So if you're not following the instructions of the flight attendants, it can cause harm to other people around.

We also have some very serious concerns about the videotaping and broadcasting of crew movement and also showing, frankly, the terrorists, the diversionary tactics that could be used to divert crew from their safety and security functions and also to divert crew from being able to instruct passengers when we need help to contain a security concern. These are some of our grave concerns, in addition to the fact that there is an atmosphere out there right now that flight attendants are facing that is just generally dangerous.

We have reports of people who have touched flight attendants inappropriately, and when flight attendants have told them to stop, they have said, "What are you going to do, drag me out of here?" This is not OK. This is what they're facing on the front lines. We need backing from the regulatory agencies to say—to talk about the role that we have.

To Sally Greenberg's point about having placards in the gate area, it needs to be reinforced to follow the crew member instructions for your safety and security concerns, and we need more staff to be able to handle these issues and deescalate the situations, because the reality is when aviation workers across the industry saw that video, we were horrified, because it's not a representation of who we are, how we take care of our passengers every single day, and how we care very deeply about making this a good experience for the people in our care.

The CHAIRMAN. Thank you.

Thank you, Mr. Chairman.

Senator BLUNT. Thank you, Chairman.

Senator Nelson?

Senator NELSON. And I think that is certainly a true statement that you said, and if anyone wants to feel good about an airline, watch the movie, "Sully," about Captain Sullenberger and the way that crew operated under extremely dangerous circumstances, which is not a Hollywood made-up movie. That was real life, and you saw those flight attendants working with the captain, who's the last one to get off the plane, the captain.

So, indeed, I want to shift gears a bit—and I know you've been beat upon, Mr. Kirby, and, of course, people are upset about all of

this that's happened. But let's shift gears a bit. Let's talk about things that make common sense. So in the past month, I flew United, and I got to the airport at the appointed time, and my flight was late, and I looked, and lo and behold, on the board, there is an earlier flight that is going to my destination, and it was late.

So I walked to that gate, and, in fact, they were loading passengers, and, in fact, they had seats. So I said, "I'm on the next flight. I would like to go on this flight, if you have seats," and they had seats, but said "that would be \$75 extra." Now, I was on official business, and I did not think that was a good expenditure of Senate funds.

But it was a policy of the airline that made no sense. You had seats—and, oh, by the way, on the next flight, which was mine, you didn't have seats. So by me going on the earlier flight, it would have opened up a seat for the later flight, and yet I was, according to your policy, going to be required to pay an additional \$75. It's those kind of rules that—maybe you have a reason for it, but it just doesn't make sense, and it's not in your interest, either, because you need to accommodate the traveling public.

I'll give you another example here. Major airlines, including United, typically charge consumers \$200 or more for changing or canceling a domestic flight. Change fees for international flights can run many hundreds of dollars. So now it appears that United has introduced a new type of fare—basic economy is what you call it—where no changes are allowed at all, and in that case, consumers would lose the entire value of the ticket. So when booking, the consumer typically receives little notice of all these additional penalties.

So what's the correlation for you between change and cancellation fees and the cost actually incurred by United?

Mr. KIRBY. Well, Senator, thank you for your business, and I apologize for the bad experience that you had on United. I would say—

Senator NELSON. That's not a bad experience. That is a policy that you all lost a seat that you could have filled on an oversold flight.

Mr. KIRBY. Yes, sir. I think, actually, our policy in those situations where we have an off-schedule operation should have let you get on the earlier flight, but I'll confirm that after this hearing, what would have been the normal policy.

Our basic economy product, which you also referred to, is one that—first, we try to clearly communicate to customers the restrictions associated with that product, and the goal is to offer low fares, and we're trying to offer our customers choice. One of the great things in a deregulated environment is we're offering our customers more choice, and for customers that are willing to give up some of those restrictions and accept the restrictions of no changeability, they get a lower price, and we think that's good for consumers. So far, in our tests, about 30 percent to 35 percent of customers are choosing that lower fare, and 60 percent to 65 percent of customers are choosing the regular economy fare, which costs more but comes with more restrictions.

I recognize the frustration around change fees. It is part of our view of what lets us offer low fares for leisure customers that are

bought in advance. We also offer fares that are fully changeable and that come with no penalties, no restrictions. They are more expensive. It is part of our policies, and part of the rationale is by offering customers choice and by offering them different products, we can let the customer choose what is most appropriate for them, and it helps us keep fares low.

Senator NELSON. Does it save you money?

Mr. KIRBY. It's not a direct cost when somebody changes, if that's the question. It does—it was about \$900 million of revenue at United Airlines in 2016.

Senator NELSON. Well, if it doesn't save you money, you may want to put yourself in the place of the consumer. Things come up. They need to change their flight. But it then becomes so prohibitive that they can't, and, therefore, they're inconvenienced, and if there's not a direct cost associated to you that you're having to pay, you may want to think of—put yourself in the shoes of the consumer.

Mr. Chairman, I know we've got lots of members, and I'm going to stop. What I'd like to do is to insert for the record for Mr. Kirby some questions about his IT systems, and then to Ms. Pinkerton questions about airline Passenger Bill of Rights, and to Ms. Pinkerton and Mr. Kirby questions about interline agreements.

Senator BLUNT. Every member will have a chance to submit questions for the record.

Senator Inhofe?

**STATEMENT OF HON. JIM INHOFE,
U.S. SENATOR FROM OKLAHOMA**

Senator INHOFE. Thank you, Mr. Chairman.

Ms. Nelson, I was enjoying your comments. My daughter-in-law is a retired flight attendant, and I've heard a lot of things before, and I could probably add to a few things that you said. You know, you hear a lot of negative things about the industry, and it happens—maybe I'm biased, because American has a huge presence, a huge footprint, in my state of Oklahoma, in my City of Tulsa.

In fact, I've worked with them over the years when I was Mayor of Tulsa when things would come up, and my experience actually has been good in terms of their focusing on using technology to swiftly inform consumers of any disruption to their travel. They've actually invested millions of dollars in airport terminals and all of these things. So there are some things that are going on that have been good, in my experience.

Ms. Pinkerton, when we talk about the wish to change things, are there any obstacles that airlines have in not being able to do some of the things that we might be thinking they could do? Are there obstacles out there that make it more difficult to make changes?

Ms. PINKERTON. Well, I would note that the Mercatus Center has said that the airline industry is the sixth most highly regulated industry in the country. Some of those things are safety regulations. I would say that even with some of the safety regulations, though, the way they're implemented in kind of a one-size-fits-all, whether that's the flight and duty rule or the 1,500 hour rule, et cetera—I think that there are some modifications that could be made so

that there's not the operational impact that we see from some of those rules.

But, really, the things that give us more pause, Senator, are the economic rules of the industry, the things like full fare advertising rule that tell us you can't advertise your product—you have to advertise it all in. We're one of the few industries that that's required of. And then, of course, there's a push now to try to force us to do business with certain people, for example, like Cheapo Air. There's a move that says you have to give your fares and information to Cheapo Air, and we'd like to be able to make those decisions ourselves about who we do business with.

So it's things like that where we'd like to see less government intervention. I think that a lot of these rulemakings are well intentioned, but they end up tying our hands and costing consumers more. We're all here talking about the consumer, and I think one of the things the consumer really values is the low fares that we've been able to bring to them and, of course, more service. So, frankly, the more financially stable we are and the more freedom we have to do our business, we're going to be able to lower fares, we're going to be able to add seats, we're going to be able to pay our employees more, add more jobs, and those are things that we've been doing within the last 6 years.

Senator INHOFE. You've got to make those considerations. I've listened to a lot of really good ideas, I guess, expressed by people that—and maybe through a Pilots Bill of Rights or something.

But, you know, look, Mr. Kirby, at what you've done, and I guess this question would be for you. The tragedy of that flight—I mean, that's awful to see the pictures and the public out there—there's a level of outrage that is kind of unprecedented that I haven't seen before. But what you've done in 30 days is pretty amazing. You've already settled a lawsuit. You've increased the incentive for passengers to give up their seats and a lot of other things.

Look, I've been around here a long time. Maybe we have solutions here in government, but I don't recall any time that we've been able to work as fast as you guys have in correcting a problem. So I want to keep that in mind, and I don't know of a lot of things that can be done. I am concerned—and I won't ask you this. I won't ask you because I think it might be unfair.

So I'll go back to Ms. Pinkerton. Do you think that a lot of new Federal laws and regulations imposed as a response to this incident could cause more issues than it would resolve?

Ms. PINKERTON. Well, I absolutely do. A one-size-fits-all rule-making approach doesn't work for this industry. We've seen that time and time again with unintended consequences. The tarmac delay rule ended up causing more cancellations so people were more inconvenienced by it. I think what we've seen today is that airlines recognize that we need to step up on customer service, and we're willing to do that voluntarily.

Senator INHOFE. Well, it's to your benefit.

Ms. PINKERTON. Absolutely.

Senator INHOFE. I mean, this idea that you have to be forced to do these things—you're the guy that pays for all this stuff, and I think everyone would agree to that. When I was Chairman for a number of years of a committee called the Environment and Public

Works, where all the over-regulations came—and most of them were EPA regulations.

So what we tried to do was to say any regulation that comes along—you've got to put a price tag on it. It's going to cost something. And I would admonish my friends if they're involved in the various proposed legislation to maybe do the same thing. You can make these changes, but it's going to cost—you said just a minute ago the cost of the ticket—that's a huge thing, and everything that I've heard suggested is going to impact that. So I think it might be a good idea for anyone who comes up with these good ideas to give credible evidence as to how that's going to affect the most important aspect, in my opinion, to individuals, and that is the cost of their ticket.

Thank you, Mr. Chairman.

Senator BLUNT. Thank you, Senator.

We're going to work right on through these questions. If anybody needs to take a break on the panel, as long as you take those breaks one at a time, we could probably get to you by the time you get back.

Senator Markey?

**STATEMENT OF HON. EDWARD MARKEY,
U.S. SENATOR FROM MASSACHUSETTS**

Senator MARKEY. Thank you, Mr. Chairman.

Senator BLUNT. My experience is that this would be a good time for everybody to take a break.

[Laughter.]

Senator MARKEY. I hear you. Thank you, Mr. Chairman. But for all the other passengers, strap in your seatbelts. The ride could still be rocky before the end of this hearing.

