

**STRENGTHENING AIRLINE OPERATIONS  
AND CONSUMER PROTECTIONS**

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**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE**

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

—————  
FEBRUARY 9, 2023  
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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## **STRENGTHENING AIRLINE OPERATIONS AND CONSUMER PROTECTIONS**

**THURSDAY, FEBRUARY 9, 2023**

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:06 a.m., in room SR-253, Russell Senate Office Building, Hon. Maria Cantwell, Chairwoman of the Committee, presiding.

Present: Senators Cantwell [presiding], Klobuchar, Schatz, Markey, Peters, Baldwin, Duckworth, Tester, Sinema, Rosen, Luján, Hickenlooper, Welch, Cruz, Thune, Fischer, Moran, Sullivan, Blackburn, Young, Budd, Schmitt, Vance, and Capito.

### **OPENING STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON**

The CHAIR. We will now turn to the hearing before us. And I would like to call up the witnesses to the table, if I could. We are going to welcome Paul Hudson, President of Flyers' Rights; Captain Casey Murray, President of Southwest Airlines Pilots Association; Andrew Watterson, Chief Operating Officer for Southwest Airlines; Sharon Pinkerton, Senior Vice President, Legislative Regulatory Policy for Airlines for America; and Dr. Clifford Winston, Senior Fellow, the Brookings Institute, who will be joining us remotely today.

So, we are looking forward to hearing your testimony and the ability to interact with you on questions. So, if the witnesses could come to the table, please. OK, thank you all for being here. When winter storm Elliott hit, U.S. travelers experienced an airline debacle of enormous proportions.

While bad weather can happen and is expected, and many airlines recovered quickly, Southwest stood out on its scope of the problems it faced. Over 2 million Southwest passengers suffered consequences, separated from family and friends, not to mention their luggage, and hundreds of thousands of people stranded at airports across the country.

We know that many of them had no clear instructions about what to do next. For example, I heard from many of my constituents in the State of Washington about these issues. I heard from a coach of Rainier High School basketball team in Seattle. He and his wife went through a tremendous ordeal.

It is very important that we understand that consumers do like Southwest Airlines' point to point service. They like that the airline does have many benefits and they like the friendly flight that they

get from their pilots and many of their workers. But Coach Bethea and his wife and traveling party of more than two dozen players and parents, traveled to Las Vegas on Southwest for a holiday basketball tournament.

They were scheduled to fly back to Seattle on December 23rd, but Southwest canceled the flight. When Coach Bethea and his wife contacted Southwest, they were basically told, you are on your own, and they were on their own, all of them, all of those kids and parents stuck in Las Vegas trying to figure out what to do next. They needed hotel rooms. They needed meals. They wanted to try to figure out, if they could, to salvage their Christmas holiday.

They ended up stranded in Las Vegas for 5 days, spending more than \$10,000 on hotels and food, and with no idea how they might get back home. Mercifully, a friend offered to front the cost of a charter bus, and finally, 18 hours later, through the snow, they made it back to Seattle.

Here's what really struck me, though, when I talked to the coach and his wife and many other people I have talked to, they wanted to know after their flight was canceled, what were the alternatives? What could they do to get back home? Particularly because it was the holiday season.

And even though they were missing time with family and friends at Christmas, they also wanted to know about those out-of-pocket expenses, thousands of dollars that they wanted to make sure that they received some information about on how they might get reimbursed. When I spoke to Coach Bethea and his wife recently, they wanted to ask one question.

Mr. Watterson, they wanted me to ask you, and I know you are a busy guy, but what they really wanted was for you to call them. Like many of our consumers, they felt like they were getting the short end of the stick. They didn't know how to communicate to anyone to answer their questions on how long they were stuck.

I know that many of these issues Mr. Hudson is going to talk about, and we will have some ideas, I know we are going to hear about how we can move consumers around more effectively, but doing better also means that making sure that we are not going to give consumers the short end of the stick.

We need to make sure we are investing in technology and the surge capacity that I am sure we are going to hear about. And I am sure we are going to hear about what could have been done before this that would have helped. We are always going to have these weather events, and some of us believe they are going to become more severe.

But what we want is to have a system that is ready to address that and to talk about the alternatives. Captain Murray, President of the Southwest Airline Pilots Association, will tell us for years there was warnings of the need to modernize the outdated—the IT system that was dated. I hope Mr. Watterson can explain why those warnings went unheard.

For mandatory oversight—oh, I am sorry, mandatory overtime shifts, there was a stretch into all these conditions, and I do want to thank all the workers that worked those many hours to try to help this recover. I know many of my constituents said how grate-

ful they were for the individual workers who showed compassion and tried to help them.

But I do believe this sector needs a more effective policeman on the beat. They need someone over at the Department of Transportation who is going to get the job done when we need to make sure that consumers are consulted, that their reimbursement fees aren't continuing to be held up, or as the President said the other night, making sure that children get the access to the seat next to their parents.

I know that these things seem like very basic consumer issues, but somehow, they have been taken for granted, and I think that this incident shows us that we have to get serious about this. Our Committee has the opportunity to implement change, resiliency in an air transportation system that every member of this committee values.

We value it and we want to grow it, but we can't do it on the backs of consumers. So, Mr. Watterson, if you will call my constituent, I will feel better that you will be hearing the real voices of consumers directly.

Thank you. Senator Cruz.

**STATEMENT OF HON. TED CRUZ,  
U.S. SENATOR FROM TEXAS**

Senator CRUZ. Thank you, Madam Chair. And welcome to each of the witnesses at this hearing. A few moments ago, I referenced the bipartisan and pro-jobs legislation that this committee will be moving forward over the next 2 years.

Right at the top of that list is going to be reauthorizing the Federal Aviation Administration. And it is a real opportunity for this committee to focus on aviation safety, and also innovation, and ensuring that we have a competitive aviation sector that gives consumers what they want, which is low prices and the ability to get where they want to go for work or for play, inexpensively and conveniently.

Safety, quite rightly, is the top priority of the FAA, and we should not be compromising on safety with too many recent near misses. We have to consider how to keep our air space safe and efficient. Just this past weekend in Austin, Texas, there was a near disaster that was averted thanks to the quick reaction of the pilots.

But it could have been a horrific day had those two planes collided on that runway in Austin. And it is my hope that we use the reauthorization opportunity to push the FAA safety and technology into the 21st century, to protect competition, and to resist the temptation to get into the business of regulating prices, which will only make air traffic—air travel unaffordable. We all know why we are here today, which is in the middle of the holiday travel rush, tens of thousands of families, including many Texans, missed Christmases at home, missed weddings, medical procedures, and more.

Due initially to an unavoidable weather event, but prolonged for days because of the very serious failures at Southwest Airlines. Now I am a big fan of Southwest Airlines. I spend a lot of time flying Southwest. In fact, I jokingly refer to Southwest as the company plane. It feels like I am on a Southwest plane once or twice

or more a week. And I think Southwest most days does a fantastic job.

I think Southwest employees consistently greet you with a smile, with a laugh. Southwest flight attendants will sing over the intercom. Southwest has done an amazing job inculcating customer service throughout a very large institutions. All of those are commendable. But, when all was said and done, over the Christmas holiday, Southwest had canceled more than 16,000 flights. We will hear more of an explanation today on what happened.

And many people, understandably, were deeply frustrated at not being able to get where they wanted to go, not being able to be with their family. And I have had multiple conversations with senior leadership at Southwest. I am confident they understand it was an epic screw up, and that they are committed to doing everything possible to prevent its recurrence.

The airline has already paid out hundreds of millions of dollars in refunds, free future flights, and reimbursements for stranded travelers' out-of-pocket expenses, and the airline is working hard to win back travelers' trust. What I hope to hear today are the specific concrete steps taken by Southwest Management to ensure that a similar operations meltdown never happens again.

Now, as frustrating as those several days were, the question of whether Southwest has sufficiently made things right will ultimately be answered by the flying public. It will be answered by customers choosing whether or not to book a flight on Southwest.

Because Southwest was issuing refunds and returning baggage, while they were doing so, some Democrats on this committee were proposing the Government step in with overly complex, anti-competitive, and frankly, unnecessary regulations that would collectively have the result of making flying unaffordable for many Americans.

One of the great changes in our lifetime to commercial aviation is the prices of flights have gone way down so that more and more Americans can afford to travel to see a loved one, to travel to go on vacation with the kids. That is valuable.

And instead of rushing to regulate prices and how many drink coupons you get, the Biden Department of Transportation should instead let the flying public vote with their feet. We need to be—as a customer, if I am not confident of an airline's ability to get me from point A to point B on time, I will choose a different airline. Southwest knows this, and it is how they have earned so many customers over and over again.

And the Biden Department of Transportation doesn't seem to have quite the same faith in consumers. Last month, the Department of Transportation announced that it is investigating whether Southwest engaged in "unrealistic scheduling for the holiday season." This provision of law permits the Department of Transportation to decide if a singular route is chronically delayed, which means it is delayed by more than 30 minutes more than 50 percent of the time.

Never one to let longstanding and well-reasoned precedent stand in the way, Department of Transportation now plans to investigate the sensibility of the entire schedule, armchair quarterbacking the scheduling and operations of an entire industry. That's just foolish.

Regulatory overreach as egregious as that would undermine decades of progress in air travel, harming the very consumers that the DOT claims it is trying to protect. To avoid arbitrary fines, airlines would reduce service to pad their schedules. A world in which the Department of Transportation can deem an entire airline's schedule "unrealistic," is a world with fewer flights to smaller airports, in Texas, in Montana, in Nevada, in Arizona, and less flexibility and competition for airlines, and ultimately, higher prices.

Notably absent from today's meeting is Secretary Buttigieg. Just a few weeks ago, the FAA had its own epic screw up with the meltdown of the NOTAM system. Under Secretary Buttigieg's watch, the FAA issued the first nationwide ground stop since 9/11, leading to thousands of canceled flights.

Now, the Department of Transportation didn't give any *mia culpa* to impacted travelers. The Biden DOT didn't issue refunds. It didn't issue reimbursements. It just screwed up their flights, and then proceeded to say, we want to be in charge of how the airlines behave.

Even though the FAA has been modernizing their NOTAM system since 2012, and Congress has fully funded the NOTAM budget, the FAA predicts they won't finish the modernization until 2030. We need to be defending consumers. Thank you, Madam Chair.

The CHAIR. Thank you, Senator Cruz. We will now turn to our witness, starting with Mr. Hudson. Thank you. Welcome.

**STATEMENT OF PAUL HUDSON, PRESIDENT, FLYERSRIGHTS**

[Technical problems.]

The CHAIR. Yes, if you can push your microphone button, please. Thank you.

Mr. HUDSON. Can you hear me now?

The CHAIR. Yes. Thank you.

Mr. HUDSON. Good morning and thank you, Chair Cantwell, Ranking Member Cruz, and Committee members, for including the passenger perspective in this important hearing on airline operations and consumer protections. My name is Paul Hudson. I am here today as President of FlyersRights, the largest airline passenger advocacy organization.

The Southwest Airlines Christmas meltdown, as you know, resulted in 16,700 canceled flights. It impacted directly over 2 million passengers and many more indirectly. It was unprecedented, but not unexpected.

Southwest, as well as other airlines, have had past meltdowns due to obsolete technology, lack of reserves of personnel and equipment, lack of stress testing, and unrealistic and deceptive scheduling.

The Southwest debacle caused many tens of thousands to be stranded overnight or even for days. They missed important events such as weddings, funerals, holiday gatherings, and vacations, work obligations, and even needed medical care, not to mention the mountains of luggage delayed or lost.

Southwest shut down its customer service and could not even communicate with its own employees. The loss to passengers and the economy, which depends on air travel, is well into the billions. Some examples.

Dianne Martinez needed her epilepsy medicine and had to drive 10 hours from Charleston to Nashville because Southwest had no available flights for days and did not accommodate her on another airline. She had to pay \$600 for rental car and hotel stays because of Southwest.

There are many more examples. Kate D. missed her own wedding despite booking a flight scheduled to land more than 2 days before her wedding. She estimated that she and her wedding party lost more than \$70,000 in hotel rooms alone.

Many passengers endured what Christopher Rosales has endured, multiple canceled flights, a night at the airport, and spending Christmas Eve in a hotel. Passengers were unable to talk to any airport representative in person, on the phone or online. All this occurred while other airlines had empty seats.

Because U.S. airlines are not required to pay delay compensation for domestic flights, unlike for international air travel, Southwest avoided over half a billion dollars in delay expenses. Under the current system, airlines are actually incentivized to provide bad service. Good service costs money, and bad service saves money. And that money can be used for dividends, stock buybacks, and executive compensation.

Southwest proudly chose to be the first airline to restore dividends, paying \$428 million in dividends to shareholders in December. Bad press, investigations, low to no fines has not caused it to update its operations. Southwest canceled or delayed half its flights over a few days in June of 21. 1,800 flights in 1 weekend in October of 21. Most airline operational problems are predictable and preventable.

In June, Flyers' Rights sent an urgent letter to Secretary Buttigieg with 17 policy proposals, but to our knowledge, nearly none has been acted on. I would like to emphasize three measures this committee could initiate. First, is EU style delay compensation. The second necessary measure is the pre-deregulation reciprocity rule.

This rule match empty seats on other airlines with passengers whose flights were canceled or significantly delayed at no extra charge. This mitigates delays and consumer harm, is self-executing, and rewards airlines with reliable service while penalizing those without. Flyers' Rights previously filed a formal rulemaking petition with the DOT, but this was denied as unnecessary by Secretary Chao.

The mantra at the time was airline competition will solve all problems. Finally, I would urge this committee to take decisive action to revisit the Airline Deregulation Act of 1978. The current airline, and I know also current airline antitrust practices, unintended consequences lie behind most current air travel dysfunction.

This can be done by establishment of a bipartisan commission or select committee to study the current state of air travel and propose needed reforms in the next 6 to 12 months. I last recall testifying before this committee shortly after 9/11. This committee then forged a bipartisan consensus in a matter of weeks. It persuaded a reluctant House Majority and President to enact structural reform in aviation security.

There has not been a successful aviation bombing or hijacking since. You have the power, and you should have the motivation, to take decisive action to overcome the present crisis in air travel operations and consumer protection.

Thank you again for the opportunity, and look forward to your questions, and to hear the ideas of members and other witnesses.  
[The prepared statement of Mr. Hudson follows:]

PREPARED STATEMENT OF PAUL HUDSON, PRESIDENT, FLYERSRIGHTS

### **Introduction**

Thank you for including the passenger perspective in this very important and long-overdue discussion. My name is Paul Hudson, and I am the President of FlyersRights.org, the Nation's largest airline passenger advocacy organization, with over 60,000 members/supporters.

### **The Southwest Meltdown's Effects**

The December Southwest Airlines Meltdown is the most recent meltdown in a long string of airline meltdowns over the past decade. This recent meltdown alone resulted in over two million stranded passengers, families sleeping at airports, mountains of delayed or lost passenger luggage, and passengers missing important events such as weddings, funerals, holiday family gatherings, cruise ship vacations, and business meetings.

Dianne Martinez, needing her epilepsy medicine, had to drive 10 hours from Charleston to Nashville because Southwest had no available flights for days and did not re-accommodate her on another airline.<sup>1</sup> She had to pay \$600 for a rental car and hotel stay because of Southwest.

Katie Demko missed her own wedding despite booking a flight scheduled to land more than two days before her wedding day.<sup>2</sup> She estimated that she and her wedding party lost more than \$70,000 from hotel rooms alone.

Many passengers endured what Christopher Rosales endured: multiple canceled flights, a night at the airport, and spending Christmas Eve at a hotel.<sup>3</sup> Passengers were unable to talk to any airport representative in person, on the phone, or online.

### **Southwest's Incentives**

This all occurred while other airlines had empty seats on their flights. But under the current system, U.S. airlines are not required to pay any delay compensation for domestic flights and have no legal obligation to mitigate hours-or even days-long delays by rebooking a passenger on the next available flight regardless of airline. All that the airline has to do for any canceled flight is to give the passenger a refund. But as we saw during the pandemic, airlines are not quick to return passenger money. In November 2022, the DOT fined six airlines, including just one U.S. airline for withholding \$600 million of passenger refunds for up to two years. Those airlines were fined pennies for this willful misbehavior, and nine of the ten largest U.S. airlines escaped without punishment.

The airlines are incentivized to deliver poor service. Southwest has been incentivized to ignore calls over the past few years by its own employees to update its grossly-outdated technology<sup>4</sup> and instead became the first airline to deliver a post-pandemic dividend amounting to \$428 million on December 7, 2022.<sup>5</sup>

Whether it is missing important family events, missing work, having to pay for an expensive walk-up ticket, or being stranded for days—it is passengers who end up paying for Southwest's mistakes.

In the European Union, airlines are required to compensate passengers between 250 and 600 euros for certain delays and cancellations that are within the airline's control. The airlines must also provide appropriate meal vouchers, hotel vouchers, and transportation to and from the hotel. Had Southwest Airlines been subject to

<sup>1</sup> <https://abcnews.go.com/Business/stranded-southwest-customers-details-exhaustive-efforts-home-amid/story?id=95848764>

<sup>2</sup> <https://www.latimes.com/california/story/2023-01-11/it-was-horrible-stranded-southwest-passengers-still-waiting-to-recoup-costs-from-airline-meltdown>

<sup>3</sup> <https://www.cbsnews.com/newyork/news/southwest-airlines-under-scrutiny-after-leaving-stunning-amount-of-passengers-stranded/>

<sup>4</sup> <https://www.washingtonpost.com/transportation/2022/12/28/southwest-airlines-flight-cancellations/>

<sup>5</sup> <https://www.reuters.com/business/aerospace-defense/southwest-airlines-reinstates-quarterly-dividend-2022-12-07>

EU passenger protection regulations, it would have had to pay between \$532 million and \$851 million<sup>6</sup> in compensation for its 16,700 canceled flights.<sup>7</sup> This figure does not include the amounts owed as refunds for canceled flights or delays of over 5 hours, as well as hotel and meal vouchers.

That is a large figure, but it puts into perspective how much damage flight cancellations and delays actually harm passengers. In comparison, just weeks before the Southwest Christmas Meltdown, Southwest Airlines announced a \$428 million dividend for its shareholders.

Bad press, low fines, and little-to-no formal enforcement action will not incentivize Southwest to update its systems. It hasn't in the past. Southwest canceled or delayed half of its flights due to technological problems in June 2021<sup>8</sup> and canceled 1,800 flights in just one weekend in October 2021.<sup>9</sup> And after the industry received \$58 billion in covid bailouts intended to keep staffing at a pre-pandemic level, the airlines avoided the "no layoffs or furloughs" provisions by offering buyouts and early retirements to pocket even more money. And then the airlines held on to over a billion dollars in money owed to passengers as refunds. Meanwhile, the airlines are not subject to minimum reserve requirements for equipment or staff or any form of stress testing. Bad weather and other disruptions should result in only graceful degradation of air service, not complete breakdowns that take a week to recover from.

#### **Airlines Enjoy Unique Legal Privileges**

Let's state the obvious: no other industry is allowed to be this bad to its customers and still operate as business as usual. No other industry is allowed to expand stock buybacks, dividends, and executive compensation, and then cry poor, with its outstretched hand asking for bailouts. We traded a system of government dictation of prices, routes, and frequency for the free market. But this is not a free market with reasonable regulation. This is passengers and the government ruled by the airlines.

What's a clearer example than airlines having to consent to be fined by the DOT, and then only paying half of that fine? Airlines taking bailouts with few strings attached and then violating the spirit of the bailout? Airlines raising prices through drip pricing, junk fees, gotcha fees, and fees that bear no relation to the cost of the ancillary service provided? Fees to sit next to your 8-year-old child? Fees to sit in a seat they can, kind of, safely fit into, as the airlines respond to growing passenger size with ever-shrinking seats.

The airlines are exempt from state consumer protection enforcement. Meanwhile, private litigation by passengers is limited in scope and in practice. The airlines can remove any small claims lawsuit to Federal court, where the expenses and fees are cost-prohibitive. Competition is only decreasing as the government approves, but never denies, mergers, alliances, and joint ventures.

This means only the DOT can currently police the airline's bad behavior. And there's a lot of it: system meltdowns, passenger strandings, unpaid refunds, denied boardings, tarmac confinements, broken wheelchairs, drip pricing. The DOT's authority, outside of a few narrow statutory commands, is limited to its authority to prevent unfair and deceptive practices. The problem is that the airlines have never seen a DOT proposal they didn't oppose and that they didn't think exceeded the DOT's unfair and deceptive practices authority. This includes the bipartisan reforms people may take for granted today: the tarmac delay rule and the 24-hour refund rule. The DOT is forced to police the airlines through phone calls, through requests, through consent decrees, where the only fines against airlines are fines that the airlines agree to. How does this make sense? The airlines held on to hundreds of millions of dollars of passenger money for almost two years. The DOT brought enforcement against only one U.S. airline for illegally withholding refunds, Frontier. Frontier was ordered to return \$222M in passenger money wrongly held by the airlines for up to two years. Frontier was also fined \$2.2M in what amounts to a low interest loan for the airline. This fine is unlikely to have much of a deterrent effect on future bad behavior by the airlines.

<sup>6</sup>These figures estimate the number of passengers on the 16,700 canceled Southwest flights by taking a weighted average of Southwest's passenger capacity on its 737-700s, 737-800s, and 737 MAX 8's at the most recent available load factor of 86.7 percent. This yields over 2.2 million passengers, and the two figures are based on the 250 euro and 400 euro compensation amount respectively.

<sup>7</sup><https://www.npr.org/2023/01/26/1151667801/southwest-airlines-investigation-losses-holiday-travel-cancellations>

<sup>8</sup><https://www.nytimes.com/2022/12/27/business/southwest-airline-delays-cancellations.html>

<sup>9</sup><https://www.cnn.com/2022/12/27/business/southwest-airlines-service-meltdown/index.html>

### Looking Back to Go Forward

The measures that Congress takes can no longer be band aids, or else we will be back here, knowing that the airlines egregiously misbehaved or broke the law, but still struggling to find a solution. To find the path forward, we must first look back to how we got here.

The Airline Deregulation Act of 1978, with bipartisan support, brought an end to the Civil Aeronautics Board's determination of price, routes, and scheduling. The commercial airline system was born as a subsidized industry. In its infancy, the government subsidized the airlines through the flying of mail. One of the biggest complaints of CAB regulation was that the government blocked new entrants. Today, it is the airlines doing the blocking, through mergers, alliances, joint ventures, and anticompetitive practices such as predatory pricing, sitting on unused or underused slots, and "capacity discipline," where the airlines limited the number of flights in order to boost prices.

Again, the government is unable to enforce the law and restore the free market from the now privatized airline oligopoly. Deregulation was supposed to deliver lower prices and better customer service. Instead, fares are increasing and service is clearly worsening.

