

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**FREQUENTLY ASKED QUESTIONS REGARDING AIRLINE TICKET
REFUNDS GIVEN THE UNPRECEDENTED IMPACT OF THE
COVID-19 PUBLIC HEALTH EMERGENCY ON AIR TRAVEL**

The U.S. Department of Transportation (Department) is continuing to receive a high volume of air travel service complaints and inquiries given the unprecedented impact of the Coronavirus Disease 2019 (COVID-19) public health emergency on air travel. In a typical month, the Department receives approximately 1,500 air travel service complaints and inquiries. However, in March 2020 and April 2020, more than 25,000 air travel service complaints and inquiries were filed,¹ many of which concern refunds.² Airlines and ticket agents have also requested guidance about their refund obligations.

The Department's Office of Aviation Enforcement and Proceedings (Aviation Enforcement Office), a unit within the Office of the General Counsel, is providing answers to some of the most common questions about refunds to help consumers understand their rights and to ensure airlines and ticket agents are complying with aviation consumer protection requirements. To the extent this notice includes guidance on how regulated entities may comply with existing regulations, it does not have the force and effect of law and is not meant to bind the regulated entities in any way. Regulated entities may rely on this document as a safeguard from Departmental enforcement as described herein.

1. What rights do passengers have if an airline cancels a flight or makes a significant schedule change? What is a "significant change" or "cancellation" requiring a refund?

As explained in the Department's Enforcement Notice issued on April 3, 2020, airlines have an obligation to provide a refund to a ticketed passenger when the carrier cancels or significantly changes the passenger's flight, and the passenger chooses not to accept an alternative offered by the carrier.³ However, neither the term "significant change" nor "cancellation" is defined in regulation or statute. Based on the Aviation Enforcement Office's review of the refund policies and practices of U.S. and foreign air carriers, airlines define "significant change" and "cancellation" differently when fulfilling their obligation to provide refunds.

¹ The Department will provide information about the number of air travel service complaints and inquiries received in March 2020 through its Air Travel Consumer Report (ATCR) to be issued later this month. The number of air travel service complaints received in April 2020 will be available in the ATCR issued in June 2020. The ATCR is normally released by the end of the second week of each month and is available at www.transportation.gov/individuals/aviation-consumer-protection/air-travel-consumer-reports.

² The monthly ATCR contains a table that displays the categories of complaints received, including a separate category for refund complaints. The refund complaint data for March 2020 will be available in the May 2020 ATCR, and the refund complaint data for April 2020 will be available in the June 2020 ATCR.

³ Enforcement Notice Regarding Refunds by Carriers Given the Unprecedented Impact of the COVID-19 Public Health Emergency on Air Travel (April 3, 2020) at www.transportation.gov/airconsumer/enforcement_notice_refunds_apr_3_2020. See also 14 CFR § 259.5(b)(5), and Enhancing Airline Passenger Protections, 76 Fed. Reg. 23110-01, at 23129 (Apr. 25, 2011).

Because “cancellation” and “significant change” are not defined in the context of ticket refunds, airlines may develop reasonable interpretations of those terms.⁴ However, the Aviation Enforcement Office expects carriers to honor those reasonable interpretations in implementing their refund obligations and will focus its enforcement actions on instances where a carrier has disregarded the requirement to offer refunds, failed to honor its refund policies, or where it is determined that the carrier’s refund policies or practices are otherwise “unfair or deceptive” within the meaning of 49 U.S.C. § 41712.⁵

2. What rights do passengers have if they choose not to travel due to safety or health concerns related to the COVID-19 public health emergency?

Passengers who purchase a non-refundable ticket on a flight to, within, or from the United States that is still being operated without a significant change, but would like to change or cancel their reservation, are generally not entitled to a refund or a travel voucher for future use on the airline. This is true even if the passenger wishes to change or cancel due to concerns related to the COVID-19 public health emergency. Although not required, many airlines are providing travel credits or vouchers that can be used for future travel for those passengers electing to cancel their travel due to health or safety concerns related to COVID-19. In reviewing refund complaints against airlines, the Department will closely examine any allegation that an airline misled a passenger about the status of a flight to avoid having to offer a refund.

