American Society of Travel Advisors

May 1, 2025

Daniel Cohen
Office of the General Counsel
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Request for Information: Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs ("Regulatory Reform RFI")
Docket No. DOT–OST–2025–0026

Dear Mr. Cohen:

On behalf of the American Society of Travel Advisors, Inc. (ASTA) and the 190,000 Americans working at travel agencies across the country, I am writing to express ASTA's views in response to the Request for Information (the "Request" or "RFI") issued by the Department of Transportation (the "Department") on April 3, 2025, pursuant to Executive Orders 14219 and 14192.[1]

Founded in 1931, ASTA is the leading global advocate for travel advisors and the broader travel industry. Our current membership ranges from independent, home-based businesses and traditional brick-and-mortar storefront agencies to the largest travel management companies (TMCs) and online travel agencies. Together, they account for an annual payroll output of more than $5.5 billion and annual revenues of $17.7 billion. Gross travel agency bookings exceeded $115 billion in 2023, and they are responsible for the sale of approximately 40 percent of all airline tickets. In the first quarter of 2025 alone, sales of air tickets by U.S. travel agencies totaled $27.3 billion.[2]

Travel agencies play a critical role in the broader travel and tourism economy. Advisors serve as a lifeline, offering peace of mind to travelers in the event of an emergency or unexpected change in plans, and serve as strong advocates for their clients throughout the entire process. Likewise, corporations look to TMCs to efficiently manage their employees' travel requirements within budgets and in accordance with their travel policies.

[1] 90 Fed. Reg. 14593 (April 3, 2025).
[2] Airlines Reporting Corporation data. https://www2.arccorp.com/about-us/newsroom/2025-news-releases/march-2025-ticket-sales/.

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Because both travel agencies and individual travel advisors are deemed "ticket agents" under the relevant federal statute,[3] our members' business activities are subject to myriad regulations issued by Department. For example, travel advisors currently are required to make up to seven separate consumer disclosures when selling an airline ticket. These include disclosures related to code share flights, insecticide spraying, price increases, baggage fees, hazardous materials and ticket expiration dates.[4]

And, as detailed below, just last year the Department implemented new regulations requiring, among other things, ticket agents to refund consumers when an airline cancels or makes a significant change to a scheduled flight.[5] Federal regulations such as these impose substantial compliance costs on our members' businesses that in our view do not provide corresponding public benefits to justify the burden. ASTA therefore welcomes the Administration's focus on deregulation in general as well as the specific opportunity presented by the RFI for stakeholders to share their recommendations with the Department.

As identified under Executive Order 14219, regulations that impose either "significant costs upon private parties that are not outweighed by public benefits" or "undue burdens on small business and impede private enterprise and entrepreneurship" warrant particular scrutiny.[6] Given that fully 98 percent of travel agencies qualify as small businesses under the Small Business Administration size standards,[7] the regulations described below satisfy both of these criteria and are therefore suitably appropriate targets for outright repeal or, at a minimum, substantial modification to limit the scope of, and the burden associated with, their application.

1. Eliminate the Ticket Agent Obligation to Issue Consumer Refunds for Canceled or Substantially Changed Flights

In August 2022, the Department issued a Notice of Proposed Rulemaking (NPRM) entitled "Airline Ticket Refunds and Consumer Protections,"[8] aiming to improve refund processes for airline passengers, standardize the circumstances under which consumers would be entitled to

[3] 49 U.S.C. § 40102(a)(45) defines a "ticket agent" as "a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation."
[4] The authority for these disclosure requirements is codified at 49 USC § 41712(c), 14 CFR 257, 49 USC § 42303(b), 14 CFR 399.88, 14 CFR 399.89, 49 CFR 175.25 and 49 USC § 41712(b).
[5] 89 Fed. Reg. 32760 (April 26, 2024).
[6] 90 Fed. Reg. 14593 (April 3, 2025).
[7] The Small Business Administration assigns a size standard based on NAICS codes assigned to each industry. For travel agencies, NAICS code 561510, the current size limit for small businesses is $25,000,000 in annual revenue. https://www.sba.gov/document/support-table-size-standards.
[8] 87 Fed. Reg. 51550 (August 22, 2022).

receive a refund, and define what constitutes a "prompt" refund.[9] The initiative was largely a response to the surge in refund-related complaints during the COVID-19 pandemic, when passengers encountered great difficulty obtaining refunds from airlines for canceled flights.

