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August 2, 2022

Pete Buttigieg
Secretary of Transportation
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

**Re: Requesting Action by the FAA to Address Problem of Flight
Cancellations and Delays**

Dear Secretary Buttigieg,

I write out of concern for the deeply troubling and escalating pattern of airlines delaying and canceling flights over the past several months, particularly over holiday weekends. I appreciate that you have publicly recognized that such practices are unacceptable and are working to find solutions. I write to provide information about how these delays and cancellations have adversely affected consumers, including those from New York or utilizing New York airports, and to propose actions that the Federal Aviation Administration (FAA) could take to alleviate this problem.

It has been reported that 2.8% of flights have been canceled during the first half of 2022, indicating a 33% increase from the 2.1% of flights canceled at a comparable time in 2019, prior to the COVID-19 pandemic.¹ On July 2, 2022, 29% of Southwest Airlines' flights were delayed, as were 28% of American Airlines' flights.² The cancellation problem has been dire at LaGuardia Airport, where about

¹ Heather Murphy, "Understanding the Summer Air Travel Mess," *The New York Times*, July 1, 2022, <https://www.nytimes.com/2022/07/01/travel/summer-travel-flight-delays-cancellations.html>.

² Natasha Singer, "Mounting Flight Delays. Stranded Fliers. Airlines Struggle with Surging July 4 Demand," *The New York Times*, July 3, 2022, <https://www.nytimes.com/2022/07/03/business/july-4-weekend-air-travel.html>.

6 percent of flights have been canceled this year,³ as well as at JFK International and Newark Liberty International, the other two major airports in the New York City area.⁴ Particularly concerning is that the carrier Jet Blue, which is headquartered in New York City, announced earlier this year that it was canceling up to 10% of its flights during May 2022 and anticipated similar reductions in service over the course of the summer.⁵

My office has received numerous complaints from consumers who have had to rearrange their travel plans and incur great expense to respond to delayed and canceled flights, including the following complaints received during the month of June 2022:

- A mother from Rochester who was visiting Florida with her two young children was left without a flight home when Southwest Airlines canceled their return flight from Orlando. Southwest put the family on a flight the next day, then canceled that flight as well, ultimately offering them a replacement flight three days after their originally scheduled return. The family was stranded in the Orlando airport, having already checked their children's car seats with the airline and needing to return home due to their infant's specialized dietary needs. The family had little choice but to book flights on another airline, spending over \$1,100 to do so – which Southwest failed to compensate with a refund.
- A passenger from western New York was unable to return home from a trip to Louisiana when American Airlines delayed and then canceled her return flight. American rescheduled the passenger's return flight twice, then canceled both those flights as well. American rescheduled the passenger a third time, but then repeatedly delayed that flight to the point that she would miss her connecting flight from Charlotte, North Carolina to Rochester. American offered her yet another flight, but it was not scheduled to leave until five days later than her original return flight. The passenger, who needed to return home to her family and her two jobs,

³ Murphy, *supra*.

⁴ Pete Muntean, et al., "These US airports are the worst for cancellations and delays this summer," *CNN*, July 16, 2022, <https://www.cnn.com/travel/amp/us-airports-most-summer-cancellations-delays/index.html> (reporting that Newark Liberty, LaGuardia, and JFK rank first, second, and ninth nationwide for canceled flights).

⁵ Leslie Josephs, "JetBlue is cutting its summer schedule to avoid further flight disruptions," *CNBC*, Apr. 10, 2022, <https://www.cnbc.com/2022/04/10/jetblue-is-cutting-its-summer-schedule-to-avoid-further-flight-disruptions.html>.

booked another flight on a different airline at great personal expense, which American did not compensate her for.

- United Airlines at the last minute canceled a flight from Buffalo to Newark. As a result, a couple who had planned to fly to Newark for a connecting flight to Europe was forced to drive from Buffalo to Newark to make their flight, then repeat the process in reverse on the return trip since their car was parked in Newark. United offered the couple as a remedy only a credit of \$75 apiece – which did not come close to compensating them for their expenses and inconvenience.
- Delta Airlines canceled an Albany couple's reservation from Albany to Honolulu on the same day their flight was due to depart, providing no explanation of why it did so. Delta offered no replacement flight until two days later, causing the couple to scramble and re-book with another airline to avoid canceling their travel plans. The couple had to pay over \$500 extra to have equivalent service with the re-scheduled airline. They asked Delta repeatedly for a refund but received nothing.