In the immediate aftermath of deregulation, airfares continued their decline, as expected. Continued technological advancement should yield benefits for airlines and passengers alike. But now, fares, when factoring in dozens of ancillary fees, are increasing. And when you consider what passengers got in the 70s versus now, prices aren't that much lower 45 years later.

Alfred Kahn, former Chairman of the CAB and "Father of Airline Deregulation", explained how what we have now is not what was intended. Kahn stated, "These problems drive home the lesson that the dismantling of comprehensive regulation should not be understood as synonymous with total government laissez-faire. The principal policy failures over the last fifteen years have been failures on the part of government *to vigorously and imaginatively fulfill responsibilities that we, in deregulating the industry, never intended to abdicate.*"<sup>10</sup>

Congress must revisit the Airline Deregulation Act of 1978 and antitrust law and policies to fix the obvious dysfunctions that enable and cause the present problems. I recall the time I testified before this committee shortly after September 11th. The committee forged a bipartisan consensus, and in a matter of weeks, persuaded a reluctant President and House of Representatives to remove aviation security regulation from the FAA, remove the operation of aviation security from the airlines and airports, and transfer operation to a new agency, the Transportation Security Administration. There has not been a successful airline hijacking or bombing since.

Today, I urge this committee to act in a similar, decisive fashion: create a bipartisan commission to review the current state of air travel and enact much needed reforms in the next 6 to 12 months. Such reforms may include structural changes in government agencies.

### Fundamental Reforms

Congress shouldn't feel bad about pursuing fundamental reforms for aviation, reforms that feel ambitious only because of the airlines' decades of unfair and anti-competitive actions. The airlines just received \$58 billion in bailouts in 2020, and along with that, broken promises to keep its employees paid and its operations ready for the eventual return to increased traffic. Instead we got the summer of cancellations in 2022, and the staff and equipment shortages persist.

Although this committee is currently investigating the misuse of bailout funds, without fundamental reforms, Congress and the DOT will always be reacting to the next air travel crisis. The solution can be meaningful regulation, the ones that come with meaningful punishments and incentives and that do not require constant monitoring and investigations. The type of regulations that already exist in other parts of the world.

### This Crisis Was Foreseeable

In June 2022, Flyers Rights sent a letter to Secretary Buttigieg with 17 policy proposals to help prevent air travel meltdowns, like the Southwest one we would see just six months later.<sup>11</sup> I want to highlight two of the most fundamental reforms needed: delay compensation and the reciprocity rule.

<sup>10</sup><https://www.econlib.org/library/Enc1/AirlineDeregulation.html>

<sup>11</sup> See Attachment 1.

### **Delay Compensation**

U.S. airlines are no strangers to paying flight delay compensation. However, this compensation largely goes to foreign passengers, as passengers in U.S. domestic air travel are not entitled to ANY flight delay compensation.

Passengers are entitled to European flight delay compensation when they fly on a European airline or when they depart from Europe on any airline. The Montreal Convention also guarantees passengers actual damages arising from flight delays and cancellations in international travel.

Bringing this compensation home to the U.S. would provide the airlines with the incentive to finally stop its practice of deceptive scheduling currently under investigation by the DOT. As we saw in the covid refund heist of 2020, where the airlines held onto passenger money for years with little or no penalty, the airlines can schedule flights it has no intention of or no ability to actually operate. The airline takes the passenger's money, and in a worst-case scenario, simply has to refund the money a few months later if it cannot operate the flight. Meanwhile, the passenger is forced to pay higher fares, known as the walk-up rate, to secure another flight.

Not only is this wildly unfair and deceptive, it leads to disruptions and the widespread sentiment that the airlines are unreliable and untrustworthy. Andy Lalwani, a passenger whose flight was canceled during the most recent Southwest meltdown and had to pay more than double the original price for another ticket, stated "This outdated tech and outdated operations they've been using has just been funneling and trickling down to this moment. It makes you have a distrust in the future to ever fly with Southwest."<sup>12</sup> I had a similar experience last year when I was stranded overnight in Atlanta by a Southwest canceled flight and had to pay 3x the booked fare to avoid a 40-hour delay. It appears that bad service is actually now good business. Flight delay compensation, hotel vouchers, meal vouchers, and the reciprocity rule are how we solve this problem.

### **Reciprocity Rule**

The Reciprocity Rule was a de facto rule prior to deregulation that required an airline to accommodate a passenger whose flight was canceled or significantly delayed on the next available flight, regardless of the operating airline, at no additional cost. The reciprocity rule matched stranded passengers with empty seats on other airlines, thereby increasing the efficiency of operations and limiting the harm inflicted on passengers.

The Southwest Christmas Meltdown demonstrates that we need to return to the Reciprocity Rule. The rule would incentivize reliability and accurate scheduling. Airlines have deceptively scheduled flights that they have little to no intention or ability of operating. The airline collects passenger money up front and simply has to refund that money a few months later or place the passenger on its next available flight, even if that results in a delay of many hours or days.

The reciprocity rule, just like flight delay compensation, would reward airlines that keep their promises and incentivize airlines to perform better and schedule more accurately.

### **Conclusion**

Thank you again for this opportunity to testify. I look forward to your questions and the air travel reforms that this Committee can initiate and that Congress must enact.

<sup>12</sup> <https://abcnews.go.com/Business/stranded-southwest-customers-details-exhaustive-efforts-home-amid/story?id=95848764>

ATTACHMENT 1



June 24, 2022

Hon. Pete Buttigieg  
Secretary of Transportation  
Office of the Secretary,  
Attn. Director of Scheduling  
1200 New Jersey Avenue SE  
Washington, DC 20590

BY EMAIL and BY HAND

RE: Meeting Request for Airline Passenger Advocates on the Air Travel Delay Crisis

Dear Secretary Buttigieg,

As you are aware, air transportation delays and flight cancellation have reached record numbers, affecting about 100 million and counting. Last week, we understand you met with airline officials to hear from them, demanded they take certain measures, and warned them that the DOT would be taking action as needed.

Toward that end and the goal of avoiding a summer meltdown in air travel under your watch, FlyersRights.org is urgently requesting a meeting with you and your staff, preferably in person, next week. The purpose would be to brief you on specific measures that the DOT could undertake to ameliorate delays this year. Other consumer advocates have expressed interest in attending as well.

A list of 17 specific policy options is included with this letter.

You may recall at our meeting in July 2021, consumer advocates highlighted a number of aviation consumer priorities including pandemic related ticket refunds, lack of seat and emergency evacuation standards, and families sitting together. Unfortunately, limited-to-no progress has been made nearly a year later, so we would like to review these matters as well. For example, the DOT 2022 Q1 Air Travel Consumer Report shows a nearly 4x increase in passenger complaints and an astounding 17.7x increase in refund complaints from the 2019 Q1 report.

We look forward to your earliest response to this meeting request. We believe that under your leadership the right policy measures can greatly reduce the current epidemic of delays and cancellations and avoid a full blown air travel crisis.

Sincerely,

Paul Hudson

✓

President, FlyersRights.org  
Member, FAA Aviation Rulemaking Advisory Committee  
Member, FAA Emergency Evacuation Advisory Rulemaking Committee  
800-662-1859 410-940-8934 cell 240-391-1923 fax  
Email paul@flyersrights.org  
www.FlyersRights.org and on twitter @flyersrights

CC:

John E. Putnam  
General Counsel  
Department of Transportation

Blane Workie  
Aviation Consumer Advocate,  
Assistant General Counsel for Aviation Consumer Protection  
Department of Transportation

John Breyault  
Vice President, Public Communications, Telecommunications, and Fraud  
National Consumers League

Erin Witte  
Director of Consumer Protection  
Consumer Federation of America

Charlie Leocha  
President  
Travelers United

Enc.

**FlyersRights.org's Policy Proposals to Ameliorate the Air Travel Crisis**

1. Discourage airlines from booking flights without capacity by mandating discontinuing certain flights and overall capacity. Flights can be discontinued as chronically delayed under current truth in scheduling law.
2. Declare the failure to answer phones an unfair practice as an emergency rule with large fines and threaten to suspend airline certificates of public convenience and necessity for **failure to answer phones within 30 minutes. This would end this "no phone answering" practice overnight.**
3. Mandate airports provide emergency rest and sleeping facilities for passengers stranded overnight and keep concessions open (they now close generally by 9 and many have

- never reopened). Airports have received lots of bailout money too but have failed to restore services adequate to handle the big travel increase especially at big hub airports.
4. Require adequate reserves of equipment and flight crews. Currently there are no reserve requirements, so canceling a full flight means passengers may be stranded for days.
  5. Immediate enactment of reciprocity rule as an emergency regulation as proposed by FlyersRights. A reciprocity rule corrects a **market failure** by matching unsold seats with stranded passengers, now needed more than ever. This rewards airlines who keep their schedules and punishes those airlines unable to keep their schedules or engaged in deceptive or fraudulent scheduling.
  6. Temporary lifting of mandatory retirement age for pilots to age 68 with good health records (currently airline pilots must retire by 65 regardless of health).
  7. Set minimum wage for commercial pilots.
  8. Encourage use of larger planes to relieve congestion delays at choke point airports by raising landing and take off fees for smaller planes and lowering fees for larger planes.
  9. Require consumer warnings on all flights chronically delayed or canceled, reform delay statistics by publishing a typical passenger delay statistic caused by each airline monthly, and end the deceptive practice of counting a canceled flight as zero minutes delay.
  10. Survey passenger satisfaction of airports and airlines and publish results monthly to put pressure on them to improve services or else lose business and federal dollars for poor service.
  11. Fund the FlyersRights.org telephone hotline and other consumer organizations qualified to advise passengers of their rights and options when excessively delayed or stranded with grants.
  12. Delegate authority to consumer organizations to make referrals to DOT for investigation and for DOT to step up and issue administrative orders to show cause within 30 days why an airline should not be fined for unlawful, unfair, or deceptive practices. The FAA and DOT delegate safety and inspection authority to airline industry corporations to assist it but not to aviation consumer organizations. Legislation was enacted requiring DOT to set up a passenger hotline but was never funded and never implemented due primarily to DOT opposition as too costly.
  13. Get tough on airline misbehavior. The current system of 1-3 year investigations with only negotiated fines and mostly secret no action letters is **not just broken. It's a bad and bitter joke**, a waste of taxpayer funds, a coverup, and de facto endorsement of chronic airline misbehavior that bilks passengers of billions, hurts the U.S. economy, and is destroying public U.S. air travel. This crisis is an opportunity for Secretary Buttigieg to exercise leadership and earn positive national attention. Failure to act or ineffective action or deferring to the airline industry or the DOT bureaucracy is likely to have the opposite effect.
  14. Encourage new airlines to expand by opening up gates and removing slots from airlines with high cancellation and stranding rates.
  15. Set up a DOT website for contact information exclusively of all commercial airlines allowed to fly within the U.S.
  16. Grant permission, on an emergency basis, to certain foreign airlines with good track records to fly within the U.S instead of only to or from the U.S.
  17. Authorize foreign pilots with security clearance special visas to work within the U.S. to relieve the pilot shortage.



**AIRLINE PASSENGER BILL OF RIGHTS 3.0**  
2023

45 years have passed since Congress deregulated the airline industry as to fares, schedules, and routes. Congress has not comprehensively reviewed the law to correct the abuses, **inefficiencies, and unintended consequences that have degraded the nation's public air transportation system** in numerous ways and that have left consumers paying the price for airline misbehavior.

Prior to the Airline Deregulation Act of 1978 (ADA), air travel times were decreasing, reliability was increasing, and fares were decreasing. The Civil Aeronautics Board (CAB) regulated the airlines by approving flight schedules, airfares, routes, and standards, and by preventing unfair and deceptive practices. Since 1978, there has been no net increase in major U.S. airports. Consequently, congestion in New York and Chicago causes delays felt throughout the nation.

Regulations requiring minimum reserve capacity of equipment and flight crews have been allowed to lapse. So have rules that match stranded passengers from canceled and **significantly delayed flights with empty seats on another airline's flight at no cost to the passenger.** (Rule 240 or the Reciprocity Rule).

Since deregulation, flight delays of over one hour have increased dramatically. Air travel unreliability not only inconveniences, stresses, and results in financial hardship for airline passengers, it also burdens airlines and the entire economy. The U.S. economy depends on safe, convenient, and affordable air travel, as this is the primary and often only means of long distance transportation.

After deregulation, airfares continued their decline until 2009, when airfares and ancillary fees started to rapidly increase. Continued technological innovation of aircraft and economies of scale combined with reduced labor and operating costs should have yielded cheaper and more reliable air travel. **Instead, the airline industry scores record profits, unprecedented stock buybacks, and ballooning executive compensation despite the airlines ranking as one of consumer's lowest regarded industries, backed up not only by the all-too-familiar travel problem anecdotes but also data.**

**AIRLINE PASSENGER BILL OF RIGHTS 3.0****1. Minimum Seat Space Standards**

The FAA shall issue minimum standards for seat pitch, width, and leg room. Passenger safety and health requires the end to the current system where airlines cram more and more passengers onto a plane. Passengers are becoming taller, larger, and older while seat space decreases. Failure to act poses an immediate danger to passenger health and safety, particularly as to emergency evacuations, the brace position, and deep vein thrombosis (aka economy class syndrome). In 2018, Congress already required the FAA to set minimum standards, but it took a FlyersRights.org lawsuit in 2022 to compel the FAA to release a major study it conducted in 2019-2020. The FAA has argued in court that it finds the 2018 mandate optional, and it still has not established minimum standards as Congress considers the next 5 year reauthorization bill.

**2. Definition of Airfare**

Airfare should be defined as the total price, including taxes and fees, for air transportation, including a seat, one carry-on piece of baggage, one personal item, water, and operable lavatories. Airfare is not statutorily defined, so airlines have sliced up as “ancillary” or “optional” fees that used to be standard in a ticket. By creating a maze of ancillary fees, airlines obfuscate the true cost of a ticket and make it impossible for consumers to do the comparison shopping that market competition requires.

**3. Ancillary Fee Transparency**

Congress must enshrine in law a requirement that airlines display the entire cost of airfare, including taxes, fees, first checked bag fee, second checked bag fee, and seat selection on the first screen at purchase. The Department of Transportation has recognized the need for this through a proposed rulemaking (DOT-OST-2022-0109), and Congress should establish this as a minimum. The airline industry has grown more concentrated, with many routes serviced by a small number of airlines or dominated by one airline. Passengers and market competition require transparency in order for comparison shopping to be possible.

**4. No Exorbitant Fees or Price Gouging**

Congress should ban airline price gouging and ensure all ancillary fees are reasonable and related to the cost of the service. When severe weather has threatened an area, or when one airline suffers a meltdown (such as the Southwest Christmas Disaster of 2022), other airlines will price gouge its customers, charging over \$1,000 for tickets that normally would cost under \$250. Airlines also deploy gotcha fees and fees that increase the later you purchase them. Importantly, Congress did not deregulate the reasonability of international ancillary fees. Congress does not

need to re-regulate base airfares. Rather, it must ensure that all ancillary fees are reasonable and it must cap excessive price gouging in times of crisis.

#### **5. Extend Delay Compensation to Domestic Flights**

U.S. airlines are no strangers to paying delay compensation to passengers, but unfortunately that compensation typically does not go to Americans. European Union Regulation 261 provides between 250 and 600 euros for delays of 3 or more hours and cancellations made **less than two weeks in advance when the cause of the flight disruption is in the airline's control**. Similarly, the Montreal Convention, governing international flights, guarantees passengers **delay compensation of up to \$6000 for damages caused by delays within the airline's control**. This can include the price of another ticket, hotel expenses, missed cruises, and more.

U.S. air travel has never been less reliable when it comes to on time performance and cancellations. The airlines are under DOT investigation for deceptive scheduling: scheduling more flights than they can possibly operate and then canceling flights based on economic reasons. Delay compensation is not only fair and necessary to help defray the extra expenses that air travel unreliability pushes onto passengers, but it is also necessary for competition for reliability between airlines.

#### **6. Reinstating the Reciprocity Rule**

The Southwest debacle demonstrates the need to return the Reciprocity Rule (Rule 240). Before deregulation, airlines would guarantee to place passengers from canceled or significantly delayed flights on the next available flight, regardless of airline, at no additional cost. This rule increased reliability and consumer welfare by matching empty seats with stranded passengers, thereby reducing disruptions faced by passengers. Today, a rule would accomplish that and also incentivize reliability through competition and would decrease deceptive scheduling. Airlines have deceptively scheduled flights by scheduling flights that it has little or no intention of operating due to equipment or crew limitations or for economic reasons. The reciprocity rule would reward airlines that keep their schedules and penalize those that could not maintain their schedules, incentivizing better performance for all airlines.

#### **7. Guaranteed Hotel, Meal, and Ground Transportation Vouchers for Significant Delays Within the Airline's Control**

As a component of flight delay compensation to match European and International standards, Congress should require airlines to provide hotel accommodations, meal vouchers, and ground transportation vouchers to all passengers whose flights were delayed past midnight and to passengers on canceled flights who were not offered a rebooking. Airlines as bulk buyers

and with corporate partnerships with hotel chains can secure below market rates for these vouchers.

#### **8. Overhaul of DOT Enforcement Regime**

Congress must overhaul how DOT punishes airline violations of the law. Fines must be substantial enough to have a deterrent effect, and part of the fines should be paid to affected passengers. Currently, the DOT's enforcement regime is one of collaboration and informal requests of the airlines, with few fines and enforcement actions. The enforcement actions that do occur are agreed to by the airlines (consent decrees) and waive half of the fine if the airline is on good behavior for a year. Change is needed to strengthen the Department's position to protect passengers, as it is the only regulator of the airlines. Congress and the DOT should be setting the standards for the airlines, not the other way around.

#### **9. Guaranteed Family Seating**

Congress must reimplement its 2016 provision and order the DOT and airlines to ensure each child under the age of 13 is seated with a family member over the age of 13, at no additional cost. Congress ordered the DOT to enact this provision "if necessary," and the DOT quietly concluded that such a requirement was not needed. Family seating is common sense and common decency, is a benefit to aviation safety by enabling faster emergency evacuations, and is a protection against sexual misconduct on planes, a growing problem in air travel.

#### **10. Conspicuous Notice of Consumer Rights at Airports and By Airlines**

Consumer protections are less effective when the average consumer is unaware of passenger rights. Some airlines estimate that 80% of passengers fly only once per year. In the European Union, airports display bulletins, posters, and announcements for passenger rights information. A similar system is needed here to inform passengers of what rights they do have.

##### Other measures needed:

- Customer service standards, including staffing of consumer complaint lines
- Mandatory labor and equipment reserves and the implementation and audit of emergency contingency plans that would allow for graceful degradation of service rather than system-wide meltdowns
- New airport construction to relieve congestion and repeal of regulations limiting federal government investment in new airports
- Require passengers to be notified in writing of their rights under the Montreal Convention in a manner more consistent with the Montreal Convention's original intent.
- Passenger lawsuits under \$75,000 should be adjudicated in state court. Current law allows airlines to remove any case to federal court, regardless of amount-in-controversy

The CHAIR. Before I turn to Captain Murray, I forgot to call on my colleagues for the Subcommittee Chair and Ranking Member. I know Senator Moran isn't here, but we will allow him to put a statement in the record. But Senator Duckworth, if you wanted to give a statement.

**STATEMENT OF HON. TAMMY DUCKWORTH,  
U.S. SENATOR FROM ILLINOIS**

Senator DUCKWORTH. Yes. Thank you, Madam Chair and Ranking Member Cruz for holding today's hearing. Next month actually marks my 30th year as a pilot from when I first showed up at flight school at Fort Rucker, Alabama.

So, I am incredibly excited to serve as chair of the subcommittee on Aviation Safety, Operations and Innovation. Having flown as a military pilot, as a civilian pilot, as a general aviation aircraft owner, I have flown from civilian airfields, military airfields, civil military airfields. I commanded the Black Hawk unit out of Midway Airport, flying in between Southwest Airlines, on the pad between the force, taking off from there.

Those of you who know, I know Midway real well. It is my personal mission to make sure that we craft an FAA reauthorization that will strengthen safety, that will bolster the aviation work force, that will hold the FAA accountable for finally modernizing its air traffic control technology.

And consistent with today's hearing, we must also crack down on carriers that have gotten away with predatory practices that treat customers like suckers and view passengers with disabilities as disposable. Every commercial airline, American airline, has broken one of my wheelchairs. Every one of them.

We need to end that practice. Now is a critical time for our Nation's commercial aviation industry, from the deadly Boeing 737 MAX crashes to the FAA self-inflicted meltdown of its NOTAM system, to the utter collapse of Southwest Airlines operations blamed on the same weather that every other carrier managed to navigate. Americans' confidence in every facet of our civil aviation ecosystem has plummeted.

Today's hearing is hopefully a first step toward rebuilding a foundation that will begin to restore trust and confidence in a civil aviation system that has made great leaps and bounds in safety over recent decades, but in recent years has suffered from complacency and a desperate drive for profits that has placed the needs of Wall Street and the balance sheet above all else.

I yield back, Madam Chair.

The CHAIR. Thank you. Thank you for that. And again, we will have Senator Moran, if he wants to put a statement in the record. Now, Captain Murray, welcome. Thank you for being here.

**STATEMENT OF CAPTAIN CASEY MURRAY, PRESIDENT,  
SOUTHWEST AIRLINES PILOTS ASSOCIATION (SWAPA)**

Mr. MURRAY. Good morning, Chair Cantwell, Ranking Member Cruz. Thank you for the opportunity to testify before you today. I ask that my written and oral testimony to be submitted for the record.

My name is Captain Casey Murray, the President of the Southwest Airlines Pilots Association. I am a Boeing 737 Captain at Southwest, and I am proud to represent 10,235 of the best pilots in the world. For years, our pilots have been sounding the alarm about Southwest's inadequate crew scheduling technology and outdated operational processes.

Unfortunately, those warnings have been summarily ignored by Southwest leaders. Our pilots were right, but SWAPA's goal in today's hearing is not to say we told you so, but right doesn't make our pilots feel any more secure. Our hearts are broken. The December 2022 meltdown was as tragic as it was historic.

SWAPA's singular goal in participating in today's hearing is to help ensure it never happens again. We want to be an integral part of its rise once again to lead the industry. While it would be easy to kick our company when it is down, this is our company, and consequently our careers and our livelihoods.

SWAPA pilots desire with the American public deserves, a healthy company with happy employees who have the tools they need to deliver a safe, reliable product to consumers. Those who do not learn from history are doomed to repeat it, and Southwest has a history of repetition.

Unfortunately, despite many opportunities, Southwest Airlines management did not listen to its pilots and frontline employees who saw this meltdown coming. Pilots have a unique perspective to the airline's operation. From the flight deck, we coordinate with nearly every employee group from the front line to the airline headquarters.

In order to leave a safe operation, you must be present, and willing to listen and collaborate with everyone on your team. What our pilots saw and have known for years is that Southwest struggles to manage nearly any disruption regardless of the cause.