So airline fees are as high as the planes passengers are flying on, and it's time to stop their rapid ascent. Today, several airlines charge \$200 change and cancellation fees, which may be greater than the value of the original ticket. That's on top of charging as much as \$25 for the first checked bag, \$35 for the second bag. That's \$120 to do a round trip with two bags. Last year, airlines reaped in \$4.2 billion in baggage fees and \$2.9 billion in change and cancellation fees. That's \$7.1 billion in one year.

So passengers are getting tipped upside down at the ticket counter, and they deserve relief from these excessive fees. Regrettably, the fee epidemic is only growing. Some airlines are now charging passengers for carry-on bags, to print boarding passes, and for blankets to keep their children warm. That is outrageous. The airlines seem to have replaced the customer service counter with a customer suffering counter as they get the bill for each one of these things which they should expect to come with flying.

Passenger frustration with lack of choice and outrageous fees continues to rise. That's why I reintroduced the Fair Fees Act, which ensures that airline fees are reasonable and proportional to the cost of the services provided, and Senator Blumenthal and I are introducing that bill. The Fair Fees Act puts a stop to fee gouging and will help ensure passengers are flying the fair and friendly skies. My bill will finally ground these ridiculous fees.

Ms. Greenberg, is it reasonable to charge passengers \$200 to change or cancel their flight, even if the passenger changes their reservations well in advance, even if the passenger purchased the ticket for less than \$200, even if the airline resells the seat to another passenger at an even higher price? Is that fair?

Ms. GREENBERG. Senator Markey, we think that these airline cancellation fees are outrageous. They don't reflect the cost to the airlines of accommodating reservation changes or cancellations. They actually—as you indicated, they can resell the seat, perhaps much more expensively than the original cost. In 2016, they brought in nearly \$3 billion in revenue.

Things happen. People's plans change. Somebody might get sick. You're stuck, and there is no forgiveness for those fees. I've experienced it. Consumers let us know how frustrated they are about this, and we support your bill, because we think there ought to be a relationship between the cost of rebooking somebody and what the passenger is expected to pay as a result of a change of plans.

Senator MARKEY. Ms. Greenberg, this is a standard carry-on bag. Millions of passengers all across the country are forced to jam a week's worth of clothing into this bag to avoid paying an additional \$120 if the bags get checked. Is it really reasonable, Ms. Greenberg, to charge a person \$120 to check the bags that are going back and forth on a week's trip just because they can't jam it all into one bag?

Ms. GREENBERG. No. We agree with the Southwest Airline president who, several days ago in the House hearing, said, "We think if passengers travel, they may want to carry their clothes along, and we ought not charge them for checking a bag."

Senator MARKEY. So some airlines claim they charge bag fees because checked bags are optional. Ms. Greenberg, is this carry-on bag a viable option for a passenger traveling from Boston to L.A. for a week?

Ms. GREENBERG. Of course not. You have to carry your belongings, your toiletries, and so, no, you have no choice but to check a bag.

Senator MARKEY. So the bottom line is that these fees are just not reasonable, and I'm going to fight very hard to make sure that these fees are checked in this FAA authorization bill which we will be considering.

Ms. Nelson, could you just give us your view on mobile devices on planes in the passenger cabin? Could you tell us how the flight attendants view that?

Ms. NELSON. Yes. The flight attendants' view voice conversations in the cabin the same as the public views them. We do not want them on the plane. This will create more conflict on the plane, and the DOT—or through the FAA reauthorization bill, we should put the final nail in the coffin on this and make sure that there are no voice calls in the cabin. We have very serious security concerns, and we also have just peace of flight concerns.

Senator MARKEY. Thank you. I agree with you 100 percent.

Thank you, Mr. Chairman.

Senator BLUNT. Senator Hassan?

**STATEMENT OF HON. MAGGIE HASSAN,
U.S. SENATOR FROM NEW HAMPSHIRE**

Senator HASSAN. Well, thank you, Mr. Chair and our Ranking Member.

And thank you to the panelists here. I know it has been a long morning.

Look, we all agree that the recent incident in which United forcibly removed a passenger from the aircraft was unacceptable, and so what I think a lot of us are trying to do is now turn to next steps. I do want to acknowledge that United and other airlines have begun efforts to make reforms so that this kind of treatment of customers never happens again, and I thank you, Mr. Kirby, for that.

But to the point some of the other Senators have raised, this incident does not represent just a one-time occurrence or a one-time mistreatment. Constituents all across the granite state, and I'm sure many individuals in this very room, have experienced routinely unpleasant flying episodes on one of the major airlines. In fact, just last year, the Department of Transportation, which tracks incidents like these, received 17,904 complaints across the industry, and those are just the cases that are reported. And I understand about percentages and statistics, but if you're one of those 17,904 people, statistics don't make much of a difference to you.

So it's not acceptable that we have this level of difficult occurrences, and we can't just throw up our hands and say that's the way it always has to be, or, in my view and many of my constituents, can we just say voluntary action by the airlines is enough. That's why I've introduced, along with some of my colleagues, the Tickets Act, which would improve transparency for consumers, review overbooking policies, guarantee paying customers have a right to fly, and make some other common sense reforms.

I'm glad that United has made voluntary measures. It sends a nice message. But it's not the same thing as a guarantee. Consumers want to know that United won't change its mind later when the industry changes or the finances change. So I believe that consumers deserve to fly safely and comfortably, particularly at a time when the industry is earning record profits, and, believe me, my constituents are aware of that, too.

So, Mr. Kirby and Ms. Pinkerton, will you commit to working with me and my staff as we approach the FAA reauthorization on measures like those included in the Tickets Act that will improve air travel for customers?

Ms. PINKERTON. Yes, we're very happy to work with you, Senator. I do want to urge caution, and I think, as we discussed previously, many of the items that are in your legislation do make sense, and that's why carriers have stepped up and said, yes, it doesn't make sense for us to remove a passenger from a plane.

That said, I do urge caution in going into this kind of mandatory, one-size-fits-all approach, because what we've seen in the past is that there are unintended consequences, and it does end up increasing the cost of travel, which—and I know all of the members on this committee feel strongly about service to their local communities. That gets impacted, too. So we just need to be cognizant of those impacts.

Senator HASSAN. I understand that. You always have to balance this. But I think a lot of my constituents would say that airlines treat them in a one-size-fits-all manner, and that they are not treated as individuals and customers with rights. We are a democracy, and people's money is supposed to have value and buy them a certain expected experience, right?

Ms. PINKERTON. We agree.

Senator HASSAN. Thank you.

Mr. Kirby?

Mr. KIRBY. Yes, ma'am. We absolutely will look forward to engaging with you and your staff on all these issues.

Senator HASSAN. Thank you.

Ms. Greenberg, do you have comments or thoughts on the Tickets Act?

Ms. GREENBERG. Yes. We support the Tickets Act. I think it offers a lot of very positive benefits to consumers, including not allowing involuntary bumping; eliminating limits on the compensation for bumping; limiting overbooking practices, which we talked about a little while ago—we don't understand why overbooking happens in this day and age when passengers have already paid for their flights—and requiring appropriate disclosures by the carriers. So, yes, we think it's a great bill, and we look forward to working together with you to get it enacted.

Senator HASSAN. Thank you, and because my time is running down and it has been a long day, I will submit my other two questions for the record.

I just want to note not only do I share the concerns about whether overbooking is still a policy that makes sense in this day and age, but I'm very concerned that airlines have had policies that bump the passengers who either aren't frequent flyer members or have bought the lowest priced tickets first, and since they are often people who can't afford to buy higher priced tickets or become frequent flyers, that seems unfair.

Finally, I'll just note, Ms. Nelson, I would look forward to working with you on some of the issues you've raised on behalf of flight attendants. We all appreciate the difficult work you all do and the importance of being able to deescalate and help people travel safely.

Ms. NELSON. Thank you very much, Senator.

Senator BLUNT. Thank you, Senator.

Senator Heller?

**STATEMENT OF HON. DEAN HELLER,
U.S. SENATOR FROM NEVADA**

Senator HELLER. Mr. Chairman, thank you. Thanks for the hearing, and I want to thank our panel for being here also. I recognize and realize this has been a long day, but I would like to get through my questions.

I guess the first question is I want to make sure that we're all on the same page, and that is that we realize that air flight and passenger care does determine the quality of any trip an individual goes on. The reason I'm saying this is that, obviously, in a state like Nevada, tourism is an important function for us. It's just not Las Vegas. It's Hawaii, Orlando, or wherever—New York, wherever

they may want to fly, and I don't want it lost—the emphasis that air travel is just as important sometimes as the experience that they may have at their destinations.

I tell you that to say this. I asked a few years ago a gentleman from the southern end of Nevada who builds hotels why he doesn't build hotels in northern Nevada. This was a number of years ago, and he said that because of the fact that when you fly into northern Nevada, whether it's the airport at Lake Tahoe or the airport in Reno, the flight is so turbulent that he doesn't believe anybody would come back after doing that one or two times. Now, technology, obviously, has increased substantially, and it's not nearly as bad as it was 15 or 20 years ago, and that's a good thing.

But here's my reasoning. Last year—and, Ms. Greenberg, maybe you can answer this. Last year, there was an amendment by Mr. Schumer on a bill—and I don't recall what bill it was—and that was that he was going to regulate and determine what the size of seating should be in an airplane. Do you recall that?

Ms. GREENBERG. Yes. There have been several bills introduced on the shrinking size of seats, the shrinking aisles, the shrinking baggage area, and the shrinking bathrooms in airplanes.

Senator HELLER. Did your organization have a position on that?

Ms. GREENBERG. We think that this move toward shrinking space in every conceivable way on the airline is dangerous and should be prevented.

Senator HELLER. Things like leg room and all that?

Mr. GREENBERG. Yes, leg room and everything else. It's a dangerous trend. It makes it harder for passengers to get in and out. It creates safety hazards if people have to deplane. And it makes it much more difficult for citizens with disabilities to get in and out of an airplane. So we do think there has to be some limits. The airlines don't seem to pay attention too much to the discomfort of consumers, because American Airlines—in a stunning display of tone deafness, as we are preparing for this hearing—today announcing that they're going to shrink yet again the distance between seats to 29 inches so they can jam more seats on the plane. But, unfortunately, we don't have a whole lot of control unless we enact legislation to prevent further shrinking of the cabin area so more seats can be jammed in delivering more profit for the industry.