One key aspect of the NPRM was the proposal to impose the prompt refund requirement in intermediated transactions on to the "merchant of record" – the entity whose name appears on the consumer's credit card statement.[10] This again was a response to a concern frequently expressed during the pandemic, namely, that consumers were often "forced to go back and forth between the ticket agent and the airline" to secure their refunds.[11]

In its responsive comments to the NPRM, ASTA expressed strong opposition to any prospective requirement that merchant of record ticket agents be responsible to issue consumer refunds and cited numerous reasons in support of its position, summarized in the following points:

- Ticket agents do not retain consumer funds for any meaningful duration. Rather, because payments pass to airlines almost immediately, advisors are not in possession of the funds when a cancellation occurs later.

- Ticket agents are not informed of flight cancellations or schedule changes in real time. Without timely access to airline cancellation and rebooking data, ticket agents cannot determine a consumer's refund eligibility, making it impractical for them to be responsible to issue the refund.

- As airline refund processing typically takes substantially more than seven days, compliance with the prompt refund requirement will necessarily require ticket agents to pay the consumer refund out-of-pocket while awaiting the funds back from the airline. *This creates an unacceptable financial risk to small business agencies.*

- The proposal contradicts longstanding legal principles of agency, which hold that agents are not liable for the actions of their principals – here, the airlines. Requiring ticket agents to advance funds the airlines are responsible to pay defies this norm and lacks a rational basis.

[9] As proposed (and ultimately adopted), a ''prompt'' refund is one issued "within 7 days of a refund request for credit card purchases and 20 days for purchases by other forms of payment." *Id*. at 51573.
[10] *Id.* at 51562.
[11] *Id*.

- The proposal represents a departure from the Department's own precedent prior to the rulemaking limiting a ticket agent's refund responsibility to circumstances where they possess the funds and have the airline's confirmation of refund entitlement.[12]

In April 2024, the Department published its Final Rule, entitled "Refunds and Other Consumer Protections," mandating that air carriers provide automatic refunds when flights are canceled or significantly changed and the passenger opts not to accept whatever alternatives may be offered.[13] Seemingly without regard to the concerns ASTA raised in its comments, the Final Rule tracked the NPRM in requiring merchant of record ticket agents to issue prompt refunds to consumers irrespective of whether the airline had transferred the funds back to the ticket agent. The ticket refund-related provisions of the Final Rule became effective on October 28, 2024.[14]

At ASTA's urging, Congress attempted to address this glaring injustice through the addition of a provision in the FAA Reauthorization Act of 2024 (the "Act"), enacted on May 16, 2024.[15] Specifically, Section 503 of the Act required the Department to issue regulations requiring air carriers to "promptly transfer funds to a ticket agent" where the ticket agent is responsible for providing the refund and it is not in possession of the passenger's funds.[16]

In response to that congressional directive, on August 12, 2024, the Department issued an Amended Final Rule, entitled "Refunds and Other Consumer Protections (2024 FAA Reauthorization)."[17] The amendment sought to align the Department's April 2024 Final Rule with the Act insofar as the Final Rule was silent as to the air carrier's obligation to refund the ticket agent when the ticket agent is merchant of record. Specifically, the amendment revised the applicable implementing regulation, 14 CFR Part 260.6(e), to read, in pertinent part, "where a ticket agent is responsible for providing the refund to the consumer... and the ticket agent does not possess the funds of the consumer, that [sic] carrier that has the funds must *promptly transfer* the funds to the ticket agent."[18]

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[12] Note that this is a summary only. For a complete discussion of ASTA's position on mandating that ticket agents bear responsibility for consumer refunds, please see https://www.asta.org/docs/default-source/testimony-filings/2022/asta-comments-to-dot-refunds-nprm.12.14.22.pdf.
[13] 89 Fed. Reg. 32760 (April 26, 2024).
[14] *Id*. at 32826.
[15] Public Law No. 118-123, 118th Cong. (2024). https://www.congress.gov/118/plaws/publ63/PLAW-118publ63.pdf.
[16] 49 USC § 42305(e)(2).
[17] 89 Fed. Reg. 65534 (August 12, 2024).
[18] *Id*. at 65537 (emphasis added) (amending 14 CFR Part 260.6(e)).

While seemingly the amendment relieved ticket agents of the financial burden associated with advancing out-of-pocket a refund due to a consumer when the ticket agent is the merchant of record for the transaction, in reality it did nothing of the kind, for two reasons. First, the text cited above does not state "prompt refund," which is a defined term with a specific meaning. Rather, it states the carrier must "promptly transfer the funds to the ticket agent." It is unclear whether use of this language was inadvertent or intentional but, whatever the case, the Amended Final Rule left unanswered the key question of *when* the air carrier is obligated to transfer the funds to the ticket agent.