Our recent history, and the data shows, a pattern of increasingly disruptive operational failures, missed prioritization of resources, and worst of all, a hollow leveraging of our culture to cover up poor management decisions. As we detailed in our written testimony, there were three main causes of the December 2022 meltdown.

First, Southwest leadership failed to properly prepare for winter storm Elliott. Second, Southwest managers failed to modernize true management processes and related IT systems. Finally, Southwest failed to listen to the warnings of its front-line employees.

Much has been made of Southwest shortcomings in IT and technology, and while that is a causal factor in this failure, that explanation alone misses the underlying issue, that the conditions were set years ago when Southwest leaders allowed the airline to drift away from an employee centered culture.

Instead, Southwest leaders focused on making the airline the darling of the investment community while building an insulated and strictly vertical structure where decisionmaking authority was slowly stripped away from front line experts with the most situational awareness. Warning signs were ignored, poor performance was condoned, excuses were made, processes atrophied, core values were forgotten.

The management pitfall is called "normalization of drift," and it was coined after studying the space shuttle *Challenger* disaster. As

a result of this normalized drift, our once great company went from Herb's legacy of personality and agility, to becoming a technicat's dream with stove-piped fiefdoms that communicated vertically with little to no horizontal integration.

Thankfully, the accountants who got us here are no longer in charge, at least not officially. Perhaps that is a silver lining, but only if Southwest new leaders take bold action immediately. There must be clear actions, not words, and that is what is expected from us. Our hope is that SWAPA's data driven testimony provides value to the airline industry, the committee, and to the public.

We all want to understand how this happened and what must be done together to ensure that it never happens again. As Herb Kelleher famously said, "never rest on your laurels or you will get a thorn in your backside."

Somehow, Southwest forgot this lesson along the way, and as a result, Southwest failed 2 million customers. We hope the committee will use this opportunity to ensure that Southwest delivers a timeline for upgrading its crew scheduling technology, improving its crew management processes, and a commitment to collaborate with frontline employees and labor to earn back their trust.

Southwest used to be an airline that supported its employees. It has become an airline that is supported by its employees. I am proud to represent the pilots of SWAPA. I thank you for the opportunity to testify, and I look forward to answering the committee's questions.

[The prepared statement of Mr. Murray follows:]

PREPARED STATEMENT OF CAPTAIN CASEY MURRAY, PRESIDENT,  
SOUTHWEST AIRLINES PILOTS ASSOCIATION (SWAPA)

Thank you for the opportunity to testify on behalf of the Southwest Airlines Pilots Association ("SWAPA") about the Southwest Airlines ("SWA") operational meltdown in December 2022.

**I. General Overview**

On a podcast on November 7, 2022, SWAPA President Captain Casey Murray said, "*I fear that we are one thunderstorm, one air traffic control event, one IT router failure away from a **complete meltdown. Whether that's Thanksgiving or Christmas or New Year, that's the precarious situation we are in.***"<sup>i</sup>

Captain Murray and our Pilots have been sounding the alarm about SWA's inadequate crew scheduling technology and outdated operational processes for years. Unfortunately, those warnings were summarily ignored. Our Pilots' hearts were broken when those alarms proved accurate in December 2022.

SWAPA's singular goal in participating in today's hearing is to do our part to make sure a meltdown like this never happens again. This is *our* Company, our careers, and our families' livelihoods. SWAPA pilots and the American public have a common goal; to ensure that Southwest remains healthy and has the tools to deliver a reliable travel experience to the flying public.

Pilots have a unique perspective on the Airline's operation. First and foremost, Pilots are the final authority on safety. To conduct a safe flight, Pilots must interact with nearly every employee group from the frontline to the Airline's nerve center in Dallas. From baggage handlers to customer service agents, flight attendants to fuelers, mechanics to managers, and dispatchers to schedulers, SWAPA Pilots saw the operation unravel from the inside out.

What SWAPA Pilots saw—and have known for years—is that SWA struggles to manage nearly any disruption, regardless of the cause. Our recent history—and the data shows—a pattern of increasingly disruptive operational failures,

<sup>i</sup><https://podcasts.apple.com/us/podcast/12-7-casey-murray-looking-ahead/id1477870151?i=1000586096818> (7:57 mark in recording)

misprioritization of resources, and hollow leveraging of our culture to cover up poor management decisions.

As we will detail in our data-driven testimony, there were three leading causes of the December 2022 meltdown:

- Failure to adequately prepare for Winter Storm Elliott
- Failure to modernize crew management processes & related I.T. systems
- Failure of Leadership & the Normalization of Drift

## II. Background

*Years in the Making/Lack of investment in crew management technology and processes*

SWA’s latest meltdown is far from its first.<sup>ii</sup> Over the past 15 years, the Airline has experienced nearly a dozen smaller-scale breakdowns with increasing frequency and magnitude. In addition, since 2014, SWAPA has warned the Company that technology and crew scheduling processes were failing.

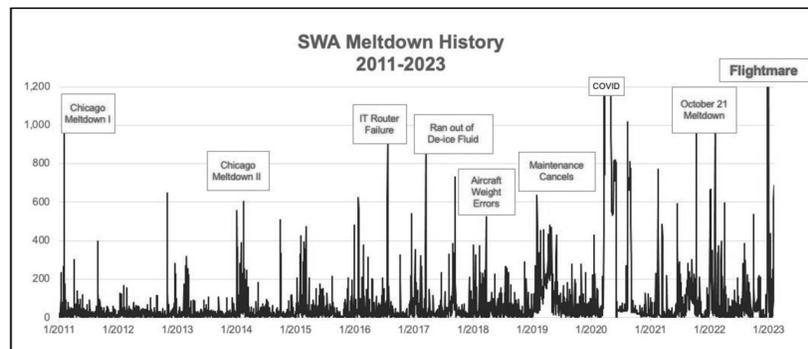


Figure 1. Southwest’s history of operational meltdowns

The December 2022 disaster was preceded by multiple meltdowns in Chicago, an I.T. failure in 2016, and a crew scheduling technology breakdown in October 2021. Since 2011, SWA has averaged one major operational failure every 18 months.

A SWA meltdown in October 2021 closely resembles the one we are discussing today. A weather event—thunderstorms in Florida—left the Airline unable to manage its crew network, which caused significant disruptions.<sup>iii</sup> That meltdown cost Southwest \$75M and resulted in over 2,200 canceled flights during a short holiday weekend simply because the crew scheduling processes were inadequate. That event should have been a wake-up call to the Company that I.T. and crew scheduling practice changes were long overdue.

During the COVID–19 pandemic, SWA added 18 new cities over 16 months to capture new market share while receiving over \$7 billion in government funding.<sup>iv</sup> But, as demand rebounded in 2021, the Airline’s network became increasingly fragile. SWAPA warned leadership in June 2021 that there was no margin for error.<sup>v</sup> It took over a year for Southwest to admit the network was spread too thin. “I do think the scale and the growth of the airline got ahead of the tools that we have,” Southwest CEO Bob Jordan told reporters in November 2022.<sup>vii</sup> Mr. Jordan was correct, but it was far too late, and they had other priorities.

On December 7, 2022, Mr. Jordan revealed that SWA would be the first U.S. airline to reinstate a dividend after the pandemic—issuing \$430 million in dividends just 14 days before the meltdown. That amount would eventually represent nearly half of SWA’s estimated financial loss from the December meltdown.

<sup>ii</sup> (<https://vimeo.com/786112460>)

<sup>iii</sup> <https://news.yahoo.com/southwest-lost-75-million-four-164233757.html>

<sup>iv</sup> <https://simpleflying.com/southwest-18-destinations-added/>

<sup>v</sup> <https://apnews.com/article/health-airlines-business-coronavirus-2c32ee9d8c8389ca73608718e931ecc9>

<sup>vi</sup> SWAPA Leadership Update, “Margin”, Captain Casey Murray, June 21, 2021

<sup>vii</sup> <https://apnews.com/article/>



Figure 2. Percentage of Southwest Airlines Revenue to Shareholder Returns

### SWA's Tangled Crew and Aircraft Scheduling Systems

SWA's failure to modernize its 1990s-era crew scheduling processes and technology was a causal factor in the meltdown.<sup>viii</sup>

Southwest's Flight Dispatch department processes delays and cancellations through a system known as the "Baker," a homegrown program named for a late Southwest leader which optimizes changes to aircraft and passenger routings.<sup>ix</sup> However, the "Baker" does not effectively account for crew requirements. Instead, Pilot and Flight Attendant crew scheduling changes are handled by a separate software tool that Southwest employees refer to as SkySolver.

SkySolver (officially called "Crew Optimization") is a G.E. Aerospace crew scheduling tool used by multiple airlines. It is important to note that other airlines used this product during Winter Storm Elliott without issue. That is because SWA's scheduling practices are outdated and its patchwork use of multiple technology systems lacks the capacity to provide crew solutions for massive, close-in flight cancellations.

### III. Timeline of Events—The Southwest Flightmare

#### Tuesday, December 20: Overconfidence

On Tuesday, December 20, SWA management met with SWAPA at a regularly scheduled operations meeting. SWA noted that Chicago Midway airport might be fully closed, and Denver International would see some cancellations. The Airline believed there was ample time to process these cancellations and mitigate any irregular operations.

SWA admitted it did not have enough engine covers to protect aircraft engines from the elements before the storm.<sup>x</sup> Managers did not issue guidance to run aircraft auxiliary power units overnight to keep aircraft from freezing. There was no system-wide guidance on cold-weather preparation of ground equipment like baggage loaders and push-back tugs. Extra schedulers were not on reserve. Overtime incentives were not offered in time.

Managers' overconfidence in their planning and a systemic failure to provide modern tools to employees doomed SWA's recovery before the first snowflake hit the ground.

#### Wednesday, December 21: The Initial Reaction

The Airline started Wednesday believing that no bases would be shut down. However, they announced that Denver and Chicago would continue to see some advance cancellations for the following days.

On Wednesday night, Denver's weather deteriorated. The airport experienced freezing whiteout conditions with heavy snow, quarter-mile visibility with winds gusting to 32 knots, and a temperature of -8 degrees Fahrenheit.

As a result, departures and arrivals were significantly delayed. The delays significantly strained Ground Operations and caused Pilot duty day and flight connection issues.

As the storm hit Denver's airport, SWA's Vice President of Ground Operations declared an operational emergency, forcing mandatory overtime and threatening ground personnel with insubordination and termination for not coming to work.<sup>xi</sup>

<sup>viii</sup> <https://apnews.com/article/>

<sup>ix</sup> <https://theaircurrent.com/airlines/southwest-airlines-anatomy-it-meltdown/>

<sup>x</sup> <https://www.nytimes.com/2023/01/13/business/southwest-airlines-bob-jordan.html>

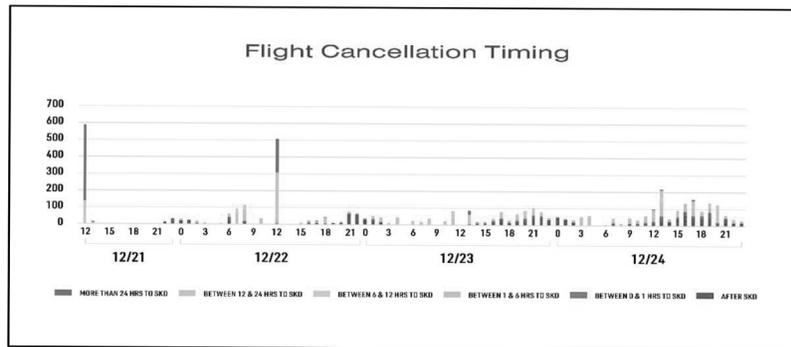
<sup>xi</sup> [https://www.washingtonpost.com/business/southwests-biggest-mistake-was-forgetting-its-own-culture/2022/12/30/a3bef52a-8883-11ed-b5ac-411280b122ef\\_story.html](https://www.washingtonpost.com/business/southwests-biggest-mistake-was-forgetting-its-own-culture/2022/12/30/a3bef52a-8883-11ed-b5ac-411280b122ef_story.html)

SWA management's draconian initial reaction to its poor planning reflects a deeper cultural failure.

*Thursday, December 22: The Operation Convulses*

As dawn broke on Thursday, close-in cancellations started to increase rapidly, indicating the network was struggling to recover from the previous night's events.

When these close-in cancellations hit, scheduling had already built plans to deal with delays, crew duty limitations, and rest issues for the next day. However, these unexpected close-in cancellations meant they had to start over from scratch. *This started the chain of events causing internal technology and process failures that eventually collapsed the network.*



**Figure 3. SWA Close-in cancellations.** Note: *The orange and red upticks late in the day are the close-in cancellations. SkySolver was never designed to look back.*

*Friday, December 23: User Error*

Dispatch's Baker passenger and flight optimizer has minimal crew programming. As a result, Baker produced an ineffective recovery plan because it didn't align with crew availability. SkySolver runs independent pilot and flight attendant solutions that can contradict Baker's strategy, especially during a disruption.

Meanwhile, the Vice President of Flight Operations sent a memo on the 23rd detailing system-wide problems. The vice president blamed pilot sick calls, fatigue rates, and overtime flying participation in the memo. SWA managers initial response and communication blamed employees even while internal processes crumbled.

While managers blamed pilot staffing early on, SWA chose to use reserve pilots before overtime volunteers to save money. In addition, the Airline's managers failed to communicate effectively with each other and with the employees, showing they didn't even grasp the problem the airline faced.

SWA Flight Operations leadership finally announced they would award overtime premium flying before using reserves, but it was too little too late. Southwest had failed to incentivize overtime flying early enough to make a difference. Due to the severity of the breakdown, it might not have mattered anyhow.

*Saturday, December 24—December 25: Chaos*

SWA Crew Scheduling was utterly overwhelmed and informed dispatch that they couldn't handle any further inquiries. The situation had become chaotic in the Network Operations Center.

The Airline could not track crews stuck at airports without hotels, and due to increasing cancellations, they could not recover crews into actual flying because the system had become so thin.

This breakdown in communication between the SWA Network Operation Center and Crew Scheduling resulted from institutional silos made worse by technology limitations.

As the Airline struggled to connect airplanes with crews, another glaring IT inadequacy became apparent: Southwest's crew hotel system could not handle large, short-notice reassignments.



Figure 4. SWA Dispatch message to Pilots

With the enormous number of close-in cancellations and reassignments, SWA's Crew Hotel Accommodation Team could not keep up with the number of short-notice requirements. As a result, stranded crews and passengers competed for hotels, quickly overwhelming the Airline's system to get crews rested and ready to fly.

Phone lines to scheduling were jammed, and crews spent hours on hold if they could get through at all. As a result, many crews had no hotels, just like their passengers. This led to more reassignments and uncovered flying, putting recovery farther out of reach.

Over 350 pilots had their assignments terminate somewhere other than their home base, leaving them on their own to get home. SWAPA estimates that over 1,000 Pilots were on duty for more than 15 hours during the meltdown, with many on continuous duty overnights awaiting schedule changes.

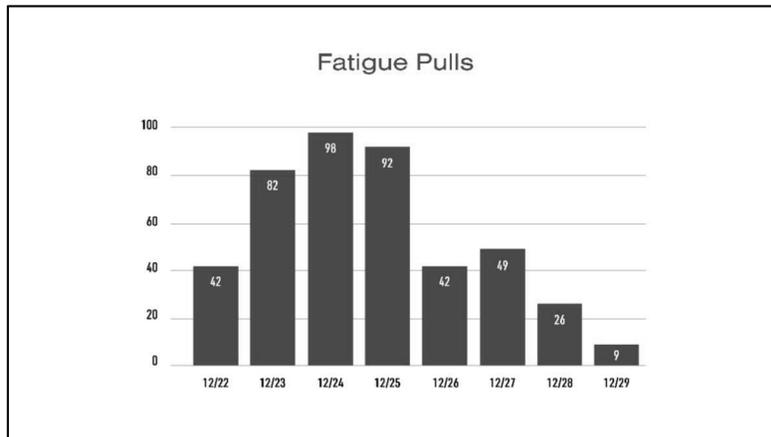


Figure 5. Over 1,000 SWA Pilots had duty days > 15 hours, resulting in increased fatigue calls.

Meanwhile, communication between scheduling and operations began to break down. For example, pilots reported that crew lists were inaccurate because the

scheduling systems misassigned crewmembers or lost track of them outright.<sup>xii</sup> As a result, tracking crewmembers became a manual process for scheduling, adding to call volume and hours-long hold times, making delays worse.

SWA began using position ferry flights to re-align crew and aircraft. These ferry flights operated empty—with no passengers. Many were operated on routes that had been canceled between the same cities, leaving stranded passengers to watch empty aircraft depart for their intended destination. During the meltdown, the Airline operated more than 500 empty flights.



Figure 6. Losing Track of Crew

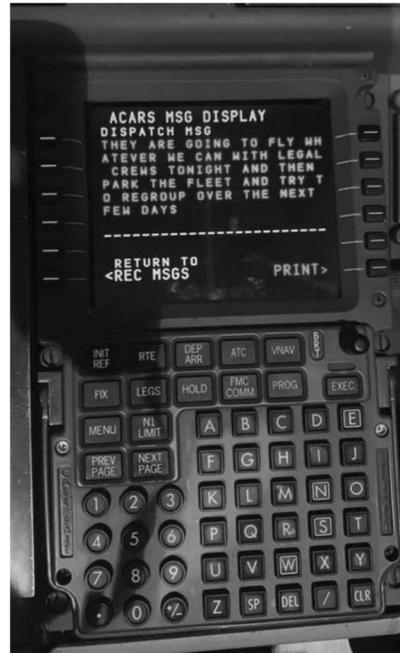


Figure 7. Cutting the network with an axe

POSITION FERRIES	FLIGHTS ON SAME ROUTE CANCELLED											TOTAL
	DATE	0	1	2	3	4	5	6	8	9	15	
	12/22	24	3	2	1							30
	12/23	13	10	16	6	2	1		1			49
	12/24	13	35	15	8	3	1					75
	12/25	9	23	28	11	7	3	2		1		84
	12/26	4	4	7	11	5	2	5	2			40
	12/27	4	15	20	12	13	2			1	1	68
	12/28	7	12	14	17	1	6	1			2	60
	12/29	42	20	24	7	9	4	3		2		111
												517

Figure 8. SWA operated 517 empty flights, many on canceled routes.

<sup>xii</sup> <https://www.latimes.com/california/story/2022-12-27/my-daughters-southwest-airlines-fiasco>

*Monday, December 26: The Post-Christmas Hangover*

SWA decided to reduce the entire network by more than 50 percent through Thursday, December 29, to “reset” the airline. Southwest chose to “cut with an axe” and cancel anything they considered “un-crewed” rather than force Dispatch to consider crew availability in their cancellation assessments.

This decision caused even more misconnections from crews to airplanes as it blew up the schedule for crews assigned to that aircraft flow. This created more deadhead duty (often later than originally scheduled), taking seats from passengers and reducing recovery effectiveness.

SWA could not even promote some deadheading pilots to work the same flight they were deadheading on, which would have saved flights from cancellation. *Very few canceled flights didn't have a Captain and a First Officer assigned at cancellation.*

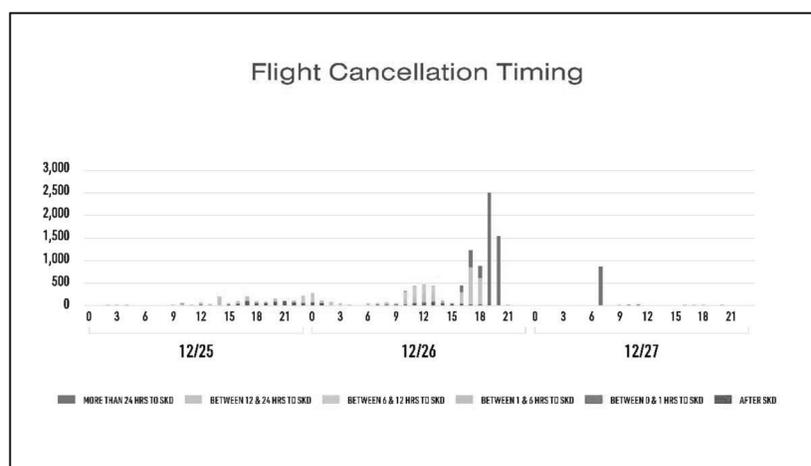


Figure 9. SWA Cancellations, Dec 25-27. Note: The decision to effectively shut down the airline on December 26.

*Tuesday, December 27: The Ugly Truth About SWA's Operational Processes*

SWA COO Andrew Watterson released a message the night of the 26th, stating that Crew Scheduling was forced to manually route crews with pencil and paper because of technology limitations.

Mr. Watterson said, “We had aircraft that were available, **but the process of matching those Crew Members with the aircraft could not be handled by our technology.** In our desired state, we have a solver that would be able to do that very quickly and accurately. **Our system today cannot do that.**”<sup>xiii</sup> *This is the first time Southwest leaders acknowledged an underlying technology issue.*

*\*\*Note: In an interview with Axios on February 2, 2023, CEO Bob Jordan stated: “I think the biggest misconception right away was that it was a technology issue. We tried to be really clear that while **the technology got overwhelmed**, it is not what caused this.”*

*“It was a weather event that turned into a crew and aircraft routing network event, that then **pushed the technology to a point that it couldn't help us because it was having to solve problems that were already in the past—but it wasn't a technology event.**”<sup>xiv</sup>*

The number of Pilots not operating flights spiked, given the large number of cancellations versus how many Pilots were scheduled to fly. Deadheading Pilots ranged between 1,000 to more than 2,500 daily, refuting any notion that there weren't enough pilots available.

<sup>xiii</sup> <https://www.wfaa.com/article/travel/internal-southwest-airlines-message-mass-cancellations-ceo-bob-jordan-coo-andrew-watterson/287-6dbb0665-ea67-4237-98bc-7bd90d44bdc4>

<sup>xiv</sup> <https://www.axios.com/2023/02/02/southwest-airlines-flight-bob-jordan>

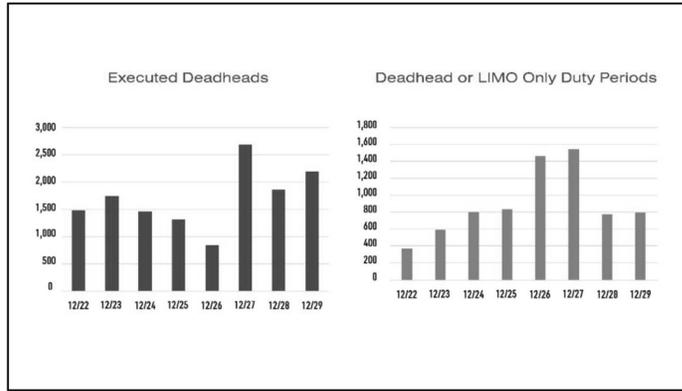


Figure 10: SWA deadheaded thousands of pilots around the country due to inefficient processes.