Senator HELLER. What's more important, the room in an airplane with seats or your tray that goes up and down in front of you? Because they sure put a lot of emphasis on that tray. What about seating? What's more important, when it comes to emergencies and getting in and out of the plane?

Ms. GREENBERG. Certainly, the distance between seats, I think, is the thing that I would look at, and also the size of the bathroom, and the size of the aisles, and the overhead luggage, smaller spaces are leading to very tense and frustrating conditions for passengers.

Senator HELLER. Mr. Kirby, do you support legislation that would determine the amount of leg room in an airplane?

Mr. KIRBY. No, sir, and the reason is we want to offer our customers choice. It costs the same to fly an airplane—essentially almost exactly the same to fly an airplane regardless of how many seats.

Senator HELLER. But it's choice with a cost. It's choice with a cost. If you want economy-plus, you have to pay more.

Mr. KIRBY. Yes, sir, and fares have come down dramatically, and part of that is putting more seats on airplanes. Some of the bills wouldn't have that much effect on United, I think, because most of the bills—we're already compliant with those minimums. But for some airlines, you would be taking 10 percent to 20 percent of the seats off airplanes, and since it costs almost exactly the same to fly the airplane, prices just economically would go up 10 percent to 20 percent.

One of the great things that's happened for consumers—and we've talked about it some here today—is declining air fares. The Bureau of Transportation Statistics said yesterday that real fares in Chicago in the last—at O'Hare in the last 25 years are down 53 percent, and that's possible because there are more people on airplanes.

Senator HELLER. If you're taller than six feet, do you have to pay more to get on an airplane than someone that is shorter than six feet?

Mr. KIRBY. No, sir.

Senator HELLER. Are you more discomforted when you're taller than six feet than someone that's shorter than six feet?

Mr. KIRBY. Yes, sir.

Senator HELLER. How about if you weigh under 200 pounds—or more than 200 pounds? Are you more comfortable or less comfortable in one of your seats?

Mr. KIRBY. I imagine the larger you are, the less comfortable an airline or any other seat is.

Senator HELLER. Let me tell you why I'm asking that question. This says American Airlines—and you brought this up—this is out of CNN—is planning to decrease the front to back space between seven of its economy seats by another two inches. American Airlines isn't the only one heading in this direction. United Airlines is considering a similar move. It goes on to say that as the big airlines match each other move for move, the risk is that 29 inches becomes the standard for flying economy in the United States. Is that going to become your standard?

Mr. KIRBY. Sir, I don't know for sure what our standard will be. Today, the majority of our seats are 31 inches or more of pitch. Some of the new seats actually have more personal space, and, you know, pitch is probably not the right metric anymore, because there's more personal space with some of the new seats. But we will endeavor to keep being competitive both on what customers want and on being able to offer low fares to our customers that prefer low fares.

Senator HELLER. Are you saying that—I apologize. One quick question. Are you saying that you will not go down to 29-inch pitch?

Mr. KIRBY. I'm not saying one way or another if we'll go to 29. We haven't made any final decisions.

Senator HELLER. Thank you.

Senator BLUNT. Thank you, Senator.

Senator Cortez Masto?

**STATEMENT OF HON. CATHERINE CORTEZ MASTO,
U.S. SENATOR FROM NEVADA**

Senator CORTEZ MASTO. Thank you.

Thank you all for this enlightening discussion today, and I want to follow up with my colleague from Nevada and ask point blank—I'm not sure you answered the question. Is United going to cut leg room or looking at doing that?

Mr. KIRBY. Ma'am, we are making some changes to existing aircraft today. None of those changes that we've announced so far go down to 29 inches.

Senator CORTEZ MASTO. Right. But does it go down to 28 inches?

Mr. KIRBY. No.

Senator CORTEZ MASTO. So you're currently at 31 inches, correct?

Mr. KIRBY. I believe we have some airplanes that have some rows that are 30 inches. But by and large, we are 31 inches or more today.

Senator CORTEZ MASTO. And right now, no long-term plans to go down to 30, 29, 28 inches?

Mr. KIRBY. I don't know yet.

Senator CORTEZ MASTO. But you think that's part of customer choice?

Mr. KIRBY. Yes, ma'am. If we were going—at any pitch, 30 inches, 31 inches, today, we, on every airplane, offer seats that have more leg room, typically up to 34 inches, even in economy, to give—and large cabins to give customers that choice, whether they want the lowest fare or whether they want more.

Senator CORTEZ MASTO. And can I ask—so the larger leg room—that's usually in the exit rows? Or where else would it be located on the plane?

Mr. KIRBY. It's typically at the front of the economy—it's at exit rows and at the front of the economy cabin. Not always, because seating configuration is dependent on where the exit rows are from a physical location perspective, but as a general rule, they're at the front of economy and at exit rows.

Senator CORTEZ MASTO. So a person with disabilities has no choice, then, but to take something at the front of the airplane, because they normally cannot get back to the back of the airplane. So they're paying more for that?

Mr. KIRBY. No, ma'am. I believe those customers are allowed to sit in the larger seat—I'm not sure. We can get back to you. But I believe they're allowed to sit up front.

Senator CORTEZ MASTO. That's good to know. Where you based, in Chicago?

Mr. KIRBY. Yes, ma'am.

Senator CORTEZ MASTO. How did you get out here today, flying commercial?

Mr. KIRBY. I came out, actually, on Sunday because I was also at the House hearing, and I flew commercial.

Senator CORTEZ MASTO. Do you traditionally fly commercial?

Mr. KIRBY. Yes, ma'am.

Senator CORTEZ MASTO. Did you fly your own airline?

Mr. KIRBY. In this case, I flew on one of the competing airlines, because I came from Phoenix, Arizona.

Senator CORTEZ MASTO. Were you in economy or first class?

Mr. KIRBY. I was in 17-E in economy.

Senator CORTEZ MASTO. And when you fly your airline, are you usually in economy or first class?

Mr. KIRBY. I'd say it's about 70 percent first class and 30 percent economy.

Senator CORTEZ MASTO. And when you fly economy, are you in the back of the plane?

Mr. KIRBY. I tend to be all over. I have a 1-year-old and a 3-year-old, so we go wherever we can find seats.

Senator CORTEZ MASTO. I have a theory that if we required all executives to fly on their planes in the back of the plane, the consumer experience would be much better. It is frustrating for me to hear that you're all about the consumer when every time I get on a commercial flight, there is nothing but complaints from consumers because there is not enough room. There is not enough leg room. There's not enough choice, even though you claim to have choice, and that's the unfortunate part of all of this, and that's why you see the frustration that you have here from all of us, from many of our consumers, many of our constituents. There is a problem there.

The other concern that I have is what is happening to the flight attendants and the crew, because they're bearing the brunt of that frustration from those consumers who are flying. So my next question for you is you heard Ms. Nelson talk about the concerns that are happening right now with the employees that are on the planes flying every single day, from not enough staffing to the fact that airlines forget to and stopped enforcing informing passengers of how they should handle themselves on the plane to also not enough staffing at the gate or on the planes themselves to help deescalate situations.

What are you doing in response—particularly United—doing in response to Ms. Nelson's concerns?

Mr. KIRBY. Well, thank you for the question, Senator, and thank you, Ms. Nelson, for being here with us today. Our flight attendants are there primarily for safety. That is their primary role, and supporting them and creating safety for everyone on that airplane, including the employees and the customers, is our top priority and it is their top priority.

They're also incredibly important to the product. I tell our people all the time that the most important part of our product is not the seat pitch, it's not the meal. It is the flight attendants who interact with the customers, and they do remarkable things every day to take care of our customers, and they have a difficult job.

I have incredible empathy for what Ms. Nelson said. We spend a lot of time engaged with the flight attendants union. One of the things I'm proud of at United that has changed—this is a change, really, in the last—recently, since Mr. Munoz became CEO—is that we have a great relationship and partnership. We don't agree on everything, but we respect each other and we spend a lot of time talking to them on these issues. Now, some of them we don't always agree on, but we always listen. We listen respectfully to them and value—and listen with an open mind and value their input, and we will continue to do that.

United Airlines will be a stronger airline in the long term by having a partnership with not just the flight attendants, but with all of our employee groups. That's one of our critical goals and one of the things we're proud of that we've really turned the corner on in the last two years. It is at the core of everything that we do.

Senator CORTEZ MASTO. Thank you, Mr. Kirby. My time is up, and I don't want to keep it going.

But I would like to hear if there's further discussion in the particular situation with Mr. Dao. I understand United was contracting out with Republic Airlines. I'd like to know, and I haven't heard today, specifically, how and what type of controls and oversight that United has over those contractors, and what, if anything, you are doing now to take action against Republic for what happened in that particular situation?

Senator BLUNT. Mr. Kirby, you'll take that for the record.

Mr. KIRBY. Yes, sir.

Senator BLUNT. Ms. Capito?

**STATEMENT OF HON. SHELLEY MOORE CAPITO,
U.S. SENATOR FROM WEST VIRGINIA**

Senator CAPITO. Thank you all for being here today. I was just trying to figure out what question I want to ask so I make sure I get the answer. So we're talking about the unfortunate incident that happened in Chicago, and then the frustrations of a lot of people surrounding that.

One of the issues that I think, for me—and this is directed to you, Mr. Kirby—and I think for many of us is honesty could be the best policy, in that—and I'm going back to the gate, now. You're back at the gate, and your flight is delayed, and you can get no information. Why is it delayed? How long is it delayed? And, you know, in a lot of cases, they know. The gate agent knows. I could be making alternative plans. In my case, it would be probably renting a car.

What are your protocols at the gate to alleviate the frustration that builds when you know you're not getting the real answer?

Mr. KIRBY. Thank you, Senator, and I share that frustration. It is one of the things we need to improve on. When I flew out here, my wife actually flew from Phoenix back to Dallas on another airline, and there were—it was the day that there were tornadoes in Texas, and she was on a four-hour delay with a 1-year-old and a 3-year-old and got home at 11 and was incredibly frustrated because no one could tell her what was going on.

