



**FLYERSRIGHTS.ORG**



The Honorable Elaine Chao  
Secretary, U.S. Department of Transportation  
1200 New Jersey Ave. SE  
Washington, DC 20590

April 12, 2017

Re: Suspension of Airline Oversales BY FAX AND EMAIL

Dear Secretary Chao:

FlyersRights.org, the largest non-profit airline passenger organization in the United States representing airline passengers, is not only deeply concerned about the violent treatment of passengers by airline employees, as again evidenced by this week's video of a United passenger being forcefully dragged, bleeding from a United flight against his will, but also DOT regulations that grant airlines special exemption from normal common law.

FlyersRights.org is accordingly calling on you to immediately suspend the right of airlines to sell more tickets than they have seats, as this has become a major cause of passenger abuse and is unnecessary for airline finances. *See* 14 C.F.R §250. Over half a million passengers annually are having their trips delayed or ruined due to this practice. *See* Air Travel Consumer report available at <http://bit.ly/2p5UMrh>.

The DOT is charged with prohibiting "unfair or deceptive" airline practices. And through the FAA, the DOT issues airline corporations certificates of public convenience that grant the valuable privilege of selling scheduled air transportation services to the public. *See* 49 U.S.C. §41712; 14 C.F.R. §250.

Under normal contract and consumer protection law, it would be unlawful to sell more tickets than there are seats. But because of this special rule, some passengers will be denied boarding or even removed from a flight for the commercial convenience of the airline. Only because of the DOT rule allowing this practice and exempting airlines from normal breach of contract consequential damages is this unfair practice allowed. Under the DOT's over sales rule, overbooking is allowed as long as the airline asks for volunteers first before forcing passengers to deplane or not board. And then provides compensation at a maximum of \$1350 flights for domestic flights. *See* 14 C.F.R. §250.

No other transportation or travel companies regularly engage in selling more space than they have with a special dispensation by the US Government.

The original 45 year old justification (that airlines would lose too much money do to no shows if not allowed to overbook) is obsolete. Today flights are 80% to 100% full and there are very few no shows. The airlines either require the passenger to forfeit the fare paid or charge a hefty penalty for change or cancelation. They can then resell empty seats to standby passengers at high fares thereby making more money, not less, from no shows.

United Airlines and others were fined in 2016 for giving passengers inaccurate information on their compensation rights, showing they are gaming and violating the already overly generous contrary-to-general-contract-law bumping rule. *See Reuters, Four U.S. airlines fined for inaccurate information about bumping compensation*, Aug. 26, 2016, available at <http://reut.rs/2oY0Bah>.

Airlines also oppose a rulemaking petition by Flyersrights.org pending your decision to require airlines provide plain language notices to passengers of their compensation rights, which for international trips, under the Montreal Convention art. 19 and EU rules, provide for delay compensation up to \$5,500. *See FlyersRights.org Petition for rulemaking/Compensation rights available at <https://www.regulations.gov/document?D=DOT-OST-2015-0256-0001>*; Montreal Conv. art. 19, available at <http://bit.ly/2ptM6HA>.

FlyersRights.org is also calling on you to grant the pending rulemaking petitions of Flyersrights.org to reinstate the reciprocity rule. *See FlyersRights.org Petition for Rulemaking/Reciprocity rule available at <https://www.regulations.gov/document?D=DOT-OST-2016-0197-0001>*.

All these measures would reduce the Number One passenger complaint: Delay and Unreliability.

We look forward to further discussion of this issue in the next two weeks.

Sincerely,

/s/

Paul Hudson, President

FlyersRights.org

Member, FAA Aviation Rulemaking Advisory Committee (1993-present)

Member, FAA/TSA Aviation Security Advisory Committee (1997-2007)

Former President, Families of Pan Am 103/Lockerbie

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CC Blane Workie, Asst. General Counsel for Aviation Proceedings and Enforcement