Herb Time												Estimated												Totals																										
Date	Flight	Depart	Arrive	Eq	Block	Intl	MT	Ground	Wrk Codes	Block	FDP	Duty	Credit	Overly	M/D/H	Prem	Date	Flight	Depart	Arrive	Eq	Block	Intl	MT	Ground	Wrk Codes	Block	FDP	Duty	Credit	Overly	M/D/H	Prem	Date	Flight	Depart	Arrive	Eq	Block	Intl	MT	Ground	Wrk Codes	Block	FDP	Duty	Credit	Overly	M/D/H	Prem
Trip: on 12/22/2022      Print as is:      Print in text size: 6 8 10 12 All legalities will use estimated and actual times, if available.      For best results, print in Landscape. Trip Fleet:      Time Away From Base: 10043      Trip Remarks: transportation reimbursement authorized Class: Y Trip Type: Trip Status:																																																		
OAK:1605      ** Hotel Information Not Available. Contact Crew Scheduling. ** Contact Time: CA: FO:      ACCL/LPA: CA: FO:																																																		
22 Dec	DM	395	Rpt 1445 DAL 1646	LGB	1959	700	0	35					410				22 Dec	DM	395	LGB	2034	OAK	2145	700	1759				140				22 Dec	DM	395	LGB	2034	OAK	2145	700	1759				555 D					
Projected Duty Values:      0      730																																																		
PHX:1610      ** Hotel Information Not Available. Contact Crew Scheduling. ** Contact Time: CA: FO:      ACCL/LPA: CA: FO:																																																		
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23 Dec	FDP		PHX 2340	PHX	2340			1911					0 F				23 Dec	FDP		PHX 2340	PHX	2340			1911				1365 G		52	1365	1365																	
Projected Duty Values:      920      950																																																		
PHX:1513      ** Hotel Information Not Available. Contact Crew Scheduling. ** Contact Time: CA: FO:      ACCL/LPA: CA: FO:																																																		
24 Dec	DM	597	Rpt 1620 PHX 1851	DEN	2039	778	0	212					200				24 Dec	DM	383	DEN	2251	PHX	0032	778	100				220				25 Dec	LIMO		PHX 0132	PHX	0132			1513				0 F					
Projected Duty Values:      0      912																																																		
RON      ** Hotel Information Not Available. Contact Crew Scheduling. ** Contact Time: CA: FO:      ACCL/LPA: CA: FO:																																																		
25 Dec	DM	LIMO	Rpt 1645 PHX 1645	PHX	0137			1456					0 F				25 Dec	DM	LIMO	PHX 1645	PHX	0137			1456				852				25 Dec	DM	LIMO	PHX 1645	PHX	0137			1456				852					
Projected Duty Values:      0      852																																																		
PHX:1323      ** Hotel Information Not Available. Contact Crew Scheduling. ** Contact Time: CA: FO:      ACCL/LPA: CA: FO:																																																		
26 Dec	DM	493	Rpt 1500 PHX 1633	DAL	1858	800	0	0	Cancelled				280				26 Dec	DM	493	PHX 1633	DAL	1858	800	0	0	Cancelled			428				26 Dec	DM	493	PHX 1633	DAL	1858	800	0	0	Cancelled			428					
Projected Duty Values:      0      428																																																		
Originally trip DPMX dated 12/22/2022      Total: 0      920      3952      3322 T      52      3322      3371 Carry: 0      0																																																		

Figure 11. The red box with code "DM" indicates non-flying "deadhead" duty. This pilot spent five days at work assigned to deadhead-only assignments before he was left in Phoenix -- 1,000 miles from his assigned base. There are hundreds more examples just like this. Also, note in the remarks that the pilot had to pay for their transportation to/from the hotels.

The Pilots were there; the airline couldn't use them efficiently. *This Crew Scheduling inefficiency must change if the airline is to offer reliable customer service in the future.*

#### IV. By the Numbers

- 16,700—Southwest Airlines canceled flights during the meltdown
- ~2,000,000—Passengers stranded
- > 10,000—# of inefficient “deadhead flights” where Pilots sat in the back instead of flying
- > 350—Pilots who had their assignments terminate somewhere other than their base, leaving them on their own to get home
- 1,000—Pilots who were on duty for more than 15 hours during the meltdown
- 517—Ferry Flights, empty aircraft leaving passengers stranded
- 1,000—2,500—how many SWA Pilots were “deadheaded” each day of the meltdown
- \$8,800,000—Amount of stock options announced on February 3, 2023, for seven SWA executives
- \$820,000,000—Estimated financial costs of the SWA meltdown<sup>xv</sup>
- \$430,000,000—SWA shareholder dividends announced on December 7, 2022<sup>xvi</sup>
- \$13,000,000,000—SWA stock buybacks since 2010<sup>xvii</sup>
- Unknown—the amount of profit-sharing compensation SWA employees lost due to poor management decisions

#### V. Leadership & Collaboration

SWAPA hopes that Southwest's new leadership team will collaborate with us. Our pilots want nothing more than to work together to return Southwest Airlines to success.

Mr. Jordan and Mr. Watterson inherited a massive, complex operation held together by duct tape and baling wire. It will take time to tear down and rebuild. But it can happen if Southwest's new leaders re-dedicate to Herb Kelleher's leadership principles.

To start, SWA employees need to trust their leadership again. Herb famously said, “Your employees come first. And if you treat your employees right, guess what? Your customers come back, and that makes your shareholders happy. Start with employees and the rest follows from that.”

However, rewarding SWA executives who oversaw the meltdown with more stock options—after employees are set to miss out on significant compensation from lost profit sharing—is not a promising sign for “Living the Southwest Way.”<sup>xviii</sup> On Friday, February 3, 2023, the Airline announced \$8.8M in stock options for seven senior executives, including Gary Kelly, Bob Jordan, and Andrew Watterson.<sup>xix</sup>

Mr. Jordan must make clear that SWA employees are valued by making them financially whole and giving them the tools, they need to do their jobs. Sending Pilots and Flight Attendants around the country on airplane rides for four days instead of taking passengers home is a blatant waste of resources.

It's also not enough to tell someone you love them after ignoring their concerns for over a decade. Mr. Jordan must show all of us—customers, employees, and regulators—through actions, not words, that SWA is serious about change.

There are some positive signs. SWAPA commends Mr. Jordan and his team for the expeditious way they managed the return of tens of thousands of articles of lost luggage and their willingness to refund and reimburse customers for every reasonable expense related to their travel nightmare.

It is also encouraging that SWA is currently conducting another postmortem with the aviation consulting firm Oliver Wyman. But our Pilots are right to demand that SWAPA Subject Matter Experts be invited to participate in a meaningful way. A one-hour debrief with the SWAPA President will not be enough. If the airline is

<sup>xv</sup> <https://www.forbes.com/sites/suzannerowankelleher/2023/01/09/southwest-meltdown-cost-825-million/?sh=6fc82883466d>

<sup>xvi</sup> [https://www.cnbc.com/2022/12/07/southwest-reinstates-dividend-after-three-years-as-travel-rebounds.html?text=Southwest is the first major, ahead of an investor presentation.](https://www.cnbc.com/2022/12/07/southwest-reinstates-dividend-after-three-years-as-travel-rebounds.html?text=Southwest%20is%20the%20first%20major%20ahead%20of%20an%20investor%20presentation)

<sup>xvii</sup> <https://www.latimes.com/business/story/2023-01-03/the-guilty-party-escaping-blame-for-the-southwest-meltdown-is-its-board-of-directors>

<sup>xviii</sup> <https://www.southwestairlinesinvestorrelations.com/financials/sec-filings>

<sup>xix</sup> <https://www.prnewswire.com/news-releases/southwest-airlines-releases-one-of-a-kind-lead-ership-book-leading-with-heart-living-working-the-southwest-way-celebrating-more-than-50-years-of-putting-people-first-301566969.html>

genuinely committed to finding solutions, it must utilize and collaborate with its frontline experts to find solutions.

SWAPA stands ready and willing to work with SWA leaders to solve these fixable problems.

#### **VI. What Congress Can Do**

To be clear—no legislative or regulatory solution is necessary to solve this problem. Furthermore, SWA’s point-to-point business model is not to blame. Passengers enjoy the convenience that a point-to-point network provides, eliminating the need to fly to a connecting city to reach their destination. In addition, the point-to-point network is a unique offering that gives Southwest Airlines a competitive advantage—when well-managed.

The December meltdown resulted from poor planning, systemic under-investment in crew scheduling technology and processes, and a failure to collaborate with frontline employees. To that end, SWAPA respectfully asks Congress to recommend the following fixes to prevent future meltdowns:

1. **Fix Dates.** SWA should provide Congress with a firm timeline for when crew scheduling technology and associated crew management processes will be fixed.
2. **Postmortem.** SWAPA Subject Matter Experts should be invited to participate in the Company’s postmortem meaningfully. In addition, the Company should tell Congress why they’ve failed to implement the recommendations of past postmortems.
3. **Employee Collaboration.** Congress should ask SWA to include frontline labor groups in implementing realistic and effective contingency plans, including full-scale simulations and exercises.
4. **Full Accounting.** The Airline should provide Congress with a precise plan on how SWA plans to invest the \$1 billion in IT upgrades it claims to be developing and how those plans will effectively mitigate potential future meltdowns.

The American people deserve a safe, reliable air transportation system. In aviation, admitting mistakes and learning from them is the single most effective method for producing meaningful change that benefits consumers, businesses, and employees. By learning from SWA’s mistakes, the commercial aviation industry can do its part to minimize future disruptions and provide safe, efficient air service for American consumers.

#### **VII. Conclusion**

By now, it should be clear what conditions led our country’s most stable and profitable airline—SWA—to a historic meltdown like holiday travelers suffered in December of 2022. But, like most disasters, it didn’t happen overnight. Warning signs were ignored. Poor performance was condoned. Excuses were made. Processes atrophied. Core values were forgotten.

The phrase “Normalization of Drift” was coined after studying the Space Shuttle Challenger disaster. It describes common underlying conditions within an organization preceding a preventable catastrophic event. These management pitfalls include ignored warning signs, condoned poor performance, repeated excuses, atrophied processes, and forgotten core values. Normalized drift was the root cause of the SWA meltdown.

Much has been made of the Airline’s shortcomings in I.T. and technology, and while that is a causal factor in this mess, that explanation alone misses the underlying issue. The conditions were set years ago when SWA’s leaders allowed Drift Normalization. As a result, the Airline got away from an employee-centered culture that empowered and listened to frontline workers. SWA leaders failed to provide employees the necessary tools to do their job.

We hope that SWAPA’s data-driven testimony provides value to the Airline industry, the Committee, and the public. We all want to understand how this happened and what must be done—together—to ensure it never happens again.

SWAPA thanks Chair Cantwell, Ranking Member Cruz, Chair Duckworth, and all the Committee Members for the opportunity to testify on this critical issue.

SWAPA would like to recognize all the Members of the Committee who supported the Payroll Support Program. Without that critical support, many Southwest Pilots may have lost their jobs during the pandemic, making recovery even more difficult and labored. We also sincerely thank the Committee’s professional and member-of-fice staff for their efforts.



June 21, 2021

## Margin

Casey Murray PRESIDENT

We, as Pilots, create margin, and by that I mean we continually mitigate risk throughout our day, thereby contributing to our airline's highest goal — safety. The more margin we have, the more room we have to mitigate risk. Every choice we make either adds or subtracts margin. More fuel onboard provides us with additional options and more margin. Deviating to put more distance between us and weather creates more options, and again, more margin. Enough rest puts us in better physical condition with better cognitive function, which again creates margin.

When the Company decided to expand ETOPS flying and push the operation closer to 2018-2019 levels of flying, management made a conscious decision to reduce our margin. They either knew or should have known that with the challenges created by accelerated training requirements for ETOPS, along with the requalification of ExTO returns, our schedule would be operating on the razor's edge. They also knew that SWAPA Pilots would rise to the challenge and cover their network and staffing shortcomings just as we always have.

They were right. Our Pilots have gone above and beyond expectations in recent weeks. But when the decision was made to roll into the June schedule with all but zero margin, that same decision begat what is currently happening. An airline inherently competes in a dynamic environment, so it is imperative to build in and maintain at least a minimum level of margin in the operation. Once again, money decisions won out over margin. Throw in a decade of conscious decisions not to invest in infrastructure and IT and it's no surprise what could — and ultimately did — happen.

The results have been disastrous. And we are now once again left to pick up the pieces. Management repeats the same mistakes and failures time and time again and our Pilots, as well as our passengers, pay for them. Some recent examples include: IT failures; hours on the phone to get a third, fourth, and fifth reroute; more wasted time on the phone to get a hotel room; calls interrupting rest to see how fast a Pilot can get back to the airport; and the inability to find food at the airport or hotel.

I believe that the greatest mistake our corporate leaders can make is failing to provide our employees with the tools necessary to be successful in our jobs. The problems we are seeing are not isolated to our workgroup. We see it happening to nearly all frontline employees.

I'm sure that this past week's debacle will ultimately be attributed solely to an IT failure. It will be written off as another once-in-a-lifetime event, just like the Midway meltdown, the 2016 router failure, and dozens of other events. But each of these affected us more severely than our peers because we don't have the infrastructure to maneuver with zero margin, yet we are responsible for making up for the shortcomings in the operation.

A month ago, I wrote an article for the June RP entitled "Insanity." Even I couldn't imagine how prescient it would be. Day in and day out, our crews are under immense strain from external pressures, as well as those that aren't adequately addressed by leadership. Displacements, mandatory masks, lack of available food, countless delays, and frequent JAs all lead to the same place — an even further reduction of our margins.

SWAPA is in constant contact with Flight Operations, from Scheduling to Planning to leadership. We are fighting to support you, and I want to repeat that we are here for you 24/7/365.

If the Company fails to supply you with margin, please, please do your primary job and create it where you can. Make sure you have adequate fuel. Make sure you and your crew are fed. Make sure you have a hotel room. If you can't get through to Scheduling, SWAPA will ensure you will be reimbursed. Make sure you're adequately rested and that you are making the best decisions for yourself, your crew, your passengers, and Southwest Airlines. Where there is no margin, it is your job to create your own.

The CHAIR. Thank you, Captain Murray. Now, we will welcome Mr. Watterson. Thank you so much for being here.

**STATEMENT OF ANDREW WATTERSON, CHIEF OPERATING OFFICER, SOUTHWEST AIRLINES CO.**

Mr. WATTERSON. Good morning, Madam Chair Cantwell, Ranking Member Cruz, and members of the Committee. I am Andrew Watterson and I am privileged to serve as the Chief Operating Officer of Southwest Airlines. I know that Southwest's operational disruption during the last week of December has garnered a tremendous amount of attention, so I appreciate your opportunity to testify on behalf of the company regarding airline operations and consumer protections.

I want to sincerely and humbly apologize to those impacted by the disruption. It caused a tremendous amount of anguish, inconvenience, and missed opportunities for our customers and our employees during a time of year when people want to gather with their families and avoid stressful situations.

We understand that for many, this is perhaps the most important trip they take all year. Again, on behalf of Southwest Airlines, I am deeply sorry. Still, we have been mindful that an apology alone, no matter how heartfelt or how often stated, would not suffice. We immediately recognized we had to take care of our customers.

And with regard to disruption, we did so, in a variety of ways, allowing customers to rebook their travel at no cost, effectively doubling our normal time for rebooking, granting all reasonable reimbursement requests for our customers' out-of-pocket expenses, including hotels, rental cars, meals, tickets in other airlines, and other necessary expenses like replacement car seats and strollers and pet sitting services.

We promptly processed refunds requested by customers for unused airfare for any Southwest flight canceled or severely disrupted

during this period. We prioritized returning the bags to the proper owners. I am pleased to report that except for a small percentage of recent requests, we have completed all those steps.

And it has truly been an all-hands-on deck effort, and our people will not let up until the requests are completed. We also made an additional gesture of goodwill, 25,000 Rapid Reward points, roughly a \$300 value, to every customer significantly impacted by the disruption. So, why did this happen? Let me be clear, we messed up, and I would like to explain to you how we messed up. In hindsight, we did not have enough winter operations resiliency, from where and how we de-ice aircraft, to the cold resistancy of our ground support equipment and infrastructure.

Our high rates of cancellation in Denver and Chicago, where 25 percent of our flight crews are based, caused our crews to be displaced. At this point, the disruption changed from a weather event that all airlines experienced to a crew event that was unique to us. And once again, when I say crew event, it has nothing to do with the behavior of our employees, it has to do with how we manage the crew network.

As the storm moved East, other Southwest airports of all sizes in the Central and Eastern part of the country began experiencing similar operational disruptions, and the cascade of challenges led to ways of cancellations within 2 hours of departure. This overwhelmed our crews scheduling processes and technology. We had upgraded this system earlier in the year, but we are taking a fresh look at it and other systems of how we should improve. Ultimately, none of this is an excuse.

We need to make sure our operational resiliency and technology are strengthened for future extreme weather events, no matter how unprecedented. We owe that to our customers and to our employees. To that end, we have moved swiftly to make our systems more resilient and reduce the risk of further disruptions.

We prioritized enhancements to our cruise scheduling software, we strengthened our early indicators dashboard to escalate operational issues earlier, and we established supplemental operational staffing that can quickly mobilize to support crew recovery efforts. And we implemented organizational changes designed to improve coordination among key divisions. We also are already several weeks underway on improving our structural capabilities around our winter operations.

Finally, Southwest is taking additional steps to more thoroughly analyze the disruption and understand how the accumulation of events led us to the end result, from internal department reviews to engagement by our Board of Directors and Commission, and a rigorous third party assessment. Based on all this work, we will then reassess our current plans and make any necessary changes.

We will invest what is needed to execute that plan in a timely and efficient manner. Let me conclude by reiterating that Southwest believes in building lasting relationships with the communities we serve. We are intensely focused on reducing the risk of repeating the operational disruption we had in December, and repairing the trust of our company has had and earned over a 52-year history.

I will certainly follow up with your constituents, Chair, when I return to Dallas. And I thank you and look forward to answer your questions.

[The prepared statement of Mr. Watterson follows:]

PREPARED STATEMENT OF ANDREW WATTERSON, CHIEF OPERATING OFFICER,  
SOUTHWEST AIRLINES CO.

Chair Cantwell, Ranking Member Cruz, and members of the Committee:

My name is Andrew Watterson, and I am privileged to serve as Chief Operating Officer at Southwest Airlines. Thank you for inviting Southwest to testify regarding airline operations and consumer protections, with an understandable focus on Southwest's operational disruption during the last week of December.

First and foremost, I want to take a moment to sincerely and humbly apologize to those who were impacted by this disruption. It caused a tremendous amount of anguish, inconvenience, and missed opportunities for our Customers and Employees during a time of year when people want to gather with their families and avoid stressful situations. Again, on behalf of Southwest Airlines, I am sorry.

As a Company, we are intensely focused on learning from this event by taking immediate mitigation efforts, undertaking department-level assessments and actions, and conducting a systemic review supported by a third party. Our Board of Directors also has formed an Operations Review Committee to guide ongoing management efforts. We are committed to thoroughly examining our operation, route network, processes, and technological capabilities to avoid putting our Customers and Employees in that situation again.

While I am not proud of what happened, I am very proud of how our People responded. We have a long, proud record of delivering on Customer expectations. And, when we fall short, we aim to do what's right. This includes prioritizing Customer refunds and reimbursements, which we have accomplished within government-mandated timeframes, as well as providing additional gestures of goodwill. We are working to repair the trust our Company has earned over our 52-year history, and we're committed to being America's most loved and reliable airline. I believe we're on our way to achieving that goal.

#### **Why Did This Happen?**

Let me be clear: we messed up. In hindsight, we did not have enough winter operational resilience.

Leading up to the event, our operations performed well throughout 2022 relative to the rest of the industry. In the fourth quarter, we had seen our on-time performance of 80.0 percent improve over the prior year's result of 72.6 percent and experienced a multi-year high by achieving a flight completion factor of 99.1 percent. However, from December 21st to December 29th, Southwest experienced a historic event with a combination of challenges we hadn't experienced before. What began as a weather event on December 21st turned into a Crew Scheduling event by December 24th.

As we normally do for large weather events, we developed a plan that included pre-canceling flights to reduce activity to an hourly rate that was consistent with our proven capabilities. However, the sub-zero temperatures, high winds, and frozen precipitation were worse than forecast, which had a wide-ranging impact on our station operations, especially at Denver and Chicago Midway. During this time period, we struggled to keep the operation moving at these key airports due to a number of factors, including the amount of deicing equipment and related infrastructure, the effect of the extreme cold on jet bridge hydraulics and ground support equipment fuel, and even, for example, the location of our gates and deicing pads. It became clear that, with the storm severely disrupting our Denver and Chicago Midway stations concurrently, we did not have enough resiliency in our operation for the severe effect this winter event had on us.

Due to these factors, among others, we could not execute the plan we had established for operating during the storm. We were forced to cancel almost the entirety of our flight schedule in Denver, which is our largest station, between the evening of December 21st and the morning of December 23rd and in Chicago Midway, which is our second largest station, between midday on December 22nd and through the end of day on December 23rd.

Denver and Chicago Midway are two of our eleven Crew Bases where Flight Crews begin and end their duties, and they collectively account for 25 percent of Flight Crews. Flight Crews are generally assigned to three-day work periods where

they operate flights across our network. When flights in a Crew Base are cancelled, the Flight Crews assigned to those flights are unable to begin their three-day pairings. This leaves subsequent flights in their schedule uncovered. If the Crew can be assigned to work, or travel on a later flight, they can catch back up to their assignments and aircraft. With such a large percentage of flights cancelled, for such a long duration, in Denver and Chicago especially, the Southwest Airlines Crew Network was under severe stress as we entered December 24th. Our Crew Schedulers worked diligently to re-assign Crews, where possible, and use Reserve Crews from the other Bases to cover the open flying.

As the storm moved east, other Southwest airports—large, medium and small in size—in the central and eastern part of the country began experiencing similar winter weather operational challenges. Communications among our Network Operations Control (NOC), local Station Control Centers, and Crew Scheduling deteriorated as the developing operational challenges continued. This lack of effective communication and coordination resulted in compounding, frequent, close-in flight cancellations, rather than our normal practice of batched pre-cancellations further in advance of departure times. This created an unprecedented amount and frequency of required changes to Crew schedules that overwhelmed our Crew Scheduling processes and technology.

Given the volume of ongoing flight cancellations, we, ultimately, decided on December 26th that the best course of action for getting back on track operationally was to pre-cancel our flight activity by two-thirds for December 27th through December 29th. That decision gave us time to reset the operation by getting Crews and aircraft into their needed positions so that we could return to normal flight levels beginning on December 30th. That tactic proved successful, as we operated very smoothly at those reduced levels. The fact that we were able to go from operating one-third of our schedule from December 27th-29th, and, then, bounce back to a full schedule on December 30th, with so few issues, is truly a testament to our People and the tireless work they put into serving our Customers. However, at the end of the day, our response to the severe weather and operational challenges did not live up to our standards.