So it's a problem, but part of the problem is we don't have good information. I promise you that our gate agents want nothing more than to tell you what's going on when they have information. It's—

Senator CAPITO. But when they have the information, are they told to give us the information? A lot of times, I think they're sitting on information. I mean, I understand a thunderstorm in Dallas. I don't understand that the flight attendant couldn't get here because they couldn't get a cab from New York City.

Mr. KIRBY. Yes, ma'am. I promise you our gate agents or flight attendants, if they know—one of the things we're doing—

Senator CAPITO. They're empowered to tell?

Mr. KIRBY. Absolutely. One of the things we're doing at United is creating a new app—and all employees will have a device—for each individual airplane, where they can all talk to each other. The problem is a lot of times, there's a dispatcher back in Chicago that might know what's going on, but in a weather situation, that dispatcher is handling 20 or 30 flights, and they don't—they haven't told the gate—they've got a complicated process to communicate to the gate or the flight attendants. And, usually, it's a flight attendant, a pilot, or a gate agent calling their management and asking, and then it gets bumped up the chain and comes back down. We've got to give them more direct communication.

Senator CAPITO. I would highly recommend that, because I think that would pull the temperature down a little bit before you get onto the flight.

Mr. KIRBY. I absolutely agree, and we plan to roll that out this year.

Senator CAPITO. Well, good. Quickly, on the checked bag issue that I've noticed recently—and we saw the bag that Senator Markey had—those things can get quite heavy, and I worry about it from a safety aspect.

Ms. Nelson, you all, as helping and aiding passengers—but there are some passengers that can't get their bag all the way up. There's some passengers when they bring them down, Lord sakes what's happening to them. Are there protocols around that, and is that an issue for you all?

Ms. NELSON. It's a huge issue for us, and it is a huge issue of passenger-to-passenger conflict as well. We have been working, actually, for many years to try to limit the amount of carry-on baggage coming on board the flight. We were actually supportive of United's basic economy, because it's going to limit the amount of baggage that's coming on the plane, which is going to cut down on the injuries for flight attendants and passengers as well and make it a safer flight.

So, yes, we have, absolutely, concerns about this, and we believe that this is actually something that could be taken on. We have tried to take it on in the past with having templates at TSA, where the baggage does not even get through if it doesn't meet a certain size standard, and this is an issue that needs to be addressed for safety.

Ms. GREENBERG. Senator Capito, if I may just say—

Senator CAPITO. Yes.

Ms. GREENBERG. If the airlines stopped charging \$25 to check luggage you would see that problem diminished substantially.

Senator CAPITO. Yes, it definitely drives you to carry on. I agree with that.

I want to go back to what the Senator before me asked, because we don't have a main line that comes into Charleston, West Virginia. We do have one Delta flight. But most of it is regionals or subcontractors. Do your protocols at United go all the way to every subcontractor that you have—

Mr. KIRBY. Yes, ma'am.

Senator CAPITO.—flying under the United—

Mr. KIRBY. Under the United brand. Our view is whether a customer is flying on United Airlines or flying on one of our regional

partners, it is the United brand, and we need to hold it to the same standards. Our customers are buying a ticket from United Airlines, and we have to hold it to the exact same standards as we do the main line.

Senator CAPITO. Well, that's good to know. I think that's really important.

And then the last comment—I don't know if we have time for an answer on this. Ms. Pinkerton, you have alluded numerous times to the plunging fares. When you live in an area that doesn't have a lot of service, that has regionals, if I want to fly from Charleston, West Virginia, to D.C. and back, which I do quite frequently, it's \$600 for a round trip flight. I can fly—probably, if I really hit it good, I could get to Hawaii on that or maybe even over to Europe if I'm main line to main line.

You know, I fly in a turbo prop at 17,000 feet, dash, eight. What are you going to do—how can you justify—I don't understand the justification for such huge fares on such short hops in less expensive aircraft, and they're full.

Ms. PINKERTON. Yes, I hear your frustration, but I think that—you know, first of all, the fares that we talk about are obviously average fares and not necessarily your location, specific. But fares are essentially supply and demand, and from a small town, I think the fares are going to be more expensive.

We do have good competition in this country. We have four large international carriers and seven smaller domestic carriers. There are no barriers to entry. It's just a matter of which carrier wants to take on that service, and is there a business case for doing so. I mean, that's essentially what it boils down to, and I think we need to be realistic about that in this country, about what type of service every small community can really afford to have.

But we want to grow service, and we are growing service. What I can say is that the more we regulate pricing—and especially Senator Markey's idea about regulating pricing—we used to regulate pricing in this country. In 1974, the flight from JFK to LAX was \$1,480. Today, it's \$320. So—

Senator CAPITO. I could go there twice for my fare.

Ms. GREENBERG. Senator Capito, we think competition would do wonders for your situation in flying to West Virginia, and we see the big four airlines trying to squelch competition, and we want that to stop.

Senator CAPITO. Thank you.

Senator BLUNT. Thank you, Senator Capito.

Senator Duckworth?

STATEMENT OF HON. TAMMY DUCKWORTH, U.S. SENATOR FROM ILLINOIS

Senator DUCKWORTH. Thank you, Mr. Chairman, and I also would like to thank the Ranking Member for convening today's hearing.

Mr. Kirby, no one wants United to succeed more than I. I've been a mileage-plus customer for 30 years. I joined when I was in college, so since 1986, I've been a mileage-plus member. But it's clear to me that the mere fact that we're here today, and that the inci-

dent aboard Flight 3411 was embarrassing and reprehensible—and I hope that you agree with that description of it.

Mr. KIRBY. Yes, ma'am.

Senator DUCKWORTH. Thank you.

So while United Airlines and the Chicago Department of Aviation are working out the important steps to correct the policies that allowed this incident to happen, I am really interested in how much more airlines can do to reaffirm the industry's commitment to customer service and complying with their contracts of carriage.

Ms. Pinkerton, I'd like to talk a little bit about some of these issues. As the industry representative, I'm interested in learning more about the reforms you highlight in your testimony. Will you help compile a list of the reforms your individual airline members have already taken to improve customer service and submit them for the record?

Ms. PINKERTON. Yes, I will do that. They are more detailed in my written testimony, but I'm happy to give you a greater inventory.

Senator DUCKWORTH. That's wonderful. Thank you.

And, Ms. Pinkerton, your organization successfully advocated for a delay in implementation of the mishandled baggage and wheelchair rule that would simply require large U.S. airlines to report on how often they've mishandled wheelchairs so that air travelers with disabilities can easily compare carriers and make informed travel decisions. Did the airline industry think this was in the consumers' best interest?

Ms. PINKERTON. Well, I think what you're referring to is the fact that the Department of Transportation, when the administration changed, hit the pause button on all rulemakings. What they said is they're creating regulatory reform task forces. There's an executive order that requires rulemakings to essentially be cost beneficial. So I don't think hitting the pause button on some of these rules was a decision on the rule, but rather an opportunity to look at the process and make sure that the administration is going to move forward and, if so, how.

Senator DUCKWORTH. But Doug Mullen, the assistant general counsel at Airlines for America, sent an e-mail to the Assistant General Counsel of U.S. DOT asking that it be delayed until January 2019, saying, and I quote, "Industry is facing some real challenges with both parts of this regulation, and we need more time to implement it."

Ms. PINKERTON. Well, I think asking for more time to implement something is imminently fair. I don't know if you were here earlier when I went through kind of the list of things that we have been doing to work with the disabled community, both on training, on increasing lavatory size, on information that's being put out to our crews, and the discussions we're having with the PVA. So this is an area that we've spent an enormous amount of time on, I can tell you, in the last 3 years. We take it seriously, and I think that we're making progress. If we need more time, you know, I think that that's an imminently reasonable request for more time.

Senator DUCKWORTH. As someone who travels and has traveled with a wheelchair for over a decade now, I've seen no improvement, and, if anything, in the last 24 months, I've had two wheelchairs

broken, and I don't see improved training of anyone, especially your baggage handlers. But let me——

Ms. PINKERTON. Well, I am sorry for that, and we want to fix that.

Senator DUCKWORTH. It doesn't appear that way, because it appears to me that you are trying to delay something as basic as collecting data and making it transparent to the public. I'm not asking you to come up with special—you know, extra handling systems. All this rule does is it just says you just have to report how many wheelchairs you break, and as a consumer, I would like to be able to—just like I can look and see that this airline's on-time rate for this particular flight is 80 percent, and the on-time rate for this particular flight on a different airline is this, I can choose. The consumer should be able to choose. You know, I don't——

Ms. PINKERTON. We agree.

Senator DUCKWORTH.—think that that's an unreasonable thing——

Ms. PINKERTON. I don't, either.

Senator DUCKWORTH.—especially when that's already being done.

Ms. PINKERTON. Right.

Senator DUCKWORTH. Individuals with disabilities are people, too, and I have seen wounded warriors on flights to Miracles on a Mountainside being manhandled off of flights, further exacerbating their conditions. I have had to sit there and wait for my wheelchair to show up, and it doesn't show up, or it comes up in pieces. And, as I said, I've been there most recently, just within the last several weeks, where a wheelchair came up broken, and this is multiple airlines.

You know, I think in a perfect world, Congress should not have to act, and airlines would treat all travelers with dignity and respect, and I think that's all the people with disabilities ask for. I don't think—I should think that you would be wanting to speed up this process, not delay, delay, delay.

I'm out of time. Thank you, Mr. Chairman.

Senator BLUNT. Thank you, Senator Duckworth.

Well, thank all of you for responding to questions. Thank you for the questions you will respond to. The record will remain open for 2 weeks. During that time, Senators can submit questions for the record, and when you receive these, you're requested to submit your written answers to the Committee as soon as possible.

This concludes the hearing. I thank the witnesses. The hearing is closed.

[Whereupon, at 12:45 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BILL NELSON TO
SCOTT KIRBY

I.T. Systems

Mr. Kirby, we understand that many of the changes described in United's response to the flight 3411 incident will require changes to information technology systems.

Question 1. How are these changes to your I.T. systems going, and when and how will we know they are successful?

