

Congress of the United States
Washington, DC 20515

June 30, 2021

The Honorable Pete Buttigieg
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Buttigieg:

We write to urge the Department of Transportation (DOT) to protect air travelers from an unfair business practice that has pervaded aviation during the coronavirus pandemic — the denial of cash refunds for cancelled flights and the issuance of flight credits that will soon expire. The failure of airlines to promise that these credits will never expire has made it clear that action by your Department is necessary. We accordingly request that the DOT use its consumer protection authority to force airlines to do the right thing.¹

At the outset, we reiterate our belief that airlines should offer a cash refund for all tickets canceled during the coronavirus pandemic, whether the flight is canceled by the airline or traveler. Many Americans proactively cancelled their flights to protect their health at the urging of health officials, only to find themselves ineligible for refunds that would have been available had they waited for airlines to cancel their flights for them. Americans need cash in their pockets during this emergency, and it is unconscionable that airlines are largely refusing to return customers' money on a technicality, even as the industry sits on more than \$10 billion in unused travel credits.² This urgent problem is reflected in the 500 percent increase in passenger complaints that the DOT has received during the pandemic, driven largely by refund-related concerns.³

We believe the DOT must take strong action to address these complaints and ensure the return of travelers' money. At a minimum, it is imperative that the DOT does not allow pandemic-related flight credits to expire. These credits began to pile up when, due to health concerns, financial difficulties, and closed borders, countless consumers began canceling flights in early 2020. Rather than issue cash refunds, many airlines instead issued temporary flight credits that are now beginning to expire—alongside hard-earned frequent flier miles.

Worse still, airline policies governing flight credits are needlessly complex, making it unnecessarily difficult for consumers to redeem these flight credits before they expire. Across the

¹ 49 U.S.C. § 41712(a).

² Scott McCartney, *The Airline and Hotel Pandemic Vouchers That May Prove Worthless*, Wall St. J. (Mar. 17, 2021), www.wsj.com/articles/the-airline-and-hotel-pandemic-vouchers-that-may-prove-worthless-11615986078.

³ Refund-related complaints comprised 82.8% of all DOT complaints in 2020, up from 6.6% in 2019. OFF. OF AVIATION CONSUMER PROTECTION, AIR TRAVEL CONSUMER REPORT 63 (2021), https://www.transportation.gov/sites/dot.gov/files/2021-02/February_%202021%20ATCR.pdf?source=email.

airline industry, current policies governing refunds, flight credits, and frequent flier miles are opaque and can differ considerably from company to company. For example, many airlines offer multiple types of flight credits, all with different restrictions and expiration dates.⁴ This patchwork of policies creates significant confusion for consumers, some of whom are discovering their credits and frequent flier miles have already expired or will expire before they feel safe traveling again.⁵ As a result, many consumers who were saving up their miles and credits to visit friends and family are now at risk of losing them.

Additionally, conditions on flight credits can vary significantly from airline to airline and make the redemption process exceedingly difficult even when flight credits have not expired.⁶ For instance, some airlines allow travelers to use their flight credits across multiple trips until all the credits are depleted.⁷ However, on other airlines, if a traveler books a flight using flight credits and the new flight costs less than the original flight, the traveler loses the unused flight credits and the airlines pocket the residual value.⁸ Moreover, some airlines have stated that travelers cannot use certain types of flight credits to book flights operated by a partner airline even if it operated the original flight.⁹ Because travelers are struggling to navigate this patchwork of airline policies, we fear that countless consumers will be unable to redeem their flight credits or will redeem them at a loss.

Although we acknowledge that many airlines will respond to individual travelers' concerns on a case-by-case basis, more flexibility, fairness, and consistency must be the default. Consumers should not have to jump through hoops or spend hours on hold before having their concerns heard. Instead, all airlines and ticket sellers must make it easy for consumers to utilize flight credits, redeem frequent flier miles, and obtain well-deserved refunds by default.

In order to protect travelers, we have attempted to work with the airlines to achieve a voluntary solution to this pressing problem: simply removing expiration dates from any pandemic-related travel credits. Lawmakers wrote to all the major domestic airlines last month, urging each company to clarify its consumer policies, extend the validity of their flight credits indefinitely, and offer cash refunds for all flights canceled during the coronavirus pandemic.¹⁰ Regrettably, seven airlines accounting for more than 70 percent of the domestic market refused to individually respond to this letter, choosing instead to have their trade association respond without providing

⁴ Michelle Baran, *How to Make the Most of Your Expiring Pandemic Flight Credits*, AFAR.com (Apr. 2, 2021), <https://www.afar.com/magazine/the-best-ways-to-use-expiring-covid-flight-credits>.

⁵ Dawn Gilbertson, *'I was completely flabbergasted: A year into pandemic, travelers finding some flight credits are expiring*, USA Today (Mar. 8, 2021), <https://www.usatoday.com/story/travel/airline-news/2021/03/08/flight-credit-covid-pandemic-canceled-flight-southwest-american-united/6904547002/>.

⁶ Scott McCartney, *Airlines Aren't Making It Easy to Use Covid Credits*, Wall St. J. (Dec. 28, 2020), <https://www.wsj.com/articles/airlines-arent-making-it-easy-to-use-covid-credits-11609171369>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Letter from Edward J. Markey & Richard Blumenthal, United States Senators, to Alaska Airlines, Allegiant Air, American Airlines, Delta Air Lines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, Southwest Airlines, Spirit Airlines, and United Airlines (May 10, 2021), https://www.markey.senate.gov/imo/media/doc/flights_credits_all_airlines_combined.pdf.

any commitments to do better by the flying public.¹¹ We consider the airlines' inadequate response to this letter to constitute a refusal to voluntarily address this consumer crisis. As such, we believe it is time for the DOT to intervene.

The DOT is uniquely empowered to act upon claims of anti-consumer conduct in the transportation industry. As the Secretary of Transportation, you have the authority to “order [an] air carrier . . . to stop” an “unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation” after a hearing if it is in the public interest.¹² We cannot think of an airline business practice that could be more “unfair” than the industry’s behavior on refunds and credits during the pandemic, or a matter more in the “public interest” than protecting travelers’ hard-earned dollars.

Accordingly, we strongly urge you to require airlines to do right by the flying public. The coronavirus pandemic has created unprecedented challenges for air travelers, and consumers deserve cash refunds for tickets canceled during the pandemic. At a minimum, it is imperative that all flight credits issued during the pandemic are made valid indefinitely by default and frequent flier miles do not expire as a result of travelers having chosen not to fly during the pandemic. We urge you to act swiftly to address these concerns, and we stand ready to work with you to protect air travelers. There should be no expiration date for consumer protection.

Thank you for your attention to this important matter.

Sincerely,



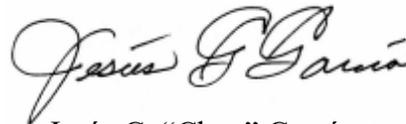
Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator



Steve Cohen
Member of Congress



Jesús G. “Chuy” García
Member of Congress

¹¹ Letter from Nicholas E. Calio, President and CEO of Airlines for America, to Senators Edward J. Markey & Richard Blumenthal, United States Senators (May 28, 2021), https://www.markey.senate.gov/imo/media/doc/a4a_response_on_behalf_of_its_member_airlines.pdf.

¹² 49 U.S.C. § 41712(a). The public interest includes “developing and maintaining a sound regulatory system that is responsive to the needs of the public” and ensuring the “availability of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices.” 49 U.S.C. §§ 40101(a)(4), (7).