Since December 30th, our operational performance has been solid. The month of January saw several ATC outages, historic precipitation in California—where we are the largest carrier—and multiple snowstorms in Denver—which, as mentioned, is our largest airport operation. Despite these headwinds, our on-time performance was ranked third out of the ten largest U.S. airlines for January.

### **Crew Scheduling**

To be clear, our Crew Scheduling software didn't stop working during this event. However, the pace and volume of close-in Crew and schedule changes over multiple days left our Crew Scheduling professionals unable to efficiently address the state of the operation. As the situation escalated and close-in cancellations grew, Crew Scheduling simply couldn't keep up with the overwhelming volume of changes, resulting in individual Crew assignments not being updated in a timely manner. Without updated Crew schedules, the Crew decision support software could not re-assign Crews to solve for flights with Crew coverage issues. Of the three moving parts in our point-to-point network—the flight network, the aircraft network, and the Crew network—and as far as our technology is concerned, the disruption primarily revealed a need to add functionality to our Crew Scheduling software to solve for a large backlog of broken Crew pairings.

Since the disruption, we have prioritized enhancements to our Crew software. I will address our other short-term mitigation efforts later. However, please know that with the mitigations we have in place, we are confident in our flight network and the schedules we have published for sale. The upgrade to the Crew software will equip us to better handle recovery from a mass cancellation event.

### **Network Schedule**

We are also aware that questions have been raised about our flight network. We have been flying at or near the same flight activity levels over the past several months and have continued at that level throughout January 2023 with high reliability. Thus, we are confident in our ability to operate our published flight schedules and respond to irregular operations, such as weather and ATC outages. We have been purposeful in increasing our ratio of Employees to aircraft, which is currently the highest in our history, to support proper staffing coming out of the pandemic. In 2022 alone, we added more than 11,600 new Employees, and we intend to continue significant hiring in 2023. Our flight network is also supported by sophisticated technology that regularly produces new aircraft solutions during more-

routine irregular operations. These tactics further strengthen our operational reliability in less-than-ideal conditions.

#### **Immediate Mitigation Efforts**

In the wake of this disruption, we have taken immediate actions. I have already mentioned the upgrades to Crew Scheduling that are in progress. In addition, we moved swiftly to put mitigation efforts in place to reduce the risk of future operational disruptions and help fortify our operational resilience. We strengthened our early indicator dashboard that closely monitors operational health and alerts us if we approach predefined operational thresholds. We enhanced and will continue to add functionality to our existing tools for Crews to communicate electronically to Crew Scheduling during irregular operations, and we established supplemental operational staffing that can quickly mobilize to support Crew recovery efforts at the first sign of a potential backlog. We also implemented organizational changes designed to improve coordination and communication between our Network Operations Control, Network Planning, and Crew Scheduling Teams. Finally, we are doing a system-wide review of our preparedness for winter operations and will implement any measures necessary to mitigate the risk of an event like this occurring in the future.

As a note, we had an opportunity to test some of these newly-implemented mitigation efforts during the FAA's Notice to Air Missions (NOTAM) technology outage in January. Our Network Operations Control Team worked around the clock in constant contact with the FAA and the industry so that the NOTAM delivery process was restored and valid before we pushed any of our flights. We prioritized Safety, verification, and compliance, which is why we did not dispatch flights before the FAA ground stop was lifted. We did not sacrifice Safety during December's event or the NOTAM event, and we simply won't compromise on Safety at any time.

#### **Comprehensive Review**

As we continue to work on immediate efforts, Southwest is also taking additional steps to analyze the disruption and understand how the accumulation of events led us to the final result. As I mentioned, our Board of Directors engaged early on, and the committee it has established will work with management and help guide the Company's response.

In addition to the ongoing analysis being conducted by teams in several departments such as Flight Operations, Inflight Operations, Ground Operations, Network Planning, Crew Scheduling, Network Operations Control, and Operational Performance, we've also engaged an internationally-respected consultancy, Oliver Wyman, to do a third-party assessment and make recommendations to inform other mitigation efforts—such as opportunities to improve performance on bad weather days. We've also asked our unions to participate in the work that is being conducted. With this third-party review, and our own review in hand, we will reassess the operational modernization plans we already had in place for 2023 and make any necessary changes in light of the challenges we experienced.

Additionally, I would like to take a moment to address Southwest's technology and systems. We have a long history of innovation and continuous improvement, and we have implemented numerous large-scale technology and business projects over the past five years. We have always invested heavily in technology and will continue to do so.

For 2023, we are currently budgeted to spend \$1.3 billion of our annual operating plan on investments, upgrades, and maintenance of our IT systems. Now, our internal review of the event, along with the work of our third-party consultant, will enable us to validate our go-forward plan and determine what sequence of improvements is most appropriate in terms of supporting our Customers, Employees, and technology infrastructure. We will dedicate the capital needed to execute that plan in a timely, efficient manner.

#### **Taking Care of Our Customers**

As stated previously, we are keenly aware of the impacts that disrupted holiday travel plans have on our Customers and their relationship with Southwest. An apology alone, no matter how heartfelt or how often stated, would not suffice to make things right. In addition to apologizing, acknowledging our shortcomings, and acting to strengthen our operational reliability, we immediately recognized we had to take care of our Customers.

Our pro-consumer actions included:

1. Implementing Dynamic Waivers, which allowed rebooking at no cost, between December 19th and January 7th and increasing our normal two-week rebooking timeline to 30 days for added Customer convenience.

2. Making the unilateral determination that every flight disruption between December 24th and January 2nd was treated as “within the airline’s control,” regardless of the actual cause, meaning that we would grant all reasonable reimbursement requests for our Customers’ out-of-pocket expenses (*i.e.*, hotels, rental cars, meals, tickets on other airlines, etc.), which have totaled hundreds of millions of dollars to date.
3. Quickly creating a highly-visible, user-friendly webpage where Customers could easily find information and directions on how to request refunds and reimbursements, and we implemented automation that allowed us to process those requests quicker.
4. Promptly processing refunds requested by Customers for unused airfare for any Southwest flight cancelled or significantly delayed during the disruption.
5. Prioritizing the return of bags to their rightful owners. This included delivering bags to Customers’ homes with the assistance of outside vendors.

I am happy to report that, except for a small percentage of remaining reimbursement requests, we have completed the action steps I just outlined. Importantly, these actions go above and beyond applicable DOT requirements relating to airline refunds and baggage and travel expense reimbursements for flights cancelled or significantly delayed by an airline. It has truly been an all-hands-on-deck effort, and our People will not let up until all requests are complete.

As a gesture of goodwill to our Customers, and in addition to hundreds of millions of dollars in refunds and reimbursements, we gave 25,000 Rapid Rewards points—roughly a \$300 value—to every Customer who was significantly impacted by our disruption between December 24th and January 2nd. While the specific circumstances that resulted in Customers being impacted differed, we felt it was important that this gesture of goodwill go above and beyond regulatory requirements. It was simply the right thing to do.

Finally, we recognized that our internal Customers—our Employees—were also affected by this event. During an unprecedented set of circumstances, our People were seen coming together, as they always do, to care for our Customers and each other. Many volunteered to assist with the surge of Crew Scheduling and Customer Service needs, and it was humbling to see the Southwest spirit at work under such adverse conditions. On top of expressing deep gratitude, all operation frontline employees were paid gratitude and premium pay through the disruption and beyond.

### **Looking Forward**

As we move forward, Southwest is focused on having the right People, equipment, processes, and technology in place to efficiently operate the network in all conditions when it is safe to fly. With the short-term mitigation elements that we put in place, along with any other areas of opportunity that we identify, we believe we are well prepared to execute our schedule with the level of reliability that Customers and Employees expect and deserve.

As we evolve our schedule, nearly all of our planned 2023 capacity additions will go to existing Southwest markets. These additional flights will help to add depth and greater resiliency by providing better re-accommodation options for Customers, Crews, and aircraft when we have weather or delays that create irregular operations. Importantly, our growth plans will also foster greater airline competition and all of the consumer and economic benefits which more competition produces.

Southwest believes in building lasting relationships with the communities we serve. We are the only major airline that has not ceased service to any U.S. airport since the start of the pandemic. We’re also an airline with a proud history of no bankruptcies since our inception in 1971—a 52-year record that no other airline can match. We remain committed to being exceptionally pro-Customer and pro-Employee, and that includes operating a reliable schedule and providing consumers with low fares, more nonstop itineraries, and exceptional service.

### **Conclusion**

Let me conclude by reiterating that Southwest is intensely focused on reducing the risk of repeating the operational disruption we experienced in December. We are committed to running a great operation each and every day, and I have the utmost confidence that our People, processes, and technologies will do just that. Above all, I am beyond grateful to our incomparable Southwest Employees for running a safe operation, restoring our reliability and resiliency, and providing excellent Customer Service.

Thank you, and I look forward to answering your questions.

The CHAIR. Thank you. Ms. Pinkerton.

**STATEMENT OF SHARON PINKERTON, SENIOR VICE  
PRESIDENT, LEGISLATIVE AND REGULATORY AFFAIRS,  
AIRLINES FOR AMERICA**

Ms. PINKERTON. Thank you, Chair Cantwell, Ranking Member Cruz, for inviting A4A to be a part of this discussion today. As we begin, I want to give a shout out to airline employees who have done remarkable work in getting our customers safely to their destinations throughout the pandemic and during the recovery.

I also want to express our sincere appreciation to the committee for your leadership in working with us and our labor partners on the payroll support program. As you know, PSP funds were critical to keeping tens of thousands of employees on the job during the most challenging time in the history of aviation.

It is not an overstatement to say that PSP was the only thing standing between some carriers and bankruptcy. During those difficult days of the pandemic, we continuously said that restarting our industry would be as challenging, if not more challenging than the rescue. The good news is that air travel rebounded faster than anyone could have predicted, but that came with growing pains.

Air carriers, though, quickly took action to address issues within their control. I will talk more about that later. But the first thing I want to do is address our commitment to our customers. Simply put, airlines want their passengers to be repeat customers. They compete fiercely on customer service. That is why U.S. airlines not only comply with legal requirements, but they go above and beyond.

On customer service issues, we put our money where our mouth is. I will give you an example. Since the pandemic, U.S. passenger carriers have issued more than \$32 billion in cash refunds, that is an average of \$900 million a month, in addition to other forms of compensation. And that is why refund complaints last year dropped significantly and were under 0.01 percent.

Along those lines, we have absolutely no incentive to delay or cancel flights. Safety is our top priority. If it is not safe to fly, our planes won't take off. Which gets me back to the factors for the operational challenges in 2022. At the beginning of 2022, you may remember, Omicron created unpredictable staffing and absenteeism challenges for both the FAA and airlines.

The entire system last year experienced extreme weather, thunderstorms, flooding, not to mention hurricanes Ian and Nicole, and a bomb cyclone. It is not surprising then for that the first 11 months of 2022, which are the months that DOT has published, two-thirds of U.S. airline flight cancellations were caused by extreme weather at 56 percent, and the NAS, national aviation system, at 10 percent collectively.

In other words, 66 percent of the cancellations were out of the carrier's control. With that said, carriers take responsibility for the 34 percent of the cancellations that were within their control, and they have taken decisive actions to address those issues. What did they do? They reduced their schedules by 15 percent.

They have been on a hiring binge. We hired over 50,000 employees last year. We are at an all-time high record for the last 20 years. Our growth rate has been 2 to 3 times the job growth rate broadly in the United States, and those are airline jobs that pay,

on average 20–37 percent more than the average private sector job. Now, there have been lessons learned from the pandemic.

Like most other airlines—or most other industries, airlines had to change their staffing models. Several airlines indicate they need 5 to 15 percent more staff to deliver a smaller schedule. While training and onboarding takes time, carriers are creating larger reserves, we are creating schedule buffers, and we are investing record amounts in technology to ensure resiliency. It is well documented that the FAA is also facing staffing challenges, and as we saw last month, FAA is working with antiquated technology.

On the staffing side, ATC has been saying for years that there is a controller staffing shortage. We support 2023 omnibus language that creates a process by which FAA and ATC are working together to identify which facilities are short staffed. Follow up on that is needed. FAA's technology issues came into the national spotlight last month when the NOTAM outage caused a nationwide ground stop, the first since 9/11.

What didn't receive as much attention were earlier in the month when technology issues in Miami resulted in a day's worth of long delays for anyone traveling in and out of Florida. I am not placing blame or pointing fingers. What industries are saying is that FAA needs sufficient and stable resources to update their technology along with accountability. We are pleased Secretary Buttigieg believes, like we all do, in the need to invest in the future and in infrastructure.

That infrastructure must include personnel and technology. In closing, carriers are doubling down on our efforts to improve our operational performance, but ensuring operational reliability is the most critical action airlines and Government can take together for a better customer experience.

Airlines are investing record amounts in their people, their technology, and tools to support operations and customers. It is paying off. We saw strong operational performance for the industry as a whole in the last 5 months of 2022, in the first month of 2023, and we expect that to continue. Thank you.

[The prepared statement of Ms. Pinkerton follows:]

PREPARED STATEMENT OF SHARON PINKERTON, SENIOR VICE PRESIDENT,  
LEGISLATIVE AND REGULATORY AFFAIRS, AIRLINES FOR AMERICA

**Thank You**

Airlines for America (A4A) appreciates the opportunity to testify on and bring a broader context to the state of airline operations and consumer protections. We value the Committee's continued interest and focus on our industry and these important issues. We are thankful for the many members of this Committee who have dedicated significant time and resources toward understanding the nuances and logistical challenges our interconnected aviation system can face every day in order to craft effective policies tailored to benefit safety, the traveling public and the men and women of our industry. No better example of this leadership was the crafting, enacting and implementation of the bipartisan Payroll Support Program (PSP).

PSP was critical to ensuring that U.S. airline employees remained on the job, ready to go and able to provide essential services throughout the pandemic, including transporting first responders, shipping medical equipment and eventually distributing vaccines. PSP ensured that U.S. airlines were able to make payroll and protect the jobs of flight attendants, pilots, gate agents, mechanics and others throughout the most harrowing months of the pandemic when the industry was in dire financial straits.

PSP was an overwhelming and widely recognized success—backed by labor unions and management in addition to the bicameral, bipartisan support in Congress—that kept employees on the job with a paycheck, healthcare and retirement contributions without straining federal, state and local unemployment programs. Without PSP, U.S. airlines would have been forced to implement massive layoffs, dramatically reduce service and cancel hundreds of aircraft orders.

While PSP was many things, it was not a panacea for addressing all the economic impacts and unique challenges posed by a pandemic. However, it was an effective and necessary policy that provided an important human capital bridge and system-wide framework capable of responding to the resurgence in travel demand in 2022. While 2022 operations were certainly beset by many factors and challenges, we would not have seen or experienced the modicum of recovery without PSP. PSP was a successful tactical investment in critical infrastructure and human capital that put the U.S. well ahead of many of our international partners—and competitors—who did not have the foresight to invest strategically. The entire aviation industry is grateful for your work, vision and leadership.

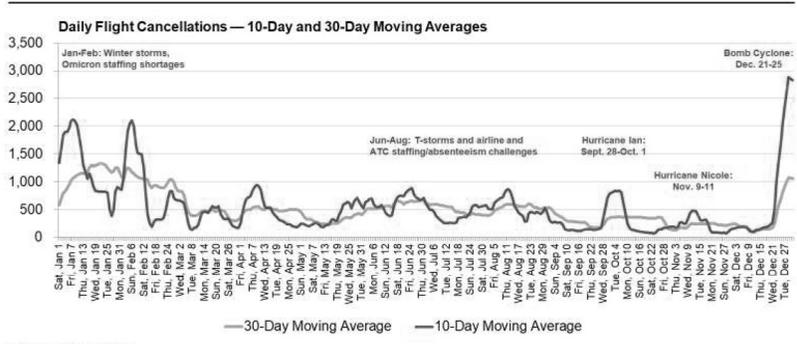
#### **2022/2023 Systemwide Operational Accountability**

There is no doubt that 2022 was one of the most difficult operational years in history. However, air carriers took responsibility and quickly took actions to address issues within their control. Airlines take customer service commitments very seriously and, as a baseline, it is important to note that airlines have absolutely no incentive to delay or cancel flights and only do so when circumstances dictate. While the details of any specific given delay or cancellation are contingent on the unique operating variables that led to it, a wide array of challenges may contribute to the decision. Variables can certainly include circumstances within the airline's control, such as maintenance/crew issues or IT failures, and air carriers routinely take full responsibility and are accountable for those events both through Department of Transportation (DOT) rules and regulation compliance and enforcement actions and through the court of public opinion.

In fact, there are innate disincentives for air carriers to incur operational disruptions, exemplified by the recent Southwest Airlines incident in December 2022, which in part led not only to their participation in this hearing, but also to a DOT investigation and the significant financial impacts and ramifications outlined in my colleague's testimony. I can assure you that no one at Southwest, or any other airline for that matter, takes these events lightly and ever wants them to happen. But when they do, there is certainly no lack of accountability.

Conversely, we hope there can also be accountability and broader context applied to other factors and variables that lead to delays or cancellations. While U.S. airlines are doing everything possible to make improvements to operational factors within their control, there are many factors beyond their control—including extreme weather, air traffic control (ATC) staffing or systems issues, airport power outages, National Air Space (NAS) volume and law enforcement activity. One can also question where the incentives and disincentives lie for ATC and NAS accountability, and this is an area on which we would encourage the Committee to focus its attention and oversight. As an industry, we are committed to addressing issues on our end; the government, which is a critical component of our supply chain, should focus on its end and take accountability for failings as well.

U.S. Airline Flight Cancellations in 2022



Source: Axxis (formerly "realFlight")



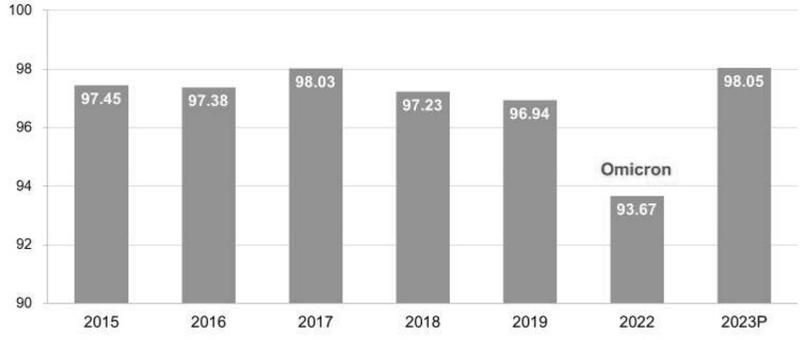
Analysis of 2022 data provides a good example for how broader review can provide context to what is actually happening across the aviation system. While acknowledging that DOT has not yet released data for December, for the first 11 months of 2022, 66 percent of flight cancellations in the system were caused by weather (56 percent) and the NAS (10 percent) collectively, as our Nation experienced unprecedented weather events, ATC staffing shortages amid rising volume from commercial aviation and general aviation as well as an increase in commercial space launches.

Further, at the onset of 2022, the country experienced several significant winter storms and air carriers dealt with the unpredictable staffing/absenteeism challenges caused by the Omicron variant. Moving into the Memorial Day holiday and the summer months, the system experienced significant thunderstorm activity, carrier staffing challenges and numerous ATC facility and system challenges including staffing issues that resulted in ground delay programs and ground stops, along with several runway closures.

As we transitioned to the fall, the system had to deal with the impacts of Hurricane Ian in September and Hurricane Nicole in November, among others, and in the final week of December the country was hit with a bomb cyclone. Despite all these events, preliminary data show that U.S. airlines completed more than 97 percent of flights at U.S. airports in 2022—meaning that fewer than 3 percent of flights were canceled.

In January 2023, despite two major Federal Aviation Administration (FAA) system outages and several winter storms, airlines canceled just 2 percent of flights, better than January 2018, 2019 and 2022.

January Flight Completion Factor (%) for 2022 and 2023 vs. 5 Years Preceding Pandemic

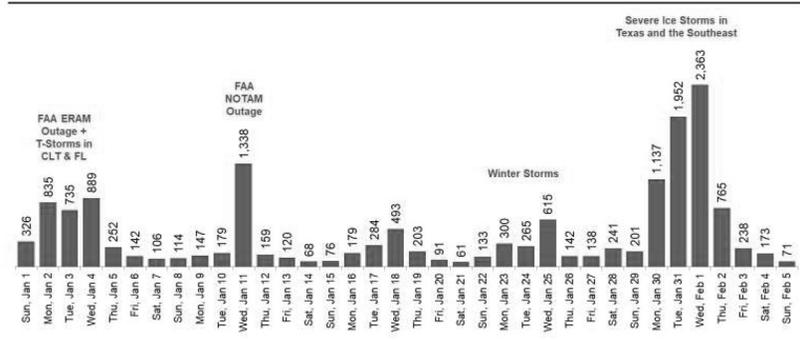


Source: Bureau of Transportation Statistics and Anevu (formerly "masFlight"), on a marketing-carrier basis from 2018-present \* P = preliminary, pending publication of data from BTS  
 Airlines for America  
 13  
 airlines.org

Some of the issues beyond the airlines' control included:

- **January 2:** The FAA En Route Automation Modernization (ERAM) system had a failure that forced the agency to order a ground stop, slowing traffic at Florida airports. Also, there was reduced visibility in Orlando (MCO) and Fort Lauderdale (FLL) along with winter storms in the west that brought low visibility, rain, and wind to San Francisco (SFO), as well as snow in Denver (DEN) that extended into Minneapolis (MSP) and Chicago.
- **January 4:** Thunderstorms in Charlotte (CLT) and central Florida.
- **January 11:** Nationwide ground stop due to a FAA Notice to Air Missions (NOTAM) system outage. Once the ground stop was lifted, airlines and airports struggled with managing compacted demand and recovering diversions resulting in particularly acute cancellations at Ronald Reagan National (DCA), LaGuardia (LGA) and CLT.
- **January 25:** Low visibility, snow and wind hit Chicago and Detroit; strong winds and low ceilings impacted LGA.
- **January 30–31:** Low ceilings in Las Vegas (LAS) reduced arrival/departure capacity during high-volume periods; winter storms with snow, ice and unusually cold temperatures impacted several airports in Texas and the Southeast.

2023: U.S. Airline Flight Cancellations



Source: Anevu (formerly "masFlight")  
 Airlines for America  
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 airlines.org

Despite these many challenges, airlines remain committed to using every tool at their disposal to provide a safe and smooth experience to the traveling public, and

our industry will do all it can to maintain and continually improve operational reliability.

**State of the Industry**

*Jobs & Staffing.* U.S. airlines have had an acute focus on staffing and have been working diligently and continually to address operational challenges within their control by hiring additional staff and adjusting schedules to improve reliability. As 2022 progressed, carriers proactively reduced their scheduled departures from their initial levels by about 15 percent to improve operational reliability.