Answer. As promised, United has already completed the necessary I.T. work and successfully deployed an automated system for soliciting volunteers willing to change their travel plans. This new automated check-in process is used when a flight may need volunteers willing to take an alternative flight, ordinarily in exchange for compensation. The customer indicates during the check-in process that she or he is interested in potentially volunteering for another flight if there is ultimately a need and indicates the desired amount in compensatory travel credit they would be willing to accept. Using the information provided by willing customers, the system then generates a list of volunteers for our airport agents' use if a flight is unable to accommodate all passengers holding confirmed reserved space who are present for boarding. Customers who have indicated interest via this process retain the opportunity to opt out of volunteering to relinquish their reservation when contacted by a gate agent if, for example, satisfactory alternative travel arrangements are not available. This program is being rolled out throughout United's network this month following successful beta testing in Cleveland and Phoenix this summer. Our new automated system for identifying volunteers is helping United to better serve our customers, keep our flights departing on time, and bring instances of involuntary denied boarding to an absolute minimum. As a result of our efforts, we have had a 92 percent reduction in all involuntary denied-boardings (IDBs) in September 2017 over September 2016, including 23 days in September with zero DOT-reportable IDBs.

In addition, on July 11 United successfully launched the first phase of our promised new "in the moment" app that enables our flight attendants to resolve customer issues in real time. This new app has been deployed to all United flight attendant mobile devices, empowering them to compensate customers proactively (with mileage, credit for future flights or other appropriate forms of compensation) when a service issue occurs. The next phase of this system, providing similar functionality to United's airport customer service representatives, is on track to launch later this year. Our new real-time tools are part of United's commitment to better serve our customers by giving our passenger-facing employees more options to address customer concerns as issues arise instead of waiting for customers to contact us for resolution after their travel is completed.

Question 2. Please describe any other major changes to your information technology systems and any disruptions these caused.

Answer. Since Mr. Kirby's appearance before the Committee in May, United has had no major customer service disruptions involving flight departure delays caused by information technology system changes. In the second and third quarters of this year, United has successfully kept the percentage of our flights delayed for localized IT-related reasons to historic lows.

Question 3. Also, what do you do to help passengers when there is an I.T. problem that causes disruption to travel plans?

Answer. United implements service-recovery contingency plans to assist customers in the event an IT-related problem causes travel disruptions. These contingency plans are similar to those we implement in irregular operations situations caused by disruptive weather events or significant air traffic system delays. Should a passenger experience a cancellation or misconnection as a result of an IT issue or for any other reason, United does our best to contact the passenger in advance;

confirm the passenger on the next flight we operate that has seats available in the same cabin when rebooking is necessary; and make information about the rebooking available through our website, at airport kiosks and through our airport and contact center agents.

When these situations occur, United makes every effort to transport passengers to their destinations at the earliest available opportunity, which may include via travel on another airline, or to make other suitable arrangements for our customers. Depending on the circumstances, such as if an outage causing travel disruption were to become lengthy and widespread, United may also issue a waiver allowing customers to reschedule or cancel impacted itineraries. United's customer commitments and obligations during irregular operations are governed by and outlined in our contract of carriage (see Rule 24—Flight Delays/Cancellations/Aircraft Changes).

Interline Agreements

Mr. Kirby, the Department of Transportation, along with the Department of Justice, has agreed to numerous domestic airline mergers and joint ventures with foreign airlines over the last decade.

Question 4. Given these mergers, and the fact that many of the large airlines now have intricate relationships with foreign carriers, how are the major airlines cooperating to minimize passenger disruption?

Answer. United is a party to the IATA Multilateral Interline Traffic Agreement (MITA), and has either MITA or bilateral interline agreements with nearly 150 domestic and international airlines. While these agreements themselves do not impact the frequency of passenger disruptions, they do allow United to offer better service to customers whose travel has been disrupted by providing a significant number of additional flight options that may transport customers to their final destinations as close to their scheduled arrival times as possible, minimizing the severity of passenger travel disruptions.

Question 5. What is the status of interline agreements among the carriers that could help ensure that passengers get to their destinations in a timely manner when there is a disruption?

Answer. United maintains nearly 150 active interline agreements with both domestic and international airlines. The primary purpose of most of these interline agreements is to facilitate travel-disruption recovery for our customers.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. CORY BOOKER TO SCOTT KIRBY

Question. Does your airline provide Passenger Service Agents with training on de-escalating techniques and managing hostile situations? If so, how often does this training occur and how do you measure its success?

Answer. United has long included instruction on situational de-escalation in training for frontline personnel for a variety of situations. In addition, the company recently implemented a comprehensive, annual "Customer-Centric Journey" training program for customer-facing employees. This includes all members of our Contact Centers and Airport Customer Service teams that assist our customers on the ground. This more robust training emphasizes diffusing and deescalating difficult situations; using persuasive skills to assist with management of potentially unpleasant conversations, such as those involving denied boardings; and maintaining a positive demeanor and calm communication. United continually reviews, assesses, and improves its training based upon course evaluations, focus groups, and the performance of its frontline employees.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY BALDWIN TO SCOTT KIRBY

Question 1. Does United Airlines train passenger service agents to respond to passengers experiencing overbooking or flight cancellation? If so, please describe initial and recurrent training for agents. In instances of overbooking or cancellation, are passenger service agents authorized to offer compensation to passengers?

Question 2. Does your airline train passenger service agents to deescalate verbal or physical confrontations between agents and passengers? If so, please describe initial and recurrent training. What other procedures are in place to deescalate verbal or physical confrontations between passenger service agents and passengers?

Answer. United has long included instruction on situational de-escalation in training for frontline personnel for a variety of situations. In addition, the company re-

cently implemented a comprehensive, annual “Customer-Centric Journey” training program for all of our customer-facing employees. This includes all members of our Contact Centers and Airport Customer Service teams that assist our customers on the ground. This more robust training emphasizes diffusing and deescalating difficult situations; using persuasive skills to assist with management of potentially unpleasant conversations, such as those involving denied boardings; and maintaining a positive demeanor and calm communication. United continually reviews, assesses, and improves its training based upon course evaluations, focus groups, and the performance of its frontline employees.

United’s passenger service agents are authorized to offer appropriate compensation to disserved customers, and we announced in April that we have increased customer compensation incentives offered for voluntary rebooking to up to \$10,000. Agents are instructed to request assistance from their station leadership should a confrontational situation escalate.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY DUCKWORTH TO
SCOTT KIRBY

Question 1. On March 2, the U.S. Department of Transportation (USDOT) announced a one-year delay of the “Reporting of Data for Mishandled Baggage and Wheelchairs and Scooters Transported in Aircraft Cargo Compartments” final rule. As originally published, this rule would require large domestic airlines to report the number of wheelchairs and scooters they enplane, including any subsequently damaged, on a monthly basis beginning January 1, 2018.

Disability organizations, including Paralyzed Veterans of America, fully supported this rule. Airlines for America requested that USDOT delay implementation based on Administration guidance and unspecified challenges the industry was experiencing with implementation of the regulation. Will your airline commit to expediting its compliance with this rule to meet the original January 2018 deadline?

Answer. The DOT’s rule requiring airlines to report statistics on the enplanement of and any damage to wheelchairs and scooters is part of a much broader rule that makes significant changes to the way in which airlines must track and report their overall baggage-handling performance. That rule impacts reporting regarding all of the hundreds of millions of checked bags airlines carry annually. When the rule was published on November 2, 2016, the Department noted that most airlines had previously advised it that they would need at least 12 to 24 months after the rule became final to reprogram baggage-tracking systems, install new equipment at airports, and train employees to comply with the rule’s requirements. DOT initially set an implementation date of January 1, 2018 for these complex changes, despite the fact that airlines had informed the Department over the course of several years that this major change would require an extended period of preparation to ensure data quality and consistency among carriers.

When the President’s chief of staff issued a memorandum to department heads on January 20, 2017 directing a regulatory freeze pending review, Airlines for America and Delta Air Lines petitioned the Department to delay the baggage rule’s implementation until January 1, 2019, giving airlines adequate time to conduct the extensive work necessary for their compliance with it. The Department agreed, with Secretary Chao noting in her June 7, 2017 letter to Senator Duckworth that “the additional time is necessary to ensure that airlines will be able to submit timely and accurate data on which consumers, including passengers with disabilities, can rely when making their purchasing decisions while the Department continues to review the rule about reporting issues.”

United is working hard, both individually and through its industry association, to prepare for full implementation of the Department’s data reporting changes for baggage performance along with wheelchair and scooter handling. We look forward to receiving further guidance from DOT’s Bureau of Transportation Statistics, which produces technical directives for all new or revised reporting requirements with specific instructions on what must be reported and how to transmit it to DOT that United and other carriers will need in order to make necessary system programming changes. Given the effort required industry-wide to implement these once-in-a-generation changes to the calculation of baggage statistics across the U.S. industry, which will enable the public to compare the performance of different airlines. Unfortunately, it is not feasible for United to meet the rule’s original January 2018 deadline.

As part of United’s commitment to full compliance with all aspects of the Air Carrier Access Act (ACAA), United follows the procedures outlined in 14 C.F.R. section 382.125 when wheelchairs, mobility aids, or other assistive devices must be stowed

in the cargo compartment of our aircraft, including giving them priority over cargo and baggage and returning them promptly to their owners upon landing, and with 14 C.F.R. section 382.129 when passengers' wheelchairs, mobility aids, or other assistive devices must be disassembled for stowage. United has recently invested in 35 new wheelchair lift devices at our hubs and line stations to more safely transfer wheelchairs to aircraft cargo areas for stowage with less damage.

As further evidence of our industry's commitment to air travel accessibility, Airlines for America on behalf of United and its other members, along with the Paralyzed Veterans of America, are working with the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) on a framework for jointly developing proactive initiatives such as design standards aimed at reducing travel-related damage to power wheelchairs. The RESNA membership is voting this month on the establishment of an Assistive Technology for Air Travel committee as the forum for these cooperative efforts, which is expected to be approved.

Question 2. In February 2017, USDOT released the latest figures on disability-related complaints filed directly with airlines. In 2015, passengers filed 30,830 disability-related complaints as reported by 176 domestic and foreign air carriers, which represents a nearly twelve percent increase over 2014. In 2016, passengers also filed 862 disability-related complaints directly with USDOT, which is down from the 944 complaints filed in 2015. Will your airline commit to improved training to better meet the needs of passengers with disabilities and other initiatives to increase your airline's compliance with the Air Carrier Access Act?