Second, even assuming that the Department were to interpret "prompt refund" and "promptly transfer the funds" as having the same meaning, *i.e.*, within seven days of a refund request for credit card purchases and 20 days for purchases by other forms of payment, there is another difficulty. This is that Part 260.6(e) does not state that the ticket agent's obligation to make a prompt refund to the consumer begins on the date it receives the funds from the carrier, which it should. Without it, because additional time is needed to forward the refund to the consumer, a ticket agent could still be liable for prompt refund noncompliance even if the carrier delivers the funds to the ticket agent within the statutory timeframe.

For these reasons, immediate action to relieve small businesses of this unreasonable regulatory burden is imperative. Moreover, repeal of the ticket agent refund requirement is entirely consistent with both the letter and the spirit of the Executive Orders.

Request: Modify 14 CFR Parts 259, 260 and 399 to eliminate, in its entirety, the obligation of merchant of record ticket agents to issue consumer refunds when flights are cancelled or significantly changed.

2. Streamline Offline Ticket Disclosure Requirements as Directed by Congress in the FAA Reauthorization Act

The FAA Reauthorization Act of 2024[19] also includes a provision directing the Department to issue regulations that streamline the disclosure of certain information when air tickets are sold offline, such as through in-person or telephone transactions.

Specifically, Section 513 of the Act stipulates that the Department shall update the required process under which an air carrier or ticket agent fulfills its disclosure obligations in ticketing transactions that are not completed via a website. It also specifically requires that the updated

[19] Public Law No. 118-123, 118th Cong. (2024). https://www.congress.gov/118/plaws/publ63/PLAW-118publ63.pdf.

process include a means of referral to the air carrier's website for "disclosures related to air carrier optional fees and policies" as well as referral to the Department's website with respect to any other required disclosures. This action is to be taken within 18 months of enactment of the Act.[20]

As noted earlier, as ticket agents, travel advisors are currently required by law to provide up to seven consumer disclosures per air ticket transaction.[21] Some must be conveyed in every transaction regardless of whether it is made online, over-the-phone or face-to-face, while others can be fulfilled via the Internet or the e-ticket receipt. Others are only triggered in specific transactions (*e.g.*, if the consumer is offered a code share flight). In most cases, failure to make a required disclosure is considered an "unfair and deceptive practice"[22] and exposes travel agencies to civil penalties of up to $41,484 per infraction.[23]

The streamlining directive is in keeping with the Administration's aims as expressed in the Executive Orders insofar as the current disclosure regime is unduly burdensome to our members and other air ticket distribution intermediaries. Moreover, providing our members with regulatory relief can be accomplished while still providing consumers with the essential information they require to make informed purchase decisions, as in every case and regardless of sales channel the consumer would be referred to the source providing that information.

The cited provision of the Act further acknowledges the challenges associated with conveying detailed disclosures in offline settings, where space and time constraints can hinder effective communication. By mandating the Department to revise regulations to simplify these disclosures, the Act seeks to enhance transparency and protect consumer interests without overburdening offline sales channels.

Request: Implement Section 513 of the FAA Reauthorization Act of 2024 by amending existing regulations to allow referral to Department and airline websites for disclosures in connection with offline transactions.

3. Eliminate Outdated and Unnecessary Disclosure Requirements Regarding Aircraft Insecticide and Code Share Flights

Separately, but in conjunction with the foregoing, we additionally request that the Department give due consideration to elimination altogether of two of the seven current disclosure

[20] *Id*.
[21] See text accompanying footnote 4, *supra*.
[22] 49 USC § 41712.
[23] The penalty amount is codified in 14 CFR Part 383 ("Civil Penalties") and is adjusted annually for inflation.

requirements, specifically, those pertaining to insecticide treatments and code share flights, as detailed below. With respect to both of these obligations, disclosure to consumers *in advance of ticketing* – as is required currently – represents in our view an unnecessary burden on ticket agents, both in terms of "talk time" expended and the substantial risk associated with inadvertent non-compliance, with no material countervailing consumer benefit.

We reach this conclusion, in part, because existing regulations entitle consumers to a full refund if they cancel their airline ticket within 24 hours of purchase, provided the ticket was booked at least seven days before the scheduled departure.[24] This rule applies to all carriers that operate flights to, from, or within the United States and ensures that travelers have a window to cancel without penalty, promoting transparency and fairness in the ticketing process. Significantly, the right to a refund within the 24-hour period applies regardless of whether the fare purchased is otherwise non-refundable.[25] As such, any consumer who would prefer not to fly on the ticketed flight based on either the prospect of exposure to insecticide, operation of the flight by a code share partner carrier or any other reason already has a remedy.