As indicated in the examples above, airlines regularly fail to adequately compensate passengers for delays and cancellations. In such situations, airlines often provide passengers tickets with longer, less direct travel times and later arrivals, but the airlines fail to provide passengers refunds accounting for the difference in value between the tickets they originally purchased and the flights the airlines actually provided. Nor do airlines sufficiently compensate passengers for their time, inconvenience, and expense as they scramble to rearrange their travel plans to get to their destinations on time.

Airlines have attributed cancellations to staffing shortages, particularly due to a purported shortage of airline pilots.⁶ Yet, as you have acknowledged, the pilot shortage is due in large part to actions taken by the airlines forcing pilots into early retirement or otherwise shrinking their pilot pool.⁷

⁶ *E.g.*, Elisha Fieldstadt, "American Airlines pilot calls on FAA to monitor airlines he says are scheduling more flights than they can staff," *NBC News*, June 23, 2022, <https://www.nbcnews.com/news/us-news/american-airlines-pilot-calls-faa-monitor-airlines-says-are-scheduling-rcna34978>; Isabella Simonetti, "Thousands of Flights Are Delayed or Canceled as Holiday Travel Kicks Off," *The New York Times*, July 2, 2022, <https://www.nytimes.com/2022/07/02/business/july-4-weekend-air-travel.html>.

⁷ "U.S. Transportation Secretary Pete Buttigieg discusses air travel problems and cancellations," *CNBC*, July 5, 2022, <https://www.cnbc.com/video/2022/07/05/us->

As a result, it appears that airlines have engaged in a practice of selling tickets knowing full well that there is an unacceptably high probability that due to their available personnel they will be unable to provide all the flights they have advertised and booked. The airlines then keep the money paid by the passengers for the originally reserved flights as if the airlines had provided the services they promised.

We ask that the FAA implement measures action to prevent airlines from continuing these practices and to remedy consumer harm, including the following:

- Require airlines to advertise and sell only flights that they have adequate personnel to fly and support. Perform regular audits of airlines to ensure compliance, thoroughly investigate airlines with excess cancellations, and impose fines on airlines that do not comply.
- Require airlines to provide partial refunds to passengers for any cancellation that results in a rescheduled flight which the passenger accepts but that is later or longer than the originally purchased flight.
- Require airlines to provide full refunds and additional payments for cancellations that require passengers to cancel their flights and assume additional costs, such as flights on other airlines, rental car reservations, gas, or hotel stays, in order to make it to their destination.
- Require airlines to provide full and prompt refunds to passengers, at passengers' request, if flights are delayed for longer than a time period established by the FAA.
- Impose steep fines for domestic flight delays of more than two hours and international flight delays of more than three hours that are not weather-related.

Thank you for your attention to this matter. My office is available to provide more information concerning the complaints we have received from consumers and to assist you, in any way we can, to help remedy these problems.

On a related note, I remind you of my letter last year, dated September 21, 2021, to the Department of Transportation and the FAA urging those agencies to take steps consistent with the President's Executive Order on Competition with regard to slot allocations, waste, and misuse at capacity constrained airports such

[transportation-secretary-pete-buttigieg-discusses-air-travel-problems-and-cancellations.html](#).

Sec. Pete Buttigieg
August 2, 2022
Page 5 of 5

as JFK and LaGuardia.⁸ The mismanagement of limited slots at Level 3 airports impedes competition and hurts passengers across the board. We urge you to take action on this important issue, as rule changes that facilitate competition between the airlines will ultimately benefit consumers

Sincerely,



Letitia James
Attorney General of New York

cc: Stephen Marshall Dickson
Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

⁸ Letter from Letitia James to Secretary Pete Buttigieg and FAA Administrator Stephen Dickson, September 21, 2021, https://ag.ny.gov/sites/default/files/9.21.2021_letter_of_ny_ag_james_to_secretary_buttigieg_administrator_dickson.pdf.