Answer. United is committed to ensuring that all customers—particularly our disabled passengers—are treated with dignity and respect. All of United's customer-facing and ramp-service employees, both on the ground and aboard our aircraft, receive robust initial and annual-recurrent training to ensure United is competently meeting the needs of our customers with disabilities with professionalism and respect. Training appropriate to the duties of their roles is provided to our contact-center customer service representatives, airport agents, flight attendants and ramp-service employees. This training covers ACAA obligations, United's policies and procedures, best practices for assisting customers in safely moving through the air travel process, proper handling and stowage of travelers' assistive devices, and soft skills that ensure our passengers' needs are met with courtesy and discretion. Depending on the employee's workgroup and whether the training is for newly-hired or tenured employees, United's training may include classroom, hands-on and computer-based instruction. United has a longstanding Accessible Travel Advisory Board comprised of individuals representing several disabilities and groups such as the Open Doors Organization that meets regularly to discuss issues pertaining to air travel and accessibility and to offer suggestions and advice to improve United's products and services. Our Accessible Travel Advisory Board frequently provides input that is incorporated into United's employee training programs.

United's complaint resolution officials, who are available to provide escalated assistance to customers with disabilities at all of United's locations, receive extensive additional, instructor-led training to ensure that they are thoroughly familiar with all the requirements of the ACAA and are experts on United's policies and procedures with respect to customers with disabilities.

We continuously seek to make ongoing improvements to our training and performance-audit programs not only to increase United's compliance with the ACAA but also to improve the overall travel experience for our customers with disabilities.

Question 3. Over thirty years ago, President Reagan enacted the Air Carrier Access Act (ACAA). The ACAA prohibits discrimination based on disability in air travel. Despite progress, too many travelers with disabilities still encounter significant barriers, such as damaged assistive devices, delayed assistance, and lack of seating accommodations. Without improved access for people with disabilities in air travel many will be unable to compete in today's job market or enjoy opportunities available to other Americans. What proactive steps is your airline taking to improve the travel experience for passengers with disabilities, including veterans, who are catastrophically disabled?

Answer. United takes our responsibilities under the ACAA very seriously. We are committed to treating all customers with dignity and respect, including those with disabilities and those who have served our country in our armed forces. United's employees and contractors receive extensive training on their ACAA Part 382 obligations, and we seek to continuously improve those obligations by maintaining strong relationships with numerous disability organizations throughout the country to keep abreast of the needs of passengers with disabilities and to assimilate their suggestions into our training and policies. As part of this commitment, we have a longstanding Accessible Travel Advisory Board comprised of individuals rep-

resenting several disabilities and groups such as the Open Doors Organization that meets regularly to discuss issues pertaining to air travel and accessibility and to offer suggestions and advice to improve United's products and services. The mission of this group is to ensure that United will continue to offer safe, reliable and accessible transportation for all our customers, including those with disabilities.

We also partner with a number of disability organizations and rehabilitation hospitals around the country as part of our "Project Airport," which provides a simulated travel experience at several of our hub locations in a safe and less-stressful environment to individuals who are newly disabled. This project provides an overview of the ACAA, the TSA screening process, and the experience of boarding an aircraft with an aisle chair. At some of our airport locations, we have also partnered with Veterans Moving Forward to allow disabled veterans with service dogs to come to the airport and become familiar with our aircraft.

In addition to these partnerships, we maintain an ongoing dialogue with our partners and stakeholders to identify ways our airline can continue to improve and better serve our customers with disabilities. All these efforts are designed to ensure that every step of the travel experience is within reach for all of United's customers.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO
TO SCOTT KIRBY

Question 1. Contracting out services have become a very common airline practice. This is something I mentioned at the end of my time during the hearing. In the case of the recent United incident, your own pilots have emphasized the fact that the employees involved in that situation were not in fact United's, but were those of Republic Airlines. I was wondering, how much oversight and control do you have over the behavior and handling of situations where the travelers purchased a ticket from United, but gets the services of another company?

Answer. While United Express carriers operate under their own FAA certificates and must, by law, maintain operational control of their airline, each United Express carrier—including Republic—is contractually obligated to perform in keeping with key service standards that United has established to ensure our customers experience a seamless product. These standards define Express carriers' responsibilities to meet United's customer service requirements and product-delivery objectives, and are focused on each of our key customer-facing functions: at the airport, onboard the flight, and upon arrival at the destination airport. There is a department at United's headquarters specifically focused on managing the performance and compliance of our United Express partners. Any changes to the performance standards that United determines are necessary are made at the sole discretion of United Airlines, and are not subject to contractual negotiations.

Question 2. Have there been any discussions about actions you're taking towards or with Republic Airlines?

Answer. United takes full responsibility for the events of United Express Flight 3411. We are pleased that United and Dr. Dao have reached an amicable resolution of the unfortunate incident that occurred aboard flight 3411. We are implementing the improvements we announced, which place our customers at the center of everything we do.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BILL NELSON TO
SHARON PINKERTON

Airline Passenger Bill of Rights

Ms. Pinkerton, one major problem for passengers is the variance in consumer assistance practices among airlines. On one airline you may be able to change flights for a nominal fee; on another you lose the value of the whole ticket. And if you happen to get stranded by weather or some other event, it's often like the Wild West for passengers—they have no idea what they are going to get.

Question 1. Has Airlines for America done anything to put together a voluntary set of consumer commitments for its members? If you really want to deal with these issues, some self-regulation seems like a really good place to start.

Answer. U.S. airlines have long held voluntary Customer Service Commitments. These commitments, along with airline contracts of carriage, are available on every major airline's website. The Customer Service Commitments are clear, well established and easily accessible to travelers at the click of a button. Beyond the existing Customer Service Commitments airlines have also recently taken additional steps to improve customer service, including, but not limited to—

- Completely eliminating or reducing overbooking;
- Prohibiting use of law enforcement to remove passengers from a flight, except in cases of safety or security;
- Ensuring that no passenger is involuntarily removed from a flight for another passenger;
- Ensuring that crews traveling must be booked at least 60 minutes prior to departure;
- Giving gate agents the discretion to offer higher amounts of money as an incentive for customers to voluntarily take a different flight;
- Airlines are renewing their focus on training for all customer-facing staff to make sure they are taking care of passengers, not just getting them from point to point; and
- Efforts are underway to provide passengers even more transparency and understanding about what their rights are as consumers.

For easy reference, our member airline Customer Service Plans are accessible at the following links:

- Alaska Airlines: <https://www.alaskaair.com/content/about-us/customer-commitment/customer-commitment-overview>
- American Airlines: <https://www.aa.com/i18n/customer-service/support/customer-service-plan.jsp>
- Hawaiian Airlines: <https://www.hawaiianairlines.com/about-us/customer-service-plan>
- JetBlue Airlines: <https://www.jetblue.com/legal/customer-service-plan/>
- Southwest Airlines: <https://www.southwest.com/assets/pdfs/corporate-commitments/customer-service-commitment.pdf>
- United Airlines: <https://www.united.com/web/en-US/content/customerfirst-print.aspx>

I would also point out that differentiation among airlines, the predicate of your question, is a hallmark of competition, including the services offered with respect to changing flights or assisting customers when a disruption occurs. Differing business models by brands, with varying levels of customer service and amenities, allow a variety of prices and services to meet the needs of all customers, whether in the retail clothing industry, hotel industry or airline industry.

Interline Agreements

Ms. Pinkerton, the Department of Transportation, along with the Department of Justice, has agreed to numerous domestic airline mergers and joint ventures with foreign airlines over the last decade.

Question 2. Given these mergers, and the fact that many of the large airlines now have intricate relationships with foreign carriers, how are the major airlines cooperating to minimize passenger disruption? What is the status of interline agreements among the carriers that could help ensure that passengers get to their destinations in a timely manner when there is a disruption?

Answer. A4A does not have an opinion on any specific interline agreement since they are governed by the voluntary contractual relationship between two or more private entities under the full approval of government regulators.

However, as a general matter, the well-being and safety of every traveler is and will remain the highest priority for U.S. airlines. Airlines will continue to take actions and participate in voluntary agreements that make sense for their individual business models to make sure the ultimate industry goal of providing a safe, efficient and enjoyable travel experience is attained by each passenger.

Airlines operate in an intensely competitive environment and each competitor knows that their customer service policies will and do dictate consumer purchasing decisions.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. CORY BOOKER TO SHARON PINKERTON

Question. Does your airline provide Passenger Service Agents with training on de-escalating techniques and managing hostile situations? If so, how often does this training occur and how do you measure its success?

Answer. For Airports, we cover the following in the Customer Service Modules in new hire classes.

- What to Do When Things Don't Go As Planned
- What Pushes Your Buttons?
- Recognizing Your Own Stress, Symptoms of Stress, Maintaining Our Cool
- Dealing with Triggers
- Stages of Anger
- Choose Words Carefully, Body Language and Non-Verbal's, Active Listening and Empathy

For those Airports Crewmembers who are qualified as Complaints Resolution Officials (CROs) and Ground Security Coordinators (GSCs), below is a summary of what they receive in training re: deescalating and hostile situations.

CRO

- Training on interacting with Customers with disabilities in stressful or hostile situations
- Real play activities for interacting Customers with disabilities in demanding situations within DOT Rule 382 guidelines

GSC

- Training on signs/symptoms of persons who are believed to be under the influence of drugs or alcohol
- Training on use of assertive communication techniques
- Training on staying calm in stressful or hostile situations
- Rules for personal safety when dealing with an intoxicated or impaired Customer
- Activity for removal of a disruptive Customer

There is both Initial and Recurrent (annual) training for these. Success in training is measured by demonstration of proficiency and application of knowledge for the respective programs. Ultimately success is measured by the actions taken during these situations in the operation.

RESPONSE TO WRITTEN QUESTION BY HON. TAMMY DUCKWORTH TO SHARON PINKERTON

Question. In December 2016, USDOT announced that the Advisory Committee on Accessible Air Transportation (ACCESS Advisory Committee) convened by USDOT had reached stakeholder agreement on improving access to lavatories on certain single-aisle aircraft and in-flight entertainment for passengers with disabilities. Will your organization urge implementation of these agreements as written? Will your organization urge USDOT to issue the proposed rules as required under Section 2108 of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114-190)?

