

**BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

In the matter of: :
: :
Notice of Proposed Rulemaking :
Concerning Enhancing Airline : **Docket No. DOT-OST-2010-0140**
Passenger Protections :

STATEMENT IN SUPPORT TO EXTEND THE PUBLIC COMMENT PERIOD

The Air Transport Association of America, Inc., (ATA), Regional Airline Association (RAA), Air Carrier Association of America, Inc. (ACAA) and our respective members, have a strong interest in the proposed rule (published in the Federal Register at 75 FR 32318 on June 8, 2010) seeking to change airline passenger consumer regulations.¹ A 60-day comment period, closing August 9, 2010, has been provided. By this filing, ATA, RAA, and ACAA support the International Air Transport Association's request to extend the comment period an additional 60 days for the reasons explained below.

First, the Department's proposal seeks to further expand regulations that just took effect on April 29, 2010, while many U.S. air carriers are still adjusting to and assessing the impact of these new obligations. The breadth of this new proposal requires extensive carrier internal coordination to assess the impacts on customer service, website and internal program technologies, airport operations, legal, marketing, cabin safety, and outside vendors. Carriers will also have to coordinate and assess several areas against other U.S. Government proposals or requirements such as the Federal Communications Commission's recent proposal implementing the Telephone Consumer Protection Act of 1991² and Transportation Security Administration and Customs and Border Protection policies. It will require additional time to communicate and coordinate with these other government agencies (an ongoing effort) and evaluate the impact of another set of proposed regulations only 10 weeks after implementing major regulatory changes.

Second, the proposal significantly expands the regulated community, requiring extensive coordination among newly impacted industry members. For instance, the proposal would expand the reach of DOT's regulations to include foreign carriers, regional carriers, ticket agents, airports, in addition to U.S. domestic carriers. Assessing the impact of the proposals on entities not subject to the rules that went into effect on April 29, 2010, especially in terms of the Department's stance on shared responsibility for codeshare operations, creates significant logistical challenges and will require additional time.

¹ Docket No. DOT-OST-2010-0015

² See FCC 10-18 (*Released* January 22, 2010); 75 Fed. Reg. 13471 (March 22, 2010).

Third, in addition to the proposed regulatory changes, the preamble seeks comment on 60 specific issues, many of which have no corresponding proposed regulatory text. Addressing these questions in addition to the proposed regulations delays review and impact analysis because the public must make assumptions about how the Department might propose regulatory text.

Finally, the Preliminary Regulatory Analysis (PRA) developed by Econometrica, Inc. for the Department is over one hundred pages long and requests information on eleven separate proposals included in the NPRM.³ However, notwithstanding Econometrica's efforts, seven of the eleven proposals do not include either a benefit or cost estimate, including two proposals that provide no cost *or* benefit estimates at all. In particular, the PRA does not include cost estimates for (1) incorporating tarmac delay contingency plans and customer service plans into contracts of carriage, (2) prohibiting post-purchase price increases, (3) passenger notification of flight status changes, and (4) limitations on venue provisions in contracts of carriage.⁴ As ATA comments noted in response to the last passenger protection NPRM, forcing carriers to place items in their contract of carriage is likely to have the greatest cost impact on carriers and including an estimate in this area is critical to meeting the cost-benefit analysis required by Executive Order 12866. The only conclusion we can draw from this missing factual data is that Econometrica and the Department ran out of time in developing the PRA. Allowing additional time during this comment period will assist the Department in completing the PRA and receiving input from the many newly regulated parties.

The interested parties will have to develop as much information as possible about initial and future costs and benefits resulting from a final rule in order to provide meaningful input. Speculation will not assist the Department, the public or stakeholders, could lead to inappropriate benefit-cost analysis and decision-making, and would detract from the validity of this rulemaking process. It will be extremely difficult for our members and other stakeholders to develop information that will inform the judgment of the Department regarding this rulemaking. With additional time, our organizations will be better positioned to submit comprehensive industry comments, thus potentially minimizing the number and length of separate comments from individual carriers, and thereby facilitating the Department's analysis

³ Docket No. DOT-OST-2010-0003.

⁴ PRA Table 33, pages 60-62.

In light of the importance of this rulemaking, the lack of estimates in the PRA, and the extensive coordination required to provide the Department input necessary to proceed – the proposed 60 day time period is inadequate. We therefore support IATA’s request that the public comment period for this proceeding be extended for an additional 60 days.

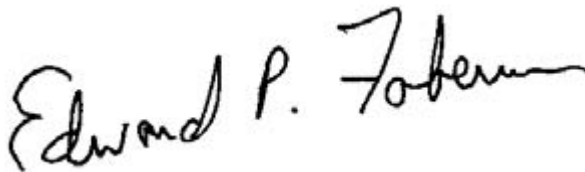
Respectfully submitted,



/S/

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