

The US Department of Transportation (DOT) under Secretary Pete Buttigieg recently announced sweeping new initiatives to significantly strengthen oversight and enforcement of airline consumer protection laws. These actions represent the largest expansion of aviation consumer protection action in DOT's history. Aviation operators including air carriers, ticket agents and other air travel companies should prepare for continued attention from federal and now state regulators.

New Bipartisan Airline Passenger Protection Partnership

DOT has launched a partnership with 18 state attorneys general (AGs) to bolster investigation and enforcement against operators for unfair or deceptive practices. Key aspects include:

- A "fast-track" system for state AGs to refer aviation misconduct cases to DOT for prioritized federal enforcement action
- Requiring cooperation with state investigations into consumer complaints
- Providing state AGs access to the DOT's consumer complaint database
- Enhancing coordination between federal and state authorities on airline oversight

This partnership will vastly expand DOT's oversight capacity. Operators should anticipate DOT to leverage the collective resources and authorities of federal and state agencies across the country.

Memoranda of Understanding (MOU) were signed with the Attorneys General of California, Colorado, Connecticut, District of Columbia, Illinois, Maine, Maryland, Michigan, Nevada, New York, New Hampshire, North Carolina, the Northern Mariana Islands, Oklahoma, Pennsylvania, Rhode Island, the US Virgin Islands and Wisconsin.

In addition to the 18 attorneys general who have signed MOUs, another seven attorneys general – Delaware, Massachusetts, Minnesota, Oregon, Tennessee, Vermont and Washington – have expressed an interest in doing so. DOT is encouraging other state attorneys general to sign onto the initiative.

To view an example of one of the signed MOUs, [click here](#).

Historic Fines, Refunds and Policy Changes

The announced MOUs are the continuation of a focused consumer protection agenda from DOT. Other actions under the Biden-Harris administration include:

- Issuing over \$164 million in fines for consumer violations, compared to \$71 million in total fines from 1996-2020
- Securing over \$3 billion in refunds/reimbursements to passengers
- Obtaining new commitments from all major US airlines to guarantee free rebooking, meals and hotels for significant delays/cancellations caused by the airline

Pending Consumer Protection Rulemakings

DOT is also using its rulemaking authority to lean forward on aviation consumer protection. DOT is currently pursuing rulemakings that would:

- Ban family seating junk fees and guarantee fee-free family seating
- Require full fee transparency for baggage and changes/cancellations before booking
- Make passenger compensation and amenities mandatory for airline delays/cancellations
- Ensure prompt refunds for canceled/changed flights and significantly delayed baggage
- Provide refunds when paid services like Wi-Fi are not provided as advertised
- Expand accessibility rights for disabled passengers using wheelchairs

Congressional Legislation to Further Enhance Protections

DOT's actions are complemented by uniquely bipartisan interest in the aviation passenger experience. Pending FAA reauthorization bills in Congress including provisions to:

- For the first time, the DOT's Office of Aviation Consumer Protection to be led by a senate-confirmed assistant secretary to ensure that there is an active, politically accountable leader
- Set clear standards for consumer refunds based on length of delay
- Triple maximum civil penalties for airline violations to \$75,000 per violation
- Require 24/7 customer service access and full fee/rights transparency
- Mandate policies on reimbursing passengers for hotels/meals

- Establish airline operational resiliency plans to prevent mass disruptions
- Enhance accessibility and accommodation for disabled travelers

Risks to Operators

These federal and state efforts to strengthen consumer protections pose substantial risks for aviation operators, including:

- Significantly heightened scrutiny of policies/practices from joint federal-state task forces
- Potential for much higher fines, penalties and enforcement actions
- New mandates related to traveling families, fee transparency, refunds, compensation for delays/cancellations and customer service.
- Additional requirements for operational resiliency, accessibility and accommodating disabilities
- Litigation exposure from state AGs in addition to the federal government

Operators should carefully review all customer-facing policies and operations to ensure full compliance and mitigate risks under this rapidly changing regulatory landscape. These organizations must also prepare for heightened enforcement from federal and state authorities.

Our firm's complement of aviation lawyers and policy professionals stand ready to answer any questions related to these DOT, State AG and Congressional activities.

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