Answer. "A4A supports and urges implementation of the Advisory Committee on Accessible Air Transportation negotiated rulemaking consensus agreement for accessible lavatories on single-aisle aircraft and for accessible in-flight entertainment. The consensus agreement was reached after a lot of hard work and extensive negotiations among all stakeholders. We will not urge USDOT to issue a supplemental notice of proposed rulemaking based on Regulation Identification Number 2105-AE12 as reported on June 15, 2015 because the Department should focus on regulatory proposals that have reached stakeholder consensus."

Background Information:

Section 2108 of the FAA Extension, Safety, and Security Act of 2016

SEC. 2108. AIR TRAVEL ACCESSIBILITY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue the supplemental notice of proposed rulemaking referenced in the Secretary's Report on Significant Rulemakings, dated June 15, 2015, and assigned Regulation Identification Number 2105-AE12.

Secretary's Report on Significant Rulemakings, dated June 15, 2015

Abstract: This is the third of three supplemental notices of proposed rulemaking (SNPRM) to follow-up on air travel accessibility issues discussed in the preamble of the 2008 Air Carrier Access Act (ACAA) final rule. (The first SNPRM is RIN 2105-AD96; the second is RIN 2105-AE32.) This rulemaking action would consider (1) whether carriers should be required to supply in-flight medical oxygen for a fee to passengers who require it to access air transportation; (2) whether any safety-re-

lated reasons specific to foreign carriers may preclude the carriage of service animals other than dogs on their flights and whether certain changes should be made to provisions allowing carriers to require medical documentation and 48 hours advance notice from users of emotional support and psychiatric service animals; (3) whether carriers should be required to provide accessible lavatories on certain new single-aisle aircraft; (4) whether carriers should be required to report to the Department annually the number of requests for disability assistance they receive; and (5) whether to broaden the scope of passengers with disabilities who must be afforded seats with extra leg room, and whether carriers should be required to provide seating accommodations with extra leg room in all classes of service. The proposed rule would also clarify certain existing requirements pertaining to the carriage of service animals.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO
TO SHARON PINKERTON

Issue #1—Airline fees

Question 1. Have the policies to decouple flight ticket costs and fees associated with various services like baggage handling, modest snacks provided, or changing of flights—worked to provide consumers/fliers any better flying experience?

Answer. Yes, they have. Fares are now cheaper, air service is more plentiful, competitive offerings have increased and the quality of baggage handling, inflight food/snacks, entertainment/WiFi, and the like has improved materially.

- Inflation-adjusted domestic fares have fallen 22 percent since 2000 (17 percent including ancillaries) and, more recently, we are in the third consecutive year of real declines in domestic airfares: from 2014 to the first half of 2017 inflation-adjusted domestic airfare declined roughly 10 percent (the average price paid for ancillary services was flat over this period). Thus far in 2017, while major every cost—including most notably labor and fuel—is going up, fares continue to trend down thanks to the intensely competitive landscape across the industry.
- The supply of seats being offered domestically is at its highest level in a decade and those offered for international seats are at an all-time high.
- Service quality has improved, as corroborated by the [attached] findings of the most recent American Customer Satisfaction Index for air travel (<http://www.theacsi.org/the-american-customer-satisfaction-index>) and J.D. Power 2017 North America Airline Satisfaction Study (<http://www.jdpower.com/press-releases/jd-power-2017-north-america-airline-satisfaction-study>). According to the U.S. Department of Transportation, in 2016 U.S. airlines recorded their best-ever year for baggage handling (99.73 percent success rate), their highest flight completion rate (98.83 percent) since 1992, their highest on-time arrival rate (81.42 percent) since 2012, and their lowest-ever rate (0.62 per 10,000 passengers) rate of involuntarily denied boarding.

Question 2. Are they getting any better value for their hard earned dollars?

Answer. In addition to seeing fares continue to decline in real terms, air travelers are seeing service options proliferate as global network carriers, low-cost carriers and niche or hybrid carriers all grow, making air travel affordable for those whose options were previously limited to surface transportation. In fact, survey research shows that half the American population traveled by airline in 2016, up from just 1 out of every 5 Americans in 1971. WiFi availability and speeds are improving rapidly, airlines are restoring meal service on many flights and enhancing the quality of snacks/meals on many others, and continually investing not only in new, quieter more fuel-efficient aircraft but also in kiosk, app and website functionality for passengers to purchase flights, monitor flight status, check in for flights, track their bags, modify their itineraries, rebook, etc. As noted in the attached, “Scores are higher this year than one year ago in all of the study factors that measure customer satisfaction.”

Issue #2—WiFi security

Question 3. I have just recently heard concerning details from a traveler who was hacked, on her laptop, by a well-known malware product while she was connected with an airplane WiFi. There is no other option for WiFi service on an airplane—the traveler is captive. Can you please document for me the protections that are in place, and the security, or potential lack thereof, that travelers are provided or warned about by logging onto airline in-air WiFi?

Answer. Unfortunately, I do not have the information or ability to comment on the specific incident you have referenced. However, as a general matter, airlines are committed to protecting the privacy and personal data they receive from customers. The specific commitments and protections of each policy may differ from carrier to carrier but all applicable information can be found as part of their respective air carrier Privacy Policy documents.

Question 4. Can we expect the consumer is provided protection from various cyber security concerns?

Answer. See Question 3.

Question 5. What recourse do travelers have in cases that I've heard and read about?

Answer. See Question 3.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO
TO SARA NELSON

Issues #1—Airline Policies

Question 1. Do you get input on what policies your airlines initiate, i.e., size of the seats?

Answer. Generally no. Our involvement in cabin configuration typically depends on the status of the labor/management relationship. Size and number of seats is not typically a subject that we receive more than a courtesy advance notice, unless it is a brand new aircraft. AFA is always available to our airlines to provide feedback and input. Our experience is that when airlines involve our union, the product and implementation of new product is better and works better for passengers and crews managing the work space.

Question 2. Flight seating situation or overbooking?

Answer. Generally no, although we may be involved in situations that overlap with safety or security issues.

Question 3. Fees associated with services?

Answer. No.

Question 4. Fee levels?

Answer. No.

Question 5. Boarding policies?

Answer. This varies by carrier. AFA is a good ally for airlines when developing these policies and again, our experience is that when AFA provides input and coordinates on implementation the process is more successful for implementation and practice.

Question 6. Is it possible that one could argue that your members end up on the receiving end of some traveler's frustration due to policies they can't truly influence or improve?

Answer. Yes. I believe airlines should rely on AFA's expertise and knowledge when contemplating any procedural changes. Economic forces can make this challenging, but we believe that there can and should be an assessment of impact on safety and security. This may be an area where an industry common denominator helps alleviate economic forces. And to reiterate, as the experts in the cabin, any policy will be better crafted with our input.

Issue #2—Safety and Security of those on airplanes

Question 7. I have been active in working to ensure that victims of sexual assault or harassment don't have to live in fear or without justice. And I hear stories and worry about possible incidents that are against airline staff, mainly flight attendants, as well as passengers. Do you have a firm sense of the frequency of these incidents that occur in a given years' worth of air service?

Answer. I hear from members about the increasing frequency of incidents and we also track reports through our AFA Air Safety, Health and Security Department. In past, when airlines collected reports in paper form, AFA would get a hard copy, making it easier for us to keep track. In today's world, most reports are filed electronically on hand held report. AFA does not receive copies of electronic reports, unless Flight Attendants initiate the copy to AFA. It would be helpful if we were copied as a matter of course. We also conducted a recent survey of our members regarding passenger on passenger sexual assault.

- One out of five responding flight attendants has experienced a report of passenger on passenger sexual assault while working a flight.

- The most common action taken by an intervening Flight Attendant was to physically separate the passengers and notify all flying partners.
- Law enforcement was contacted or met the plane less than half of the time.
- Most intervening actions taken must have been due to the resourcefulness of the intervening involved Flight Attendants as the overwhelming majority of responders report no knowledge of written guidance and/or training on this specific issue available through their airline.

Question 8. What is the process for documenting or investigating incidents that take place just before or during flights?

Answer. There is no Federal requirement for flight attendants to report incidents. Company policy dictates what type of reports should be submitted and how often.

Question 9. What can we better protect everyone's flying experience or get justice for those who are treated in an inappropriate or malicious way?

Answer. It seems that consumer choice doesn't support changing the conditions of today's competitive aviation market, but there are steps we need to take in aviation to ensure we don't get this wrong.

- Staffing at the gate and on the plane needs to increase to ensure aviation workers have the ability to identify problems early and the time to de-escalate and resolve them.
- It is past time to install cockpit secondary barriers and follow through with providing crewmember self-defense training to all cabin crew.
- We must tackle the issue of out of context videotaping that violates the privacy rights of other passengers, showcases events out of context, escalates tensions and provides free surveillance of crew movement to terrorists.
- We need to address the issue of high energy fires and mitigate unnecessary risks.
- We need to strictly enforce the carry-on baggage policy at every stage of travel including transit or connection in order to prevent a conflict over storage space before it begins.
- Flight Attendants need clear guidance in dealing with non-compliant passengers and they need to know management and regulators support them in following these procedures.
- We encourage placards reinforcing the role of crewmembers and passenger acknowledgement at the point of check-in.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. TAMMY BALDWIN TO
SALLY GREENBERG

Question. Please describe barriers travelers with disabilities, including veterans, currently encounter in air travel. Further, please describe industry best practices that may help close remaining service gaps in air travel for individuals with disabilities.

Answer. While the air travel experience for the average consumer is far from ideal, the barriers for travelers with disabilities, including veterans are even worse. Travelers with disabilities face a range of obstacles while traveling by air, including the threat of damage to medical equipment such as wheelchairs and a lack of access to lavatory facilities.