3. What rights do passengers have if they purchased their airline ticket from an online travel agency?

Ticket agents are required to make “proper” refunds when service cannot be performed as contracted on a flight to, within, or from the United States.⁶ The Department interprets the requirement for ticket agents to provide “proper” refunds to include providing refunds in any instance when the following conditions are met: (i) an airline cancels or significantly changes a flight, (ii) an airline acknowledges that a consumer is entitled to a refund, and (iii) passenger funds are possessed by a ticket agent. In enforcing the requirement for ticket agents to make “proper” refunds, the Aviation Enforcement Office will focus on the totality of the circumstances.

4. May airlines and ticket agents retroactively apply new refund policies?

The Department interprets the statutory prohibition against unfair or deceptive practices to cover actions by airlines and ticket agents applying changes retroactively to their refund policies that affect consumers negatively. The refund policy in place at the time the passenger purchased the ticket is the policy that is applicable to that ticket. The Aviation Enforcement Office would consider the denial of refunds in contravention of the policies that were in effect at the time of the ticket purchase to be an unfair and deceptive practice.⁷

⁴ The Aviation Enforcement Office would consider a practice of retroactively applying a new definition of cancellation or significant change that disadvantages passengers who purchased tickets under a more generous cancellation or significant change definition to be unfair and deceptive.

⁵ Under 49 USC § 41712, the Department is authorized to investigate and decide whether a U.S. air carrier, foreign air carrier, or ticket agent engaged in an unfair or deceptive practice in air transportation or the sale of air transportation. The Department is also authorized to issue orders to stop an unfair or deceptive practice after notice and opportunity for a hearing.

⁶ See 14 CFR § 399.80(l), which states that a ticket agent’s failure or refusal to make proper refunds promptly when service cannot be performed as contracted, or a ticket agent’s representation that such refunds are obtainable only at some other point, constitutes an unfair or deceptive practice.

⁷ The Department considers a practice to be unfair to consumers if it (1) causes or is likely to cause substantial injury to consumers, (2) cannot be reasonably avoided by consumers, and (3) is not outweighed by countervailing benefits to consumers or to competition. The Department considers a practice to be “deceptive” to consumers if it is likely to mislead a consumer, acting reasonably under the circumstances, with respect to a material matter.

5. *May airlines or ticket agents offer credits or vouchers to consumers in lieu of refunds?*

Airlines and ticket agents can offer consumers alternatives to a refund, such as credits or vouchers, so long as the option of a refund is also offered and clearly disclosed if the passenger is entitled to a refund. Further, any restrictions that apply to the credits and vouchers, such as the period in which credits must be used or any fees charged for using the credit, must be clearly disclosed to consumers. If an airline, by representation or omission, engages in conduct that is likely to mislead consumers about their right to a refund, or the value of a voucher or credit that is offered, the Aviation Enforcement Office would deem such conduct to be a deceptive practice.⁸

6. *How quickly must airlines and ticket agents process refunds?*

Airlines and ticket agents are required to make refunds promptly. For airlines, prompt is defined as being within 7 business days if a passenger paid by credit card, and within 20 days if a passenger paid by cash or check.⁹ For ticket agents, prompt is not defined.¹⁰ The Aviation Enforcement Office recognizes that, given the significant volume of refund requests resulting from the COVID-19 public health emergency, processing refunds may take longer than normal and will determine the timeliness of refund processing for ticket agents based on the totality of the circumstances, such as the volume of incoming refund requests and steps taken to address the increased volume. Also, the Aviation Enforcement Office will use its enforcement discretion and not take action against airlines for not processing refunds within the required timeframes if, under the totality of the circumstances, they are making good faith efforts to provide refunds in a timely manner.

7. *What is the enforcement approach of the Aviation Enforcement Office?*

Given the unprecedented impact of the COVID-19 public health emergency on the aviation industry, the Aviation Enforcement Office intends to exercise its enforcement discretion and first provide carriers and ticket agents an opportunity to become compliant. The Aviation Enforcement Office will continue to monitor airline policies and practices and take enforcement action as necessary and appropriate.

Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. You may also send questions regarding this notice by email at C70Notice@dot.gov.

By:

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An electronic version of this document is available at <http://www.dot.gov/airconsumer>.

⁸ *Id.*

⁹ 14 CFR § 259.5(b)(5).

¹⁰ The Department has initiated a rulemaking that would, among other things, require large travel agencies to adopt certain minimum customer service standards that provide a consistent level of consumer protection regardless of where consumers purchase airline tickets and related air transportation services. See www.reginfo.gov/public/do/eAgendaViewRule?pubId=201910&RIN=2105-AE57.