At the same time, like many other industries across the economy, airlines also quickly had to adjust to new employment realities and modify pre-pandemic staffing models. For example, in the second half of 2022, carriers continued to observe higher-than-pre-pandemic rates of absenteeism, and several carriers have indicated that they now require 5–10 percent more staff to operate the same amount of pre-pandemic capacity. These factors led to aggressive hiring tactics that have resulted in the U.S. passenger airlines adding 50,000 employees over the course of 2022.

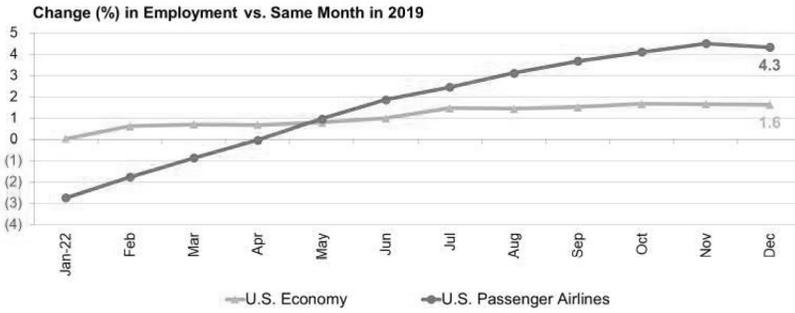
**In December, U.S. Passenger Airlines Employed the Most FTEs in 20 Years**  
 In 2022, the Workforce Grew by ~50K FTEs — Monthly Job Growth Averaged 4,150



Source: Bureau of Transportation Statistics for scheduled U.S. passenger airlines (i.e., all that report scheduled passenger revenue) \* Full-time equivalents (FTE) = full-time workers plus 0.5 \* part-time workers

In fact, as of November 2022, U.S. passenger airlines had their highest employment level in more than 20 years (since July 2002) and were adding jobs at a rate more than twice that of the U.S. economy.

**U.S. Passenger Airline Job Growth From 2019 Has Been Outpacing Overall U.S. Job Growth**  
 December: Airlines Up ~4.3% From Corresponding Month in 2019 vs. Just 1.6% for the U.S. Economy



Sources: Bureau of Labor Statistics (Series CEU0000000001 [total nonfarm, NSA] and CEU6500000001 [total private, NSA]) and Bureau of Transportation Statistics (U.S. scheduled passenger airline FTEs)

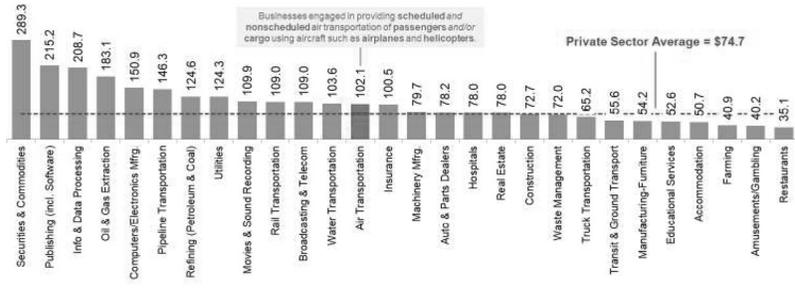
Carriers have also been focused on securing a pipeline of employees across the industry to accommodate future demand for air travel and have invested heavily in new programs, including apprenticeships, pilot academies and partnerships with

universities. These pathways offer tremendous opportunities, and airlines are proud to offer high-quality, career track jobs that are well-paying and provide solid benefits. For example, in 2021, per the latest data point available from the Bureau of Economic Analysis, air transportation employees earned wages 37 percent higher than the average private sector employee.

**Comparison of 2021 Average Wages and Salaries for Selected U.S. Private Industries**

U.S. Private Sector Average = \$74,666 in 2021

**Wages and Salaries (\$000) per Full-Time Equivalent Employee (FTE), 2021**



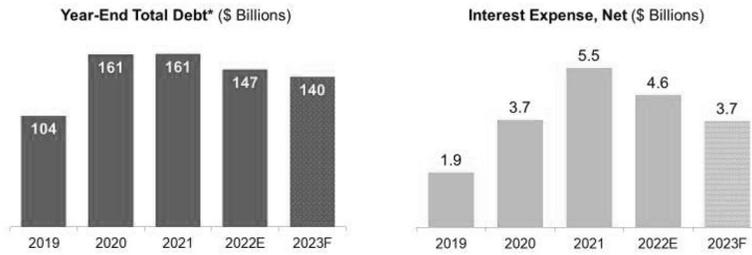
Source: Bureau of Economic Analysis (BEA) National Income and Product Accounts, Table 6.60



**Debt.** Even with all the public and private actions taken over the course of the pandemic, U.S. carriers amassed a significant amount of debt, which ended 2022 just shy of \$150 billion in 2022. This debt comes with heavy cash outlays for interest. In fact, net interest expense tripled from 2019 to 2021 and will remain elevated through 2023. As of February 7, nine publicly traded U.S. airlines had published their full-year 2022 results, posting just \$2.5 billion in pre-tax earnings—a modest 1.3 percent pre-tax profit margin. Notably, that comes on the heels of \$49 billion in pre-lax losses recorded in 2020 and 2021 combined.

**Airlines Have Coped in Part by Taking on Enormous Debt, With Heavy Cash Outlays for Interest**  
Net Interest Expense Soared From 2019 to 2021 and Will Remain Elevated Through 2023

"For 2021 and beyond, we anticipate a major deleveraging cycle as the industry will have no choice but to address its significant debt load." (Deutsche Bank, "Airline Industry Update," July 1, 2020)



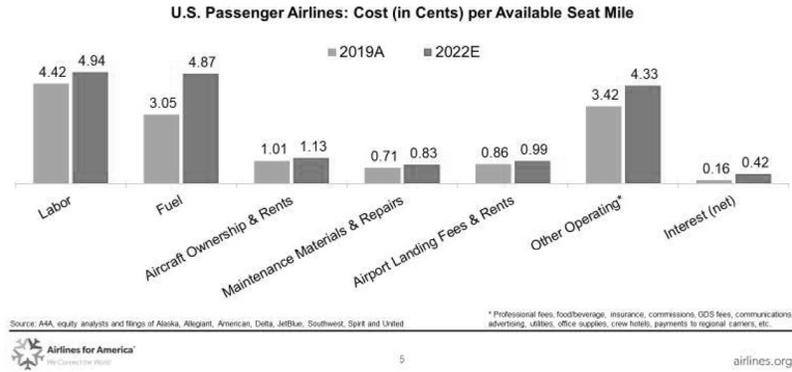
Source: AAA, equity analysts and filings of Alaska, Allegiant, American, Delta, JetBlue, Southwest, Spirit and United

\* Includes lease and pension obligations

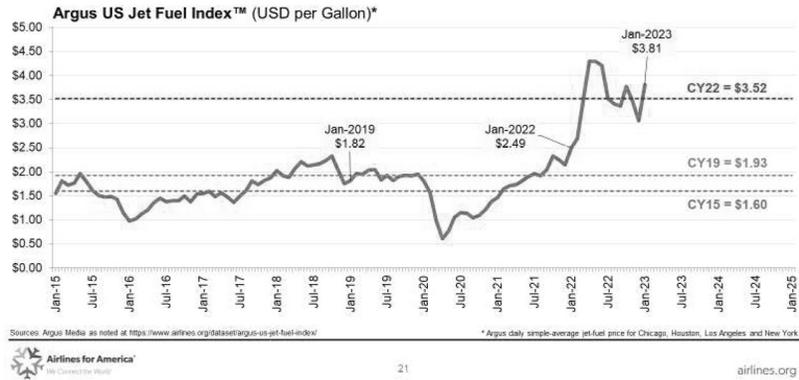


**Costs.** In 2022, U.S. airline unit costs, including interest expense, were approximately 30 percent higher than in 2019. This includes the higher costs in the price of jet fuel, which averaged 83 percent more in 2022 than in 2019 and, in January 2023, was 109 percent higher than in January 2019.

**In 2022, Airlines' Unit Costs Are Estimated to Have Averaged 29% More Than in 2019**  
 Net Interest Expense per Seat-Mile Rose an Estimated 165%

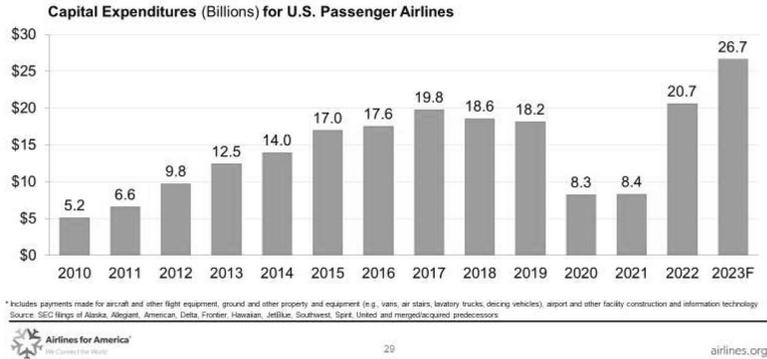


**Jet Fuel Remains a Fierce Cost Headwind, With Jan-2023 Prices Up 109% From Jan-2019**  
 Nationwide Spot Price Averaged \$3.52 — Up 83% From 2019 and 120% From 2015



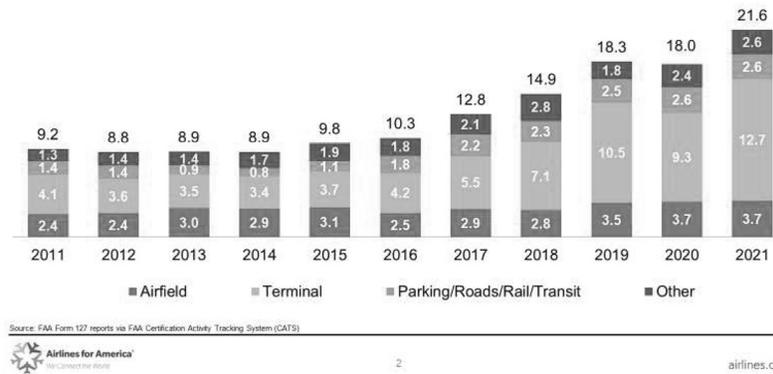
**Record Reinvestment.** U.S. passenger airlines are reinvesting record sums in their products to continually improve the customer experience, enhance operational reliability, increase efficiency and reduce emissions. In addition to aircraft, facilities and ground equipment, this includes a wide range of customer-facing technology initiatives that make it easier for travelers to shop for tickets and other services; check in for their journeys and navigate airports; check or track bags; to modify their itineraries; redeem vouchers or loyalty points; and to stay apprised in real-time of changes to their flights during irregular operations.

**U.S. Airlines Are Investing Record Amounts in 2022 and 2023 in Aircraft, Facilities, Ground Equipment, Technology and Other Capital Goods and Projects**



This has also been matched by record investments by U.S. airports, supported predominantly by rents, landing fees, parking fees, concessions, ticket taxes and other revenues generated from airport customers.

**U.S. Airports Spent a Record Amount on Capital Projects in 2021**  
 Capital Expenditures and Construction in Progress (\$ Billions) at Commercial-Service Airports



**Deregulation Continues to Benefit Consumers**

Prior to the pandemic, we were experiencing what many have called the “Golden Age” of air travel. U.S. airlines were flying a record 2.5 million passengers and more than 58,000 tons of cargo each day. Those record numbers were in large part because of two main factors: affordability and accessibility. Accounting for inflation, and including ancillary services, average domestic ticket prices fell 15 percent from 2014–2019, 22 percent from 2000–2019 and 44 percent from 1979–2019—the 40-year period following the Airline Deregulation Act of 1978. Those lower fares made commercial air travel accessible to nearly all Americans. Air travel was opening doors, connecting loved ones and generating opportunity across all walks of life and economic circumstances demonstrating that air travel is not just for the affluent anymore.

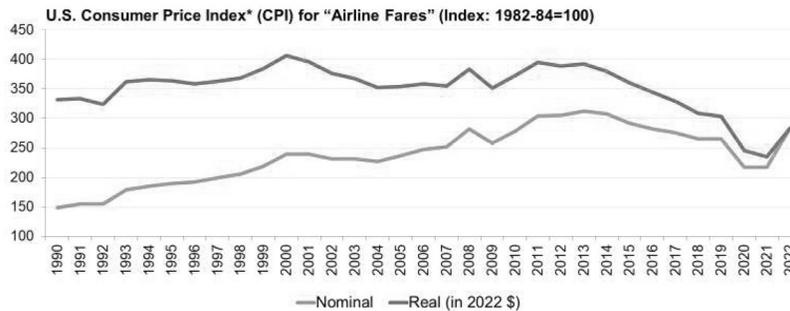
While the financial repercussions of the pandemic will be felt for years, the value proposition to consumers for air travel is still strong: it is affordable and accessible, and airlines are reinvesting record sums to continuously improve the product. U.S. airlines strive to provide the highest levels of customer service, and commercial air travel in the U.S. is safer and more environmentally friendly than ever before

thanks in large part to the competition and innovation unleashed by multiple decades of deregulated air service.

#### Airline Fares

In 2021, domestic air travel (including ancillary fees) was 55 percent less expensive than it was in 1979. In 2022, inflation-adjusted fares averaged 6.8 percent below 2019. U.S. airlines have maintained this level of affordability while facing significantly higher costs, as detailed in the previous section.

**Excluding 2020-2021, the 2022 Inflation-Adjusted "Airline Fares" CPI Was an All-Time Low**  
In 2022, Adjusted for Inflation, Airline Fares Fell 6.8% From 2019



Source: Bureau of Labor Statistics (CPI series CUUR0000SE1T001 and CUUR0000SE1A01); for information on the BLS methodology, see <https://www.bls.gov/pf/articles/airline-fares.htm>



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#### Competition, Consumer Protection & Reregulation

In November 2021, Compass Lexecon released a report<sup>1</sup> entitled 'The U.S. Airline Industry: Myths vs. Facts' which concluded that competition in the U.S. airline industry remains dynamic and robust, to the benefit of consumers, communities, the U.S. economy and airline employees. The report also summarizes that:

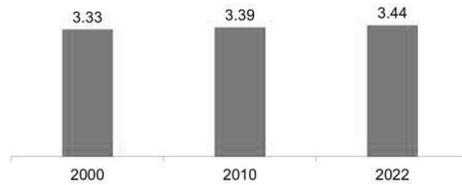
- Today's airline industry offers consumers more choices among and between carriers competing with different business models than ever before.
- The lack of entry barriers and more comprehensive networks made possible by mergers has resulted in the average number of competitors per domestic city pair *increasing* from 3.33 to 3.44 over the past two decades.
- Lower cost carriers have entered hundreds of new routes and now carry nearly half of all domestic passengers; nearly nine of ten domestic passengers have lower cost carrier options for their travel.
- Lower cost carriers (including new entrants) are growing several times faster than the U.S. global network carriers and have hundreds of additional aircraft on order to support future growth.
- Mergers between the large network carriers have enabled them to regain their financial footing and restore their growth, including to small communities that depend on their large hub and spoke networks.

<sup>1</sup> <https://www.compasslexecon.com/wp-content/uploads/2021/11/The-U.S.-Airline-Industry-Myths-versus-Facts-November-17-2021.pdf>

**From 2000-2022, the Number of Competitors per Domestic Trip Rose From 3.33 to 3.44**

Made possible by 1) lack of entry barriers allowing rapid nationwide expansion of lower-cost carriers and 2) mergers of complementary networks enabling large network carriers to offer competitive connecting service on more city pairs and new nonstop service into markets they previously did not serve.

**Average Number of Competitors\* in Domestic U.S. Markets (O&D City Pairs)**



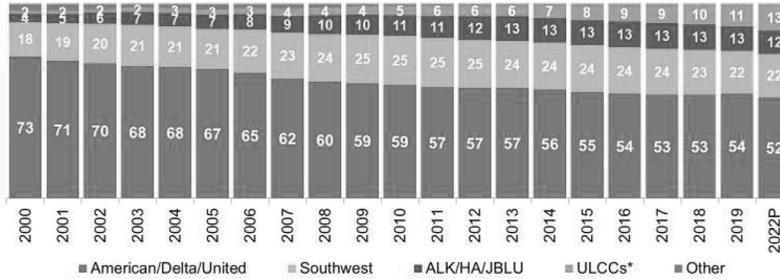
Source: Compass Lexecon analysis of DOT O&D Survey data (D&H) \*Per DOT and GAO, carrying at least 5% of O&D passengers in the city pair; average number of competitors is passenger-weighted across city pairs

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**Global Network Carrier Share of Domestic Passengers Fell From 73% in 2000 to 52% in 2022**  
In 2022, Ultra Low-Cost Airlines Carried 13% of Domestic Passengers

**Share (%) of U.S. Domestic O&D Passengers by Airline Business Model**



Source: DOT Data Bank 18 (each airline shown on a marketing carrier basis and tracked with its respective merged/acquired predecessor(s) (e.g., DL/NW) via Data by Cirium \*Allegiant/Veolia/Breeze/Frontier/Spirit/Sun Country

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The facts and data show that passengers greatly benefit from vigorous airline competition, which creates greater choice and service options. Congress recognized the benefits to consumers when they acted on a bipartisan, bicameral basis to deregulate the airline industry in 1978. At the same time, Congress also recognized that DOT needed to be a principled regulator and granted DOT broad regulatory authority and charged the Department to regulate with three complimentary considerations, which remain part of DOT’s mission today:

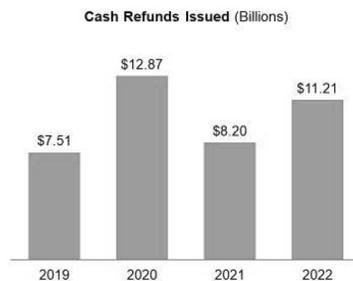
- Prevent unfair, deceptive, predatory or anticompetitive practices;
- Place “maximum reliance” on competitive market forces and on actual and potential competition; and
- Maintain an air transportation system that relies on actual and potential competition to provide efficiency, innovation and low prices, and to determine the variety, quality, and price of air transportation services.

We acknowledge the need for a principled regulator, and our industry does not oppose all regulations. Rather, we firmly believe that regulation of airline services or practices should only be promulgated in response to proven market failures or when DOT has evidence of the need for government intervention in the marketplace to prevent actual consumer harm. We believe the same complimentary considerations should be exercised by Congress.

However, despite DOT's robust regulatory framework and the broad authority in this area, over the course of the pandemic our industry has needed to remain nimble and vigilant to many well-intended, but sometimes unnecessary, mis-guided and/or untimely, legislative and regulatory proposals. Some examples, among many others, are:

- **Refunds.** Some in Congress and the DOT, through a Notice of Proposed Rule-making (NPRM), have proposed significant changes to DOT's airline refund requirements even though U.S. passenger airlines have been and remain keenly responsive to customers' refund interests. We support many of provisions in DOT's proposal, such as getting to a single definition of what constitutes a significant delay, but also have recommendations on how to ensure that some of these provisions are clear and do not have unintended consequences. Today, A4A member carriers abide by—and frequently exceed—all DOT regulations regarding these consumer protections, and there is no evidence of a market failure or unfair or deceptive practices in this area. In addition to other forms of compensation, the 11 largest U.S. passenger airlines issued more than \$32 billion in customer refunds, or \$900 million per month, between January 2020 and December 2022. This includes \$11.2 billion in 2022 alone, exceeding 2019 by almost 50 percent. The \$32 billion in refunds issued by these carriers equates to 65 percent of their \$49.6 billion in PSP receipts. It is also worth noting that DOT received just less than one (0.86) complaint about refunds for every 100,000 U.S. airline passengers flown—a 90 percent improvement from the 2020 peak and airlines are working hard to reduce that number further in 2023. Additional regulation is simply not necessary.

**From 2020-2022, U.S. Airlines Issued \$32 Billion in Cash Refunds to Customers**  
The 2022 Refund Tally Exceeded 2019 by 49%



Sources: Alaska, Allegiant, American, Delta, Frontier, Hawaiian, JetBlue, Southwest, Spirit, Sun Country and United



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[airlines.org](http://airlines.org)

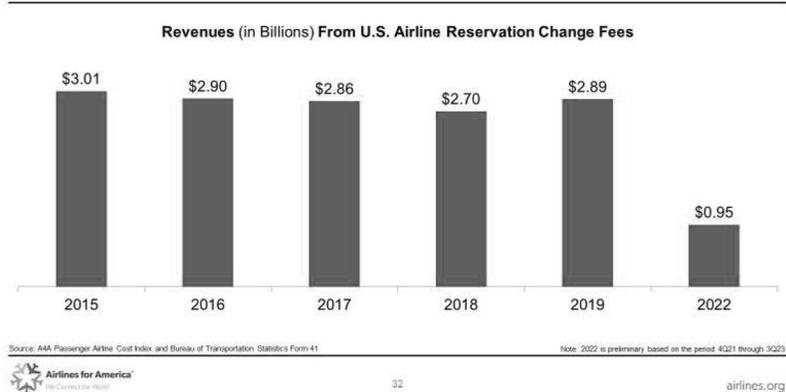
- **Ancillary Fees.** The DOT has issued an NPRM which proposes to reregulate the disclosure and distribution of airline ancillary services and fees. A4A supports consumer protection regulation that advances the DOT's central obligation under airline deregulation to place maximum reliance on competitive market forces. Regulations that empower consumers to make intelligent choices in a competitive marketplace are consistent with airline deregulation. However, regulations that would stifle innovation and interfere with a thriving marketplace, such as those proposed in the NPRM, are fundamentally inconsistent with airline deregulation and will ultimately harm consumers. Competition—not government regulation—is the most reliable and efficient means to ensure air carriers deliver high-quality service, choice and value to their customers.

Similarly, some in Congress have proposed instituting government-controlled pricing, establishing a private right of action and dictating private sector contracts. These proposals would completely unravel the positive policy benefits that consumers have reaped via deregulation of the airline industry; would decrease competition; and would inevitably lead to higher ticket prices and reduced services to small and rural communities.

A good example of the competitive market working is the evolution of change fees where competitors started to eliminate change fees and others in the mar-

ket followed. Notably, in 2022, revenues from reservation change fees were just a third of what they were prior to the pandemic.

#### Revenues From Reservation Change Fees in 2022 Were One-Third of Pre-Pandemic Levels



Stakeholders also have a number of effective and existing forums to transparently discuss and debate consumer protection issues. For instance, at Congress's direction, the DOT re-established the Aviation Consumer Protection Advisory Committee (ACPAC) in 2018 to advise the DOT Secretary in carrying out the DOT's activities related to aviation consumer protection. The ACPAC, with representatives of key stakeholders (airlines, airports, state and local governments and consumer protection groups), evaluates existing consumer protection programs, recommends improvements to such programs and recommends new protection programs, if needed.