To elaborate, one of the biggest obstacle members of the disabled community face is the large number of wheelchairs damaged by the airlines. There have been numerous reports about damaged wheelchairs, in the media¹ and from veterans themselves.² This problem has even affected U.S. Senator Tammy Duckworth, whose wheelchair was damaged by the airlines several times.³

¹Fox News. "United 'destroyed' custom wheelchair worth \$42K, says passenger." July 12, 2017. Online: <http://www.foxnews.com/travel/2017/07/12/united-destroyed-custom-wheelchair-worth-42k-says-passenger.html>

²Paralyzed Veterans of America. "Paralyzed Veterans of America Challenges Administration Rollback of Protections for Disabled Air Travelers." CISION PR Newswire. July 31, 2017. Online: <http://www.prnewswire.com/news-releases/paralyzed-veterans-of-america-challenges-administration-rollback-of-protections-for-disabled-air-travelers-300496976.html>

³Duckworth, Tammy. "Letter to U.S. Transportation Secretary Elaine Cho." April 17, 2017. Online: <https://www.duckworth.senate.gov/sites/default/files/DoT%20Disability%20Protections%20Rule.pdf>

Another obstacle for travelers with disabilities is shrinking seat and lavatory sizes.⁴ This has had an especially negative impact on travelers with disabilities who are often forced to dehydrate themselves or otherwise refrain from using the bathroom for hours due to single-aisle airplanes lacking accessible lavatories.⁵ In some cases, even “accessible” are not truly accessible and have caused injury to travelers with disabilities.⁶ When combined with normal airline delays, the lack of accessible onboard lavatory facilities and aisle-accessible wheelchairs on board airplanes have even led to instances where travelers with disabilities were forced to crawl down the aisle in order to reach a lavatory.⁷ Fortunately, there is pending legislation, Senator Blumenthal and Senator Markey’s Passenger Bill of Rights, which would require that all airplanes be equipped with lavatories that meet the needs of passengers with disabilities.⁸ NCL is proud to support such pro-passenger legislation.

The first step to fix this problem should be gathering better data on the frequency that airlines damage wheelchairs. In October 2016, the Department of Transportation (DOT) finalized a rule which requires airlines to report all of the wheelchairs that they damage as they currently are required to do with lost or damaged baggage.⁹ Recently however, leadership at the DOT chose to delay the implementation of the final rule at the request of the airline industry.¹⁰ Travelers with disabilities, including veterans will not benefit from this important consumer protection until at least January 2018, much to the disagreement of consumer and veteran groups like the Paralyzed Veterans of America.¹¹

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO
TO SALLY GREENBERG

Issues #1—Airline mergers

Question 1. Ms. Greenberg, to your knowledge, when was the last time a large airline merger was not approved by the DOT and DOJ?

Answer. The most recent blocked airline merger occurred in 2001 when Department of Justice (“DOJ”) halted the proposed merger between U.S. Airways Group and United Airlines.¹² In deciding to reject the proposed merger, the DOJ cited concerns regarding “reduced[d] competition, raise[d] fares, and harm [to] consumers” stemming from the increased market share held by the two airlines.¹³ At the time, United and U.S. Airways were the second and sixth largest domestic airlines, respectively. The DOJ was deeply concerned by this consolidation, and the monopolistic impacts that would occur on specific routes as a result of the proposed merger.¹⁴

Unfortunately, the blocking of the United-US Airways merger has been the exception, rather than the rule in recent decades. Rapid airline consolidation has occurred under both Republican and Democratic administrations. In the last decade, 13 air-

⁴McCartney, Scott. “Feel Squished? Airlines Are Shrinking Headroom, Too The distance between your eyes and the seat in front of you is shrinking.” Wall Street Journal. December 8, 2016. Online: <https://www.wsj.com/articles/feel-squished-airlines-are-shrinking-headroom-too-1481130493>

⁵Eng, Dinah. New York Times. “Smaller Bathrooms on Planes Pose Challenges for Passengers.” December 23, 2016. Online: https://www.nytimes.com/2016/12/23/travel/smaller-airplane-bathrooms-challenges-for-passengers.html?_r=0

⁶Cumming, Malcolm. “[Not So] Accessible On-Board Lavatories—Flying Disabled,” AirlineReporter.com. September 21, 2015. Online: <http://www.airlinereporter.com/2015/09/not-accessible-board-lavatories-flying-disabled/>

⁷Gray, Melissa and Roth Samuel. “United Airlines apologizes after disabled man crawls off flight.” CNN. October 27, 2015. Online: <http://www.cnn.com/2015/10/25/us/united-airlines-disabled-man/index.html>

⁸Office of Senator Edward Markey. “MARKEY, BLUMENTHAL INTRODUCE AIRLINE PASSENGERS’ BILL OF RIGHTS,” Press Release. June 26, 2017. Online: <https://www.markey.senate.gov/news/press-releases/markey-blumenthal-introduce-airline-passengers-bill-of-rights>

⁹Jansen, Bart. “Disabled travelers sue DOT to speed airline reporting about damaged wheelchairs.” USA Today.

¹⁰Paralyzed Veterans of America. “Paralyzed Veterans of America Challenges Administration Rollback of Protections for Disabled Air Travelers.” CISION PR Newswire. July 31, 2017. Online: <http://www.prnewswire.com/news-releases/paralyzed-veterans-of-america-challenges-administration-rollback-of-protections-for-disabled-air-travelers-300496976.html>

¹¹*ibid.*

¹²ABC News. “United-US Airways Merger Dead.” July 27, 2001. Online: <http://abcnews.go.com/Business/story?id=87893&page=1>

¹³Department of Justice. “Department of Justice and Several States will Sue to Stop United Airlines from Acquiring U.S. Airways.” July 27, 2001. Online: https://www.justice.gov/archive/atr/public/press_releases/2001/8701.htm

¹⁴*ibid.*

line mergers have occurred, most notably between Delta Air Lines and Northwest Airlines in 2009, and United Airlines and Continental Airlines in 2010.¹⁵ Today, 80 percent of domestic flights are controlled by just four airlines: American, Delta, Southwest, and United.¹⁶ This lack of meaningful consumer choice allows for the rapid promulgation of excessive fees, substandard services, and rising prices industry-wide.¹⁷

Issue #2—Airline fees

Question 2. Have the policies to decouple flight ticket costs and fees associated with various services like baggage handling, modest snacks provided, or changing of flights—worked to provide consumers/fliers any better flying experience?

Answer. Unfortunately, instead of consumers receiving a better flying experience with more choices, the proliferation of so-called “ancillary fees” has created a “cattle class” where airlines can charge a deceptively low ticket price and then slam passengers with add-on fees. For example, a common fee passengers face is the misleading seat assignment confirmation fee, which can trick travelers into thinking they must pay to “confirm” their seat when in reality they are only paying to choose their seat early.¹⁸ Add-on airline fees today encompass practically every area of the flying experience. Consumers pay fees for everything from checked and carry-on baggage and the “privilege” of sitting in humanely-sized seats.¹⁹ In 2015 alone, American, Delta and United collected \$14.69 billion from add-on fees, a 177 percent increase from the \$5.3 billion they collected from such fees in 2008.²⁰

While the airlines claim that it has never been a better time to fly, DOT has received a 70 percent increase in consumer complaints in recent months.²¹ This strongly suggests that consumers are increasingly unhappy with the service they receive from the Nation’s airlines.

Question 3. Are they getting any better value for their hard earned dollars?

Answer. In spite of historically low fuel prices and historically high load factors, consumers are paying more to fly. According to an Associated Press analysis, fares climbed 5 percent in the 10-year period ending in 2015, after adjusting for inflation.²² The true cost of flying may have grown even more, as the AP analysis did not account for the proliferation of ancillary fees. These fees take the shape of baggage fees, cancellation fees, standby fees, seat reservation fees and other forms of nickel-and-diming. In 2015 alone, American, Delta and United brought in \$14.69 billion in ancillary revenue, a staggering 177 percent increase from the \$5.3 billion they collected from such fees in 2008.²³ A *Wall Street Journal* analysis of airfares, including add-on fees, found that from 2007 to 2014—a period coinciding with the worse economic crisis since the Great Depression—the price of the average round-trip domestic flight increased nearly 16 percent to \$291.30.²⁴

¹⁵ Airlines for America. “U.S. Airline Mergers and Acquisitions.” Online: <http://airlines.org/dataset/u-s-airline-mergers-and-acquisitions/>

¹⁶ Klose, Kerry. “Travel Groups Want Congress to Investigate Airline Competition (or Lack Thereof)” *Time*. February 2, 2016. Online <http://time.com/money/4204413/airline-competition-congress/?iid=sr-link1>

¹⁷ *ibid.*

¹⁸ Elliott, Christopher. “As airlines try to monetize seat assignments, are disabled passengers being left behind?” *Washington Post*. April 20, 2017. Online: https://www.washingtonpost.com/lifestyle/travel/as-airlines-try-to-monetize-seat-assignments-are-disabled-passengers-being-left-behind/2017/04/20/71114994-2460-11e7-bb9d-8cd6118e1409_story.html?utm_term=.8596dce26f9a

¹⁹ “Safety risk of shrinking airline seats questioned,” *Los Angeles Times*. April 14, 2015. Online: <http://www.latimes.com/business/la-fi-airline-seat-risks-20150414-story.html>

²⁰ IdeaWorks. 2016 Yearbook of Ancillary Revenue. September 2016. Page 4. Online: <http://www.ideaworkscompany.com/wp-content/uploads/2016/09/2016-Ancillary-Revenue-Yearbook-R.pdf>

²¹ Martin, Hugo. “Complaints against airlines jump 70 percent after United’s passenger-dragging incident.” *Los Angeles Times*. June 14, 2017. Online: <http://www.latimes.com/business/la-fi-airline-complaints-20170614-story.html>

²² Koeing, David and Mayerowitz, Scott. “U.S. airports increasingly dominated by 1 or 2 carriers,” *USA Today*. July 15, 2015. Online: <https://www.usatoday.com/story/todayinthesky/2015/07/15/us-airports-increasingly-dominated-by-1-or-2-carriers/30152927/>

²³ IdeaWorks. 2016 Yearbook of Ancillary Revenue. September 2016. Page 4. Online: <http://www.ideaworkscompany.com/wp-content/uploads/2016/09/2016-Ancillary-Revenue-Yearbook-R.pdf>

²⁴ Nicas, Jack. “Airline Consolidation Hits Smaller Cities Hardest,” *Wall Street Journal*. September 10, 2015. Online: <https://www.wsj.com/articles/airline-consolidation-hits-smaller-cities-hardest-1441912457>

Unfortunately for consumers, these independent studies show that amid declining customer service standards, the cost to travel by air is only increasing. If trends continue, we fear that air travel may soon become unaffordable for many Americans.