A. Insecticide Use Disclosure

Federal law currently requires the Department to maintain a website that contains a listing of countries that may require an air carrier to treat an aircraft passenger cabin with insecticides, a process known as disinsection, either prior to the flight or when the cabin is occupied with passengers.[26] It also requires ticket agents offering air travel to countries appearing on that site to disclose "that the destination country may require the air carrier… to treat an aircraft passenger cabin with insecticides prior to the flight or to apply an aerosol insecticide in an aircraft cabin used for such a flight when the cabin is occupied with passengers."[27] The statute further requires ticket agents to refer prospective passengers to the Department's insecticide website when selling travel any of the countries with the disinsection requirement.[28] This referral must be made prior to purchase.

While disinsection of aircraft in practice is somewhat rare, because no fewer than 36 countries currently require insecticide treatment for at least some of their inbound flights, travel advisors must make the disclosure *every time* they offer a consumer a flight to any of those

[24] 14 CFR 259.5(b)(4).
[25] *Id*.
[26] 49 USC § 42303(a).
[27] 49 USC § 42303(b)(1).
[28] 49 USC § 42303(b)(2).

destinations.[29] Hence, the burden is disproportionately great given the relatively small number of flights – and, by extension, passengers – actually affected. Moreover, we are unaware of any enforcement actions initiated by the Department since the requirement went into effect in 2019.

Request: Modify subsection (b) of 49 USC § 42303 to eliminate the insecticide disclosure requirement for ticket agents when selling an air ticket to a destination on the list maintained by the Department.

B. Code Share Flight Disclosure

Code share flights are collaborative agreements between airlines where one airline operates a flight, but another airline (or multiple airlines) may sell tickets for it under its own flight number and branding. Federal law requires that in any communication with a consumer concerning a flight that is part of such an arrangement, the ticket agent must disclose the marketing carrier's name, the operating carrier's corporate name and any other name under which the flight is held out to the public.[30] The regulation has been in effect since 1999.

While ostensibly the regulation exists to ensure that consumers are adequately informed before they travel on flights operated pursuant to a code-sharing arrangement,[31] the disclosure requirements are in our view far more expansive than is necessary to effectively disseminate this information. Indeed, the level of specificity with which the disclosure must be made goes far beyond anything objectively reasonable given the stated purpose of providing adequate notice to the consumer. Moreover, the requirement applies to all communications regardless of medium – oral, written or electronic – and must be made even if the consumer inquiry is informational in nature and no request to book a covered flight is made.

In oral communications, the disclosure must be made "the first time that such a flight is offered to the consumer, or, if no such offer was made, the first time a consumer inquires about such a flight."[32] In online displays, "the corporate name of the transporting carrier must appear prominently in text format, with font size not smaller than the font size of the flight itinerary itself, on the first display following the input of a search query, immediately adjacent to each code-share flight in that search-results list."[33] Online disclosures provided through a hyperlink or

[29] A complete listing of countries with an aircraft disinsection requirement can be found at https://www.transportation.gov/airconsumer/spray.
[30] 14 CFR 257.
[31] 14 CFR 257.1.
[32] 14 CFR 257.5(b).
[33] 14 CFR 257.5(a)(1).

only when passing the cursor over a link are expressly deemed non-compliant.[34] At the time of purchase, a separate written notice of the code share arrangement is also required to appear in the ticket confirmation.[35] The regulation further mandates that an abbreviated notice (*e.g.*, "some flights are operated by other airlines") be included in advertisements for service that may be provided under a code-sharing arrangement.[36]

Even more concerning from our members' perspective is the fact that *any* departure from the above requirements, no matter how trivial, whether intentional or inadvertent, and irrespective whether any consumer was actually harmed as a result of the omission, is deemed under the regulation to constitute an unfair and deceptive practice in violation of 49 USC § 41712,[37] again subjecting the violator to civil penalties of up to $41,484.[38] In this respect, 14 CFR 257 cannot in any sense be deemed to be based on the "best reading of the underlying statutory authority or prohibition."[39] As such, this regulation is precisely the kind that the RFI was issued to help identify for appropriate deregulatory action.

Request: Repeal in its entirety or, alternatively, modify 14 CFR 257 and its constituent subparts to eliminate all code share flight disclosure requirements for ticket agents.

We thank you for considering ASTA's position on these vitally important issues and look forward to further engagement with the Department to achieve a regulatory framework that more equitably balances the interests of the traveling public with those of the small businesses on whom those travelers rely. Should you have questions about the indispensable role travel agencies play in air ticket distribution, or any of our specific proposals, please do not hesitate to contact me at (703) 739-6854 or plobasso@asta.org.

Sincerely,

Peter N. Lobasso
Senior Vice President, Industry Affairs & General Counsel
American Society of Travel Advisors, Inc. (ASTA)

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[34] *Id*.
[35] 14 CFR 257.5(c).
[36] 14 CFR 257.5(d).
[37] 14 CFR 257.4.
[38] See footnote 23, *supra*.
[39] 90 Fed. Reg. 14593 (April 3, 2025).