Additionally, airlines and other stakeholders also work closely with the disability community and the DOT to proactively address accessibility issues. Similar to the ACPAC, the DOT established an Air Carrier Access Act Advisory Committee (ACAA Advisory Committee) in 2019 and includes committee members with expertise in accessibility, airline accessibility practices and aircraft design.

The ACPAC and ACAA Advisory Committees are valuable tools and provide a transparent and public forum for consideration of data and evidence concerning consumer protection issues. These Committees should be used as alternatives to rigid and proscriptive regulatory mandates.

#### FAA Reauthorization

As this Committee begins debate on the reauthorization of the FAA, we respectfully request that policymakers restrain from adopting punitive policies such as tax or fee increases or onerous rules and regulations that will otherwise hamper our industry, employees and customers. The cloud of the pandemic should not be used for convenient legislative opportunism to reregulate or refashion what was a highly competitive and burgeoning well-paid job creator prior to the pandemic. We should be moving forward, not backward to the early 1970s.

We would also encourage the Committee to take serious stock and review of the broader context and situational awareness we should all be attuned to going into this reauthorization. The last FAA reauthorization was passed in 2018. However, in the interim there has certainly been no lack of legislative activity which has included the Aircraft Certification, Safety, and Accountability Act and the Infrastructure Investment and Jobs Act, both containing significant policy and funding requirements—all of which have piled onto the FAA's workload and responsibilities.

The U.S. airline industry is in the early years of a very long road to full economic recovery; we also have an aviation safety regulator that is well behind schedule on existing mandates and that is struggling to just maintain a legacy ATC system, let alone operationalizing NextGen priorities. We would encourage Congress to fundamentally think about what needs to be done to structurally prepare the FAA for what is to come. Both from a resource and organizational perspective, is the FAA ready and capable of meeting existing demands along with the considerable challenges of the future like integration of new entrants into the ATC system? We think the answer to that question is clearly 'no'. Unfortunately, the FAA is on the preci-

piece of being overwhelmed, if they are not already. Policymakers should keep this in mind as the legislative process moves forward.

With that context and foundation in mind, we are hopeful you will also consider proposals, among others, that address the following priorities:

- Adequate funding and accountability measures for ATC staffing and modernization;
- Workforce challenges, including increased diversity and supply (*i.e.*, pilots and mechanics); and
- Increased resources for Sustainable Aviation Fuel (SAF) supply and related environmental improvements.

#### **Conclusion**

We are thankful for the opportunity to testify, and we look forward to working closely with the Committee over the coming months on many of these issues. From our perspective, the simple goals of the upcoming FAA reauthorization effort should be long-term stability, predictability and a Congressional understanding of ‘do no harm,’ all components of an aviation policy that will serve the FAA, industry and consumers well, especially at this moment in time.

The CHAIR. Thank you very much. We will turn to our—now, our last witness, Dr. Clifford Winston, who is going to join us remotely. Dr. Winston.

#### **STATEMENT OF DR. CLIFFORD WINSTON, SENIOR FELLOW, ECONOMIC STUDIES PROGRAM, THE BROOKINGS INSTITUTION**

Dr. WINSTON. Thank you for inviting me here. Can you hear me?  
The CHAIR. Yes, we can.

Dr. WINSTON. OK, great. So, in my written testimony, what I provided was a summary of academic research on the state of airline competition, the desirability of re-regulation or regulatory reform, and recommendations of policies that would improve the performance of the airline industry.

And in a nutshell, what I basically argued was that the strength of airline competition is quite strong, there is good strength there, but I could not really identify a re-regulatory or new regulatory policy that I thought would be helpful to consumer welfare, but I could recommend some policies that had a basis in markets that could greatly help travelers as well as even carriers, OK.

So, that is really what I am talking about. What I will do in the oral presentation is I will talk about a key methodological point in my summer, in my testimony, and that is the idea of a counterfactual analysis, and then the substantive policy point, and that is the idea of policy experiments.

This may sound a bit academic, but I assure all I make this conversational for you. OK, let me begin with the idea of a counterfactual. A counterfactual is a type of analysis that has to be taken to assess any policy, even mine. Any recommendations today, anything I am going to recommend, you really have to run through a counterfactual.

And what that is, is an understanding of the world within the policy and the world without the policy, all right. The ideal counterfactual is something that you see probably every year at Christmas time, or at least seen it once. And that is the film, “It’s a Wonderful Life.” What you see is a counterfactual for a human being.

They get to see what life would be like if they were never born and compare that with the life that they are currently living now—leading now. And there are problems with his current life, but you learn that the world would be a lot worse off if the person were never born.

Now we can't run Hollywood type counterfactual for policy, so what have we got in airlines? Well, to justify the case for deregulation, what we did, if you compared fares and intrastate flights which were unregulated in California and Texas, with the fares and interstate flights from Boston to Washington.

Those are regulated by the CAB. And what we found is that the unregulated fares in this counterfactual were substantially lower than the regulated fares. And Congress was impressed by that finding, and that helped lead to deregulation.

When we were in deregulation, how do we assess whether it was a good policy? What we did was project up what regulated fares would be based on the SIFL, which is what the CAB used to determine regulated fares and compare them with actual deregulated fares.

And again, saw a big difference between the lower deregulated fares and the CAB, what they would have been regulated fares. And in fairness to Southwest, they really deserve the lion's share of the credit or the benefits from deregulation.

Now the main point of all this is I can't give you a counterfactual how reregulation or new regulations would help. If I skim through it, I am going to point out other things that are going to lead to costs. They are going to offset what you see as benefits. OK, so what can we do? Let me give you a different counterfactual.

Imagine the automobile industry and it does not allow foreign cars to be made or sold in the U.S., no Toyota, no Honda, no Maserati, whatever, right. Make it worse, there are no private dealers, there is only public dealers in major metropolitan areas like Minneapolis, Denver, and Atlanta. There is only one.

Now, this obviously is not a desirable state for the automobile industry, but I have just described the U.S. airline industry. There is no foreign competition in the U.S. markets. All airports are public and some places only have one. So, what I am suggesting is allow—cabotage it, is allow foreign carriers to serve domestic routes, privatize the airports where they have a vested interest in helping consumers.

And I will add on, privatizing air traffic control is in many ways having the same effects of increasing competition, OK. Now, it is my final point, let me raise the policy experiment. You will hear this and say this is too much. You know, we can't let every carrier in this country—we can't privatize every airport. Fine, let's do experiments. Let's do this for North America in terms of cabotage. Allow Canadian, Mexican, U.S. airlines to serve all routes in these countries.

In terms of airports, we don't privatize all, but let's privatize airports in major metropolitan areas where there are at least three, New York, San Francisco, L.A., and Washington. Let those airports compete. Can they work with airlines to make passengers better off, reducing congestion, putting in heated runways where appropriate to melt snow and ice, make things safer, and even try to

work out a way to provide low-cost accommodations. This is the idea.

So, I would say in summing up, Southwest did not make mistakes. DOT did not make mistakes. Congress does not make mistakes. People make mistakes. If you want to reduce the likelihood of mistakes and you want people to be able to correct their mistakes, they need to be held accountable.

More competition will enable that to happen, and I hope you proceed with considering these policies. Thank you.

[The prepared statement of Dr. Winston follows:]

PREPARED STATEMENT OF DR. CLIFFORD WINSTON\*, SENIOR FELLOW, ECONOMIC STUDIES PROGRAM, THE BROOKINGS INSTITUTION

### Introduction

Southwest Airlines' cancellation of some 17,000 flights during the 2022 holiday season provoked outrage among Southwest's customers and caused an outpour of empathy from the Nation's dissatisfied fliers. Although Southwest's flights were cancelled because of a combination of poor weather conditions for flying and its antiquated technology for allocating its labor force to provide scheduled flights, the 1978 Airline Deregulation Act and the excesses of capitalism have been targeted by industry observers and commentators as the underlying cause of travelers' poor treatment. See, for example, the guest essays in the *New York Times* by Elizabeth Spiers and William McGee. Consequently, policymakers have renewed their interest in policies that could potentially improve air carrier operations and increase fliers' satisfaction from commercial air travel.

My testimony discusses policymakers' concerns about the adequacy of U.S. airline competition and whether some form of industry re-regulation or new airline regulations could increase airline efficiency, improve its treatment of passengers, and reduce fares. A concise journalistic overview of the contents of the testimony is contained in this article. In what follows here, I draw on economics research to argue that airline industry competition is strong and that carrier efficiency and travelers' satisfaction with air travel would not be improved by re-regulation or new regulations. However, I also argue that policymakers could take actions to strengthen airline competition and to significantly benefit air travelers by granting cabotage rights to foreign airlines and by privatizing airports and air traffic control.

### Airline Competition

The state of airline competition is important because it affects travelers' fares, the availability and convenience of service, and many amenities including but not limited to carry-on luggage space, meal service, seat comfort and spacing, and the like. It is straightforward to show that airline competition has disciplined air fares given that inflation-adjusted airfares were 60 percent lower in 2020 than in 1980, according to *Airlines for America*. In addition, fare levels are low enough to allow most Americans to fly—by 2020, 87 percent of the U.S. population had taken a commercial airline trip.

Despite this evidence, critics of the state of airline competition raise concerns that there is little choice of carriers because the number of carriers in the airline industry has significantly decreased in the past few decades following a spate of major airline mergers. However, airline competition occurs at the route level not at the national level and the most heavily traveled routes, such as New York (JFK)—Los Angeles (LAX), Los Angeles (LAX)—San Francisco (SFO), New York (LGA)—Chicago (ORD), Los Angeles (LAX)—Chicago (ORD), and Atlanta (ATL)—Orlando (MCO), account for a large share of all U.S. air travelers and those routes are served by several carriers. Competition also exists on routes connected to smaller airports. For example, after Delta made significant cuts in service at Cincinnati/Northern Kentucky International Airport, Allegiant, Frontier, and Southwest added new service. Similar changes are occurring at other former hubs, including Pittsburgh, Cleveland, Memphis, and St. Louis.

In chapter 7 of our forthcoming Brookings book, *Revitalizing a Nation: Competition and Innovation in the U.S. Transportation System* (hereafter *Revitalizing a Nation*), we conduct a useful exercise that reveals the state of U.S. airline competition

\*This testimony represents my personal views and does not reflect the views of the Brookings Institution, its other scholars, employees, officers and/or trustees.

by estimating the hypothetical effect on airline fares if Ryanair, a low-cost Irish carrier modelled after Southwest, or EasyJet, a low-cost British carrier, entered all U.S. routes that were not currently served by a low-cost carrier. We find that the effect of either carrier on U.S. fares is more modest than might be expected because some 80 percent of domestic passengers in the United States are already flying on routes that are served by at least one low-cost or ultra-low-cost carrier.

It is more difficult to quantify the effect of airline competition on many aspects of service quality because they are difficult to measure. However, carriers have long engaged in fare and non-fare competition; thus, the robust level of fare competition suggests that carriers also are competing on service quality, but not necessarily at the level that consistently satisfies air travelers.

However, where airline competition may be lacking, I argue that government policy is generally to blame, and I will explain how government policy can be reformed to increase and expand airline competition that could potentially benefit carriers and travelers.

### Regulatory Policy

Re-regulating the airline industry or introducing new regulations would not lead to greater competition. To understand this, it is useful to discuss how the empirical case for airline deregulation was developed and how deregulation was justified after it was implemented. Because nationwide airline deregulation and regulation never occurred at the same time, economists developed what is known as a *counterfactual analysis* where the actual effects of regulation were compared with the hypothetical effects of deregulation or vice versa.

As Steven Morrison and I discuss in our book, *The Economic Effects of Airline Deregulation*, economists estimated the potential effects on airline fares from deregulation by comparing intrastate fares for flights in California and Texas, which were not regulated, with interstate fares for flights of comparable distance, which were subject to Civil Aeronautics Board (CAB) regulation. They found that the deregulated intrastate fares were considerably lower than the regulated interstate fares. Congress found this evidence compelling, and it helped to strengthen the case for deregulating the airline industry.

To assess the actual effects of airline deregulation, Morrison and I compared fares and flight frequencies on a large sample of routes in 1977, when the airline industry was still regulated, with fares and flight frequencies on the same sample of routes in 1983, when the industry had been deregulated for five years. After adjusting for differences between the macroeconomies of those two years and fuel prices, we found that lower fares and greater flight frequencies had netted travelers some \$6 billion in annual benefits (in 1977 dollars) from deregulation, while airline earnings increased by \$2.5 billion a year.

That evidence is based on the early years of deregulation. As a follow up study, Morrison and I included a calculation in another book, *The Evolution of the Airline Industry*, which compared what regulated fares would have been during the period of deregulation into the 1990s using the Standard Industry Fare Level, which was developed by the CAB to determine regulated fares and was still calculated by the U.S. Department of Transportation for other purposes, with actual deregulated fares. For this calculation, we found that, on average, deregulation led to fares 22 percent lower than they would have been had regulation continued, with an annual saving to flyers of roughly \$12.4 billion dollars (in 1993 dollars).

Finally, chapter 7 of *Revitalizing a Nation* quantifies the substantial contribution that Southwest Airlines has made to the benefits from airline deregulation from its entry on U.S. routes. We find that Southwest has reduced fares, on average, 30 percent and that air travelers have gained \$67.6 billion (2000 dollars) from its entry during the sample period, 1994–2014.

Today, it is very difficult to construct a plausible counterfactual that would provide empirical evidence that re-regulation or some new regulation of fares would benefit air travelers. For example, suppose regulators put a cap on air fares. The airline industry has periods when they are highly profitable, but they also have periods when they lose a lot of money. Airlines cannot stay in business in down times—and several have been liquidated—if they must sacrifice revenue that is generated when demand is high. So, if forced to sacrifice revenue due to fare regulation, they will try to make up for lost revenue elsewhere and create other problems in the process. To wit, paying employees less would mean more employee turnover and a less experienced workforce; raising the price of checked luggage would turn cabins into hand-to-hand combat zones for overhead space; jamming more passengers into cabins would require narrower seats with (even) less legroom and longer boarding times; and so on.

How have other aspects of air travel fared under deregulation besides fares and flight frequency and could new regulations improve any of those aspects? Importantly, the benefits from airline deregulation have been accompanied by improvements in airline safety to the point where no major U.S. commercial airline has been involved in an accident resulting in a fatality in the United States since 2009.

Airline congestion and travel delays have become worse since deregulation, but this adverse trend is not attributable to deregulation per se. Instead, it is a consequence of policymakers failing to align other public policies with the effects of airline deregulation. Specifically, deregulation increased air travel, especially during peak periods, but airports have continued to set weight-based landing fees, which charge aircraft that weigh the least, such as private planes, less than heavier planes to use scarce runway capacity. This policy is perverse because smaller aircraft increase travel delays more than larger aircraft increase those delays because smaller aircraft require greater separation between aircraft to prevent wake turbulence. The efficient policy is to charge all aircraft congestion-based takeoff and landing fees, which vary with the volume of hourly air traffic. Thus, aircraft operations would be spread more evenly throughout the day and would result in less congestion and delays during peak travel periods.

Average load factors also have increased from roughly 55 percent during regulation to more than 80 percent today, which has created more competition for luggage space and tension in the cabin. This trend is attributable to the significantly lower fares caused by deregulation, but it is difficult to reverse this trend without re-regulation to raise fares. As I discuss, the trend could be reversed by policies that increase competition and available seats.

Finally, deregulation has enabled airlines to unbundle various amenities with separate charges, such as checked luggage, seats with more legroom, and so on. Unbundling prices for specific amenities enables travelers who prefer the lowest fares to purchase them without paying for amenities they do not value and enables other travelers to pay higher fares and receive amenities they do value. It would be difficult for policymakers to introduce a regulation that mandates a specific amenity at no cost without the regulation harming travelers in other ways.

In sum, whether policymakers seek to implement a new regulation to reduce fares, increase seat widths, prohibit charges for checked luggage or seat selection, require that all passengers be served hot meals, and so on, none of those regulations are likely to be supported by counterfactual empirical evidence that they would benefit air travelers on net.

### **Constructive Policy Improvements**

The preceding conclusion is unlikely to appease travelers and government officials who are still outraged by Southwest's cancelled flights that ruined thousands of vacations and by travelers being stranded in airports with nowhere to sleep and little food to eat. Is it possible to do something to potentially address air travel nightmares even if they do not occur regularly?

Unfortunately, it is difficult to craft an effective policy to prevent an unanticipated disastrous air travel event beyond certain forms of terrorism. Freak storms, human illnesses, mechanical failures, air traffic control disruptions, and events that have yet to occur will always pose a threat to air travel and potentially ruin flights for passengers, flight attendants, and pilots. However, those events affect a very small share of the hundreds of millions of people who fly in the U.S. every year.

At the same time, it is possible to adopt policies that would enable the U.S. air transportation system to become more robust and respond more effectively to unanticipated events and would generally improve air travel. Those policies include granting cabotage rights to foreign air carriers, privatizing U.S. airports, and privatizing U.S. air traffic control.

*Cabotage.* The simplest way to understand the motivation for granting rights to foreign air carriers to serve U.S. domestic routes is to consider a U.S. automobile industry that prohibited foreign automakers, including but not limited to Toyota, Honda, Nissan, Porsche, Mercedes, BMW, and Volvo, from manufacturing and selling their vehicles in the United States. Clearly, such a policy would greatly harm U.S. consumers.

Currently, that policy effectively governs air travel on U.S. domestic routes because Air Canada, British Airways, Lufthansa, Singapore Airlines, Air France, ANA, Emirates, and several other foreign airlines cannot serve domestic passengers on a route that consists of an origin and destination airport in the United States. The historical justification for the policy is that the U.S. military might need immediate access to all aircraft during times of war. Politically, domestic airline labor would mount significant opposition to additional competitive threats that could reduce its earnings. However, given the Nation's increasing reliance on unmanned

military aircraft and the weakened political position of airline labor in the wake of deregulation, those arguments have lost much of their force.

Travelers on U.S. international routes have already benefited from policies that promote competition. Beginning in 1992 with the Netherlands, the U.S. has negotiated open skies agreements with some countries that deregulate fares and carrier entry on the routes connecting the U.S. and those countries. In my paper with Jia Yan, we estimate that travelers on routes subject to open skies agreements have gained at least \$4 billion annually and that they would gain an additional \$4 billion annually if the U.S. negotiated open skies agreements with other countries that have a significant amount of U.S. international passenger traffic.

As noted, chapter 7 of our forthcoming book *Revitalizing a Nation* expands the analysis of the effects on fares of competition between U.S. and foreign airlines to the case of a foreign low-cost airline serving U.S. domestic routes that were not already served by a low-cost U.S. carrier. We found modest benefits, but we qualify that finding as a very conservative estimate of the potential benefits of allowing cabotage because it does not account for the change in the entire global airline network, including competition from other carriers on domestic and international routes in all countries. Indeed, changes in the global network would probably be the largest source of travelers' gains from cabotage because carriers would seek to provide seamless air travel throughout the world as, for example, travelers would be able to use a single carrier from, say, Des Moines to Vienna, and reduce connections and waiting time if connections were necessary.

Allowing cabotage would make it much less likely that low-density domestic routes were underserved because passengers on those routes could provide feed for international routes that originate in the US. Foreign carriers also would intensify competition on higher-density routes, reducing fares and improving service quality. Finally, foreign carriers could provide additional seating capacity, which could soften the traumatic effects if a domestic carrier experienced a meltdown.

*Privatizing Airports.* Privatizing airports can be motivated by considering an ill-conceived policy requiring all automobile dealers to be owned and operated by the government. In addition, the policy would result in some large metropolitan areas, such as Atlanta, Minneapolis, and Denver, being served by only one dealer and new dealers rarely entering the national dealer network.

That policy essentially governs the U.S. commercial airport system, which consists almost exclusively of public airports; Atlanta, Minneapolis, and Denver are served by only airport; and only one new major commercial airport, Denver International Airport, has been built in the United States since 1973. U.S. commercial airports were private enterprises until the Great Depression, when they experienced serious financial problems because of plummeting passenger demand. Government could have given airports financial assistance so they could remain in the private sector. Instead, they were put under the control of state and local governments, which had the sole authority to issue bonds to pay for airport facilities and operations.

Because new airports rarely compete with existing airports and because existing airports have little financial incentive to attract additional airlines and travelers, competition between multiple airports in a metropolitan area is limited. Chapter 8 of *Revitalizing a Nation* finds that travelers flying out of metropolitan origins with at least *three* airports pay lower fares, *ceteris paribus*, than travelers flying out of metropolitan origins with only one airport; but that fares from metropolitan origins with exactly *two* airports are higher compared with fares out of single-airport metropolitan origins. In other words, our results suggest that the presence of two airports is not sufficient to induce competitive pressures to reduce fares (and their presence may be counterproductive).

Our preferred explanation for this finding is that three or more airports competing in a metropolitan origin facilitate more entry by low-cost and ultra-low-cost carriers and facilitate competition on adjacent routes. In other words, the channel by which three or more airports reduces fares is by generating additional *airline* competition. In contrast, when two airports serve a metropolitan origin, they tend to differentiate their service by developing distinct business models consisting of network airlines primarily catering to international and domestic markets and point-to-point airlines primarily catering to domestic markets. The distinct business models do not reduce fares because they do not encourage additional airline competition in the same markets.

Thus, although greater airport competition could reduce fares by increasing airline competition, such competition has not significantly developed because public airports generally do not have the economic incentive to compete with each other. Even worse, airports impede airline competition by erecting entry barriers, such as exclusive use gates, and policymakers institute slot controls at highly congested airports. Privatizing airports could therefore benefit travelers because those airports

would have an economic incentive to compete by eliminating entry barriers and expanding facilities to attract more airline service, which in turn would increase airline competition that reduces fares. New private airports that enter the system, especially in metropolitan areas served by only one or two airports, also would have strong economic incentives to compete vigorously to attract more airlines and to provide adequate facilities for them.

A competitive private airport system also could improve air travel because private airports would have an incentive to implement congestion pricing, which would make more efficient use of runway capacity, and to adopt technological innovations, such as heated runways, which would melt snow upon contact, reduce air travel delays and cancellations, and improve safety. Chapter 8 of *Revitalizing a Nation* quantifies the potential benefits to travelers, airlines, and Boston Logan Airport if it installed heated runways.

Private airports also would have an incentive to work more closely with airlines to improve airline service and facilities to benefit travelers. For example, it would be in an airport's financial interest to incentivize and to help, if possible, airlines reduce the time they spend on their tarmac before departing, which frustrates passengers. Private airports also would have an incentive to explore the possibility of providing low-cost sleeping accommodations should airlines cancel flights, which would help reduce travelers' anxieties and possibly reduce the cost of compensation that airlines provide.

In sum, privatizing airports could enhance travelers' flying experiences by producing the expected benefits of competition; that is, more efficient operations and new innovations that reduce costs and prices and improve service, and by producing benefits from greater cooperation between airports and airlines, such as improved operations and facilities that are more responsive to passengers' preferences.

#### *Privatizing Air Traffic Control.*

The U.S. Federal Aviation Administration has long been criticized for its failure to develop and operationalize a technologically modern air traffic control (ATC) system, which could expand airspace capacity, reduce traffic delays, and enhance safety. Nav Canada, Canada's ATC system, is seen as a model for the United States to privatize, or at least corporatize, its system to improve ATC efficiency, technology, and effectiveness. Canada's system improves on the U.S. radar-based system to keep better track of aircraft in flight by using a constellation of satellites, which updates the position, altitude, and velocity of aircraft much faster than radar and provides considerable redundancy to ensure safety.

A privatized ATC system that adopts a satellite-based technology and expands air space capacity could benefit U.S. air travelers by facilitating more aircraft operations and competition, enabling pilots to select faster routings, and making it even more likely that U.S. air travel will continue to be extremely safe.

#### **Final Comments**

The fundamental challenge facing any transportation firm is to align capacity, which must be purchased and scheduled in advance, with consumer demand. The challenge to airlines is exacerbated by shocks to the macroeconomy, spikes in fuel prices, terrorist attacks, and other unanticipated events, which make it more difficult for airlines to align available seat capacity with potential demand. In fact, the U.S. airline industry as a whole has never made money during a recession.

However, Southwest Airlines has made money during a recession and is responsible for a large share of the benefits to travelers from lower deregulated fares. Clearly, Southwest has been doing something right. Yet, its mass cancellation of flights during the 2022 holiday season has created waves of doubt about deregulation and spurred calls for some type of government action.

I have argued that certain government actions, granting cabotage rights to foreign airlines and privatizing airports and air traffic control, which promote airline competition, are called for to enable the air transportation system to be more responsive and robust to unanticipated shocks. The justification for this approach is that market participants facing competitive pressures would be strongly incentivized to correct their mistakes and to improve the efficiency of their operations or they will face financial failure. In contrast, government performance is generally static because policymakers rarely have the incentive to reform their policies to enhance economic efficiency. Evidence that shows the lack of efficient government policy reforms is available here.

The U.S. government should not undo airline deregulation or open skies agreements because those policies benefited the flying public and were not mistakes. Instead, policymakers should expand those policies by taking the lead in global airline deregulation and by privatizing air transportation infrastructure.

To be sure, those policies would represent a dramatic change and could pose possible risks to the public. Accordingly, it is appropriate for policymakers to first consider policy experiments. For example, the U.S. could negotiate a fully deregulated North American airline network with Canada and Mexico, where the three countries' airlines would be free to serve any airline route in North America. The European Union has a similar policy for participating countries' airlines. U.S. policymakers could then assess the effects of additional competition on travelers' and carriers' welfare and reform the policy as appropriate. Similarly, policymakers could privatize airports in metropolitan areas that are served by three or more airports, assess the effects of the policy, and reform it as appropriate.

In the final analysis, governments and companies do not make mistakes; people make mistakes. People are less likely to make mistakes and more likely to correct the mistakes that they do make in an environment where they are held accountable for their mistakes. Increasing competition in the air transportation system is the best way to hold the system's participants accountable for their mistakes and to improve air travelers' satisfaction from flying.

The CHAIR. Thank you very much for your testimony. We will now turn to questions. Five-minute rounds, and I ask my colleagues if you can stick to 5-minute rounds only because we are expecting a vote at 11 a.m. and also a briefing in the Capitol on the Chinese balloon situation that I know many members are going to want to attend.

So, hopefully we can get in through as many questions as possible. And depending on the interest of the committee, we will adjourn for a time period and come back to allow members, if we haven't finished up with their questions. But I also want to say, this committee is going to make FAA reauthorization a very big priority, so today I guess is a kind of a kickoff, if you will.

Not intended thus, but you, many of the witnesses have brought up several issues that will, I think, attract more attention from us in our discussion period about this. And we are having a NOTAM hearing with the FAA, I think, next week, so we will continue the operational issues into the future for sure. But I wanted to start with that because I think the issue of operational control is very important.

Mr. WATTERSON, you now plan to upgrade your system. And then one of the things about Southwest again is that point-to-point service that has more of a problem dealing with the weather event as opposed to a hub model. When are you going to complete that upgrade?

Mr. WATTERSON. Thank you, Senator. The upgrade to the cruise system, I talked about.

The CHAIR. The dispatch—the flight dispatch system.

Mr. WATTERSON. So, please correct me if I am not getting your question correct, but we are spending \$1.3 billion in technology this year, which is about 25 percent more than 2019. And that was, again, 9 percent more than in 2018. So, we are moving our spending up faster than our revenue in our size, and we are upgrading a number of systems with that. With regards to this event, our crew scheduling software had a particular fault. It didn't stop working, but we lost—it fell down, so to speak, and overwhelmed. And there is a specific—

The CHAIR. I don't think—my constituents' point, I don't think they care about what—whether it was, didn't go to full capacity, had a glitch. They want to know if you are going to fix that system and when?

Mr. WATTERSON. Senator, tomorrow, the fix will go in and then it will be live in a production system. It is already had two rounds in our test system.

The CHAIR. So, that the same event, if it happened in a week, we would have a different outcome?

Mr. WATTERSON. That technology would not stop functioning. As I mentioned in my testimony, we believe our winter operations resiliency was the root cause and that will take longer to address. And so, we will focus on that for the bulk of our time.

The CHAIR. OK. You are here today, and I very much appreciate it. Your CEO didn't want to show up. Now, we could have figured out a way to get him here. But you are the operations guy, and I thought, you know what, I really want to talk to him. So, I really want to understand, because I have a lot of pilots here and they are telling me that they have been telling you about this for a long, long time.

And so, what I want to know, because a lot of people suffered a lot because of this juxtaposed to other airlines and where they were, and you just paid out a huge dividend.

So, people want to know, are these guys going to invest in the technology that will make this system operational, so this will never happen again?

Mr. WATTERSON. Thank you, Senator. We need to invest in technology, but also in our operational systems outside of technology because the winter operations were too much for us. You are correct that other airlines were able to handle the winter weather and we were not.

And so, to be able to better handle the winter weather, we need more infrastructure at airports for de-icing. We need more de-icing trucks. We need new technology systems with de-icing. We need to weatherize our ground support equipment.

So, there is lots of work and lots of expenditures we expect to prevent this from happening again, and that will be the bulk of the effort.

The CHAIR. And so, what is the cost of that upgrade that you need to do and when will it be completed?

Mr. WATTERSON. We are undergoing the assessment right now. We are doing a top to bottom view of our winter operations, and undoubtedly will be in the millions and millions of dollars, but it won't be until probably in March we will have finished the assessment of exactly how much and where. We already know in Denver and Midway we need substantial upgrades and we are already pursuing that with the airports.

The CHAIR. Do you understand the public's frustration with this? Do you understand that they want to know, and we are going to get into a lot of technology issues, trust me, but I think they want to know that you are going—your brand, yes, has been built.

And I definitely think Herb Kelleher would be here if he was the CEO. He would have been here today because that is Herb. I actually sat with him on the Road to End Commission so got to know a lot about his views on aviation. I think Mr. Murray, Captain Murray is going to say that you lost operational control, and that is the FAA's oversight to make sure that you have operational control.

So, if you don't make the technology investment to keep up that operational control, then yes, we should say something about that. Now, Captain Murray, did Southwest Airlines lose operational control in the aftermath of the weather event?

Mr. MURRAY. My answer is yes. I think the written testimony provides a lot of data and tells the story of how it did. Mr. Watterson's own written testimony, fourth paragraph under why did this happen? He actually says, "we could not execute the plan we had established for operating during the storm." And I believe that answers your question as well.

The CHAIR. What do you think it takes to get this system changed and upgraded so that if we have another massive weather event, that the point-to-point system that is unique to Southwest doesn't have the same kind of delays and outages?

Mr. MURRAY. Well, I think it is going to take a much more holistic approach to operating our network. We love our network. We think it is the magic behind Southwest. That is not our issue. Our issue is, is when there is a disruption, then Southwest—it takes Southwest much longer to recover.

And it is more for us, it is a process and how they program that IT, in how they connect pilots to airplanes and flight attendants, which is what causes the ongoing execution problems. So, that is something that can be done relatively quickly.

They have to change—any pilot who is here, and these pilots have come here on their day off, can attest to the chaos that they go through when going to work. They don't know where they are going to go.

They don't know where they are going to overnight. They don't know how long they are going to be on duty. And they don't know how long their overnight is going to be. So, it is holistic.

The CHAIR. Thanks. My time has expired, but I will point out Ms. Pinkerton's point about the overstaffing and scheduling. We are going to see, when we look at this whole system and we have all the airlines, we are going to find out that the people who overstaffed had enough people to survive this the best. And the Southwest ended up on the other end because of this technology and the point-to-point system. But anyway, Senator Cruz.

Senator CRUZ. Thank you, Madam Chair. Thank you to each of the witnesses. And thank you also to the many pilots and individuals who are here for this hearing. And I know many of you are Texans, and so, welcome to Washington.

We are glad to have you here. Kevin Murray, let me return to what you and Chair Cantwell were just discussing. In the view of the Southwest pilots, what caused 16,000 flights to be canceled, and what needs to be done to prevent that from happening again?

Mr. MURRAY. Well, thank you, Ranking Member Cruz. Again, it was a cascade of events that ultimately caused, you know, the failure in IT, the failure in its ability to keep up, the loss of where pilots, where airplanes, and where crews were.

A failure of infrastructure. Our operations agents who have a front row to our customers and board our airplanes weren't sure what was going on nor could get answers. So, it was a failure epically from top to bottom. We had crews that were on the phone,

we have screenshots, 17 hours on the phone trying to get a hold of someone.

Many of our frontline employees went above and beyond, and were able to cobble together a crew, cobble together an airplane, get passengers, and they did that on their own.

And so, when I said in my oral testimony that, you know, they rely and they have continued to rely more and more on being supported by their employees, the employees are the ones that did the Herculean task of kind of trying to recover.

Senator CRUZ. So, in your testimony, you expressed frustration that, in your view, management was not listening to the concerns of the pilots. Could you elaborate on that frustration, and do you feel that the changes that are needed are being implemented now?

Mr. MURRAY. Well, so the pilots have been sounding the alarm bells for over a decade. We have been the whistleblowers on this. We have watched this progress and seen these meltdowns occur.

I have laid it out in my written testimony for you. We have seen these meltdowns occur with more frequency and more severity. We have tried to get them—we love our airline, and they have to be better. And we are trying to partner with them. And I think that is key.

The front-line operators, whether it is a baggage cart, whether it is a fueling truck, whether it is a pilot, whether it is a flight attendant, whether it is a customer service agent, all have front line experience in seeing what goes on, and there has to be a partnering. We are a very data driven organization at SWAPA.

We have provided them point-to-point solutions for their point-to-point network. So, I think there has to be—this isn't an IT fix, this isn't a plug and play. Again, it is got to be holistic and it has got to be addressed, and it can be addressed tomorrow in a process.

Senator CRUZ. And to clarify, your criticism is not with point-to-point model. Southwest is unusual. Most other airlines have a hub and spoke model, whereas Southwest has a point-to-point model.

You are—and some members of this committee have raised concerns with the point-to-point model. I will say as a customer, I actually find it very convenient. And there is a reason I am on a Southwest flight just about every week of the year. But your concern is not with the point-to-point model, is that right?

Mr. MURRAY. Absolutely not. I do believe that if you look at Southwest Airline's history in comparison to the rest of the industry, since our existence, we have made money every year except during 2020. The rest of the airlines have not.

And I believe that is the magic of our point-to-point system. I think our customers love it. I believe it gives us a competitive edge. More importantly, during downtimes, it provides some flexibility and some agility to take advantage of times.

Herb Kelleher has a famous quote of that we have predicted 12 out of the last 5 recessions. And he—and it was our point-to-point network that provided for that.

Senator CRUZ. Dr. Winston, some of the proposals that have been discussed by Democrats on this committee, and indeed by President Biden in the State of the Union address, involve the Government regulating things like pricing, things like fees that customers are paying, regulating things unrelated to safety.

And let me be clear, I think it is an integral responsibility of the Government, the FAA, to focus on safety and ensure safety for the flying public. And I can understand the appeal of saying to people, you don't want to pay this fee or that fee.

I could understand the appeal of saying that every airline must have only first-class seats and a free foot massage with every flight, and that would make flying quite comfortable, but it would also predictably drive up the cost of air travel and price many Americans out of the market of being able to travel for work or leisure.

So, Dr. Winston, what would the effect be of the regulations being discussed for the flying public, and would consumers be better off or worse off with the Federal Government regulating pricing and fees and other aspects of airline travel unrelated to safety?

Dr. WINSTON. Thank you. So, I think the important thing here, we need to be specific and we want to work with the counterfactuals so we don't—it's hard to understand if we go very general saying, oh, regulation. I want to know, what regulation are we talking about? And then we just spin through, OK, what is going to be the full effect of that regulation? So, I will mention one.

Suppose we say that all checked luggage is free. You know, we have to allow people to be able to check luggage and not charge them. And, you know, on the face of it, that sounds a good thing. People want to check their luggage. They don't want to pay extra fees. But then spin through what is going to happen.

Well, airlines are going to incur costs from that. And this is all airlines, not just Southwest. And this is a competitive industry. And they can't incur these costs, they have to pass them on and they will with higher fares. And we can continue to do this exercise, but pretty much anything that I have heard thus far recommended. Now people complain about transparency.

That is a different issue. I mean, certainly airlines, and I don't really know why these—why companies do this, can say, look, here is the full—here is the price, end quote, does not include in bold letters extras. Put an asterisk and say, here are the extras So, people know they have to pay for baggage, and so on and so forth.

So, that is in general what we can expect to see, and we can plug in specific policies. Am I allowed to say something else?

The CHAIR. Well, if it is really very short, because we are over this time and we need to get to various members.

Dr. WINSTON. OK, very short. All airlines run point to point. The only flights that are not point to point are those that crash. Southwest really does not run that different a network than other airlines.

The CHAIR. Senator Baldwin.

**STATEMENT OF HON. TAMMY BALDWIN,  
U.S. SENATOR FROM WISCONSIN**

Senator BALDWIN. Thank you, Madam Chair. Mr. Watterson, you have undoubtedly heard directly from the families who have been—whose travel plans were disrupted by the Southwest meltdown. And many families from Wisconsin also reached out to me.

One gentleman, Paul, wrote to me about his very expensive attempt to fly home from Florida to Milwaukee with Southwest. His

flight was canceled twice at the very last minute, and while he was waiting at the airport, he had no choice other than to spend an unexpected \$222 to stay at a hotel.

The next morning with no good options, he spent about \$700 to rent a vehicle and drive 23 hours home. Yes, Paul ultimately was reimbursed by Southwest for those expenses, but he can't really be reimbursed for the time and frustration of being in that unacceptable situation which so many other travelers found themselves in, because of Southwest cancellations.

So, Mr. Watterson, as you know, air carriers who accepted payroll support program relief funding were banned from conducting stock buybacks until last year. For me, this was an essential condition when we were writing the CARES Act. While Southwest has not yet conducted any stock buybacks, it was the first major carrier to reinstate stock dividends to shareholders.

My preference would be that you prioritize your customers the highest of all. And so, do you plan on moving forward with any stock buybacks prior to ensuring that your technology is fully prepared to deal with a similar disruption in the future?

Mr. WATTERSON. Thank you, Senator. And I apologize once again for the disruption your constituents experienced. It is indeed unacceptable and we will endeavor to make our system more robust so that does not happen again. And I am glad they are reimbursed. The extent you have constituents that were not reimbursed, please contact our office.

We will definitely follow up because we want to do right by our customers even if they were unacceptably disserved. And I am also very grateful for the Payroll Support Act and other follow-on bills, and we took pains to maintain our end of the bargain not ceasing service to any domestic airport, restrictions on buybacks, dividends, and executive compensation, which you all find very appropriate, and we are happy to abide by them. And yes, we did our recently declared dividend.

We did that after we felt like we had enough funds to properly fund both paying our employees top of the industry wages or at least accruing for them, for funding giving generous benefits, funding purchase of our aircraft, funding for our IT department, and also paying down our debt.

And so, essentially, we paid shareholders kind of at the end of the line after we funded everybody else. And so, yes, Senator, we will continue to fund what is necessary, and whatever comes out of this review, we will fund what is necessary to achieve that.

Senator BALDWIN. All right. It is my understanding that some airports that are serviced by Southwest were not receiving timely information from the company's leadership throughout the December meltdown.

This includes Mitchell International Airport in Milwaukee, Wisconsin. Although Milwaukee is the only airport in Wisconsin that Southwest serves, Southwest provides about 45 percent of the airport's service. While the airport did its best to react to the situation by securing affected passengers' bags, it had little to no information from the company about when they could expect the situation to improve.

Can you commit to providing clear and improved communication with airports moving forward to ensure that they are able to provide the best service possible to their communities, particularly during any future disruptions in service?

Mr. WATTERSON. Thank you, Senator. Yes. We are proud to serve the Milwaukee area and provide them great air service. And I commit to you that we will follow up and make sure we communicate better with airports in such situations.

Senator BALDWIN. Thank you. Captain Murray, real quickly. The Southwest Airline Pilots Association, SWAPA, has been raising the alarm about Southwest's technology not being equipped to deal with a major weather disruption for years, as you have just emphasized, including a podcast that was aired just before the December meltdown.

Given your members' firsthand encounters with the shortcomings of the existing technology, has Southwest done enough to ensure SWAPA and other workers have a seat at the table with any forthcoming technology upgrades?

Mr. MURRAY. Well, I think that is one—thank you, Senator. I think that is 100 percent critical as we move forward. And it is got to be—excuse me, it has got to be all of labor. And up to this point, we have seen some minor touches and been included in two meetings.

But really addressing our process failures and how that is going to be programmed into our IT, the front-line operators must be involved, and that is something that we are insisting on, and it is something that I hope comes from this testimony today.

The CHAIR. Thank you. Senator Capito.

**STATEMENT OF HON. SHELLEY MOORE CAPITO,  
U.S. SENATOR FROM WEST VIRGINIA**

Senator CAPITO. Thank you, Madam Chair. And I thank the Ranking Member. And thank all of you for being here today. I will say anecdotally in my office, I have had like 10 of my staff members, I said, who was affected by what happened? About four of them were affected. So, that shows you the breadth of Southwest, I think.

And they were all satisfied with the—while, a lot of frustrations at the time and all of that, satisfied with the remedies that Southwest brought forward to them. So, I think, you know, if we are going to find some good news here, I think that is a little bit of good news, at least for those who I understand it may not be universal, but at least in those four, they were.

So, Mr. Watterson, your CEO, in an interview last week, said that “it is a misconception that technology was the issue and blamed more of the storm,” understanding that it is more than one thing.

But I am hearing in the testimony and response to questions, and the fact that you are putting a large investment in technology, that it is, in fact the technology. How would you respond to that?

Mr. WATTERSON. Thank you, Senator. Yes, there were technology issues during the disruption and we don't dispute that, and we will make the necessary investments there.

All we were trying to say is, the problem or the root cause was how we handled our winter operations, and that is where you will see us put some focus over a multi-year period, because that is what started the dominoes falling.

The last domino was the crew scheduling system not being able to function as we would like, but it was the upstream stuff that was a bigger problem that we are addressing.

Senator CAPITO. Well, I understand one of the other problems, too, was de-icing. Say, in Denver, there was not enough de-icing equipment. The plane sits out. You have got to come back around, get back in line, and then you run into timing problems and other things. How are you addressing that de-icing in those areas that obviously—Detroit, I mean, Denver, Chicago need the extra equipment. And I understand that is your responsibility, really, as an airline to provide that rather than the airport?

Mr. WATTERSON. Thank you, Senator. And generally, yes, the de-icing pads, some airports you must de-ice in specific location to have the fluid recaptured. That is done in conjunction with the airport.

And so, we are meeting with Denver Airport February 14 to discuss this and following up also with Chicago, as well as other airports as far as those infrastructure. But then the other equipment staffing is our responsibility, and we are definitely evaluating everything and making the necessary investments from top to bottom.

It is not just in those areas, but also technology used in de-icing, our training, our procedures. We are looking at everything to see what we can do to up our game so this doesn't happen again.

Senator CAPITO. Yes, I saw a lot of heads nodding there in the pilot population on that question. Another thing I have wondered, did you ever run a worst-case scenario? I mean, certainly, you know, you always want to plan for the worst.

But did you ever run a fallout scenario where you could anticipate a bad storm, you know, de-icing issues so that you could have gone back to those trial runs to see how we can fix this more quickly?

Mr. WATTERSON. Thank you, Senator. In regard to winter operations, what we look at is our throughput of how many aircraft per hour we are able to effectively de-ice in different levels of storms.

And so, the initial plan that I referenced in my testimony was based on our previous modeling of how much we could per hour handle in our de-icing pads and such. In Denver and Midway, those—based on history, those proved to be incorrect for this storm.

And that is why we need to go back and reinvest in those areas so that we can more robustly achieve those throughput rates.

Senator CAPITO. All right. Well, I would highly recommend that. I mean, that also could have brought up, I think, more quickly your technology failures as well.

Ms. Pinkerton, we were talking about compensating customers, and I know that some of my colleagues are pushing for an airline consumer protection law similar to what they have in the EU.

How do you think, when we see what the response of Southwest has been, would this change that or would it put—how do you think that would impact what we saw as their response?

Ms. PINKERTON. Well, as I mentioned in my opening comments, collectively, the industry has refunded \$32 billion since the pandemic. And I think that having an EU-type compensation in this country would be a disaster. I mean, deregulation has been an enormous benefit for consumers.

Senator CAPITO. A disaster in that it would be more costly to the consumer or—?

Ms. PINKERTON. Absolutely. You know, you all are too young to remember this, but it used to be that only the rich could fly. That is not the case anymore, and we would like to keep it that way.

There is no doubt that deregulation has democratized air travel, and, yes, a compensation system—and there have been analysis that have been done of the EU system. It just adds cost. It doesn't fix the problem. Southwest and all of our carriers have made record investments in our technology to make it more resilient, to recover more quickly.

\$21 billion this year. We are expecting \$27 billion next year. We need that money to continue to invest in our people, and our product, and our customers.

Senator CAPITO. Thank you. And I would like to say to the men and women that work in the airlines, particularly the ones flying into places like West Virginia, although Southwest is not, thank you for keeping us safe.

We—it is with great pride, I think, for us to feel, when we sit down and then buckle in, that we are handled with great professionals who have our safety at the top of the list. So, thank you all very much for that.

The CHAIR. Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR,  
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Well said, Senator Capito. Thank you, and I agree. Thank you for all your good work. And thank you, Chair, for having this really important hearing. We all know what happened. I know that, as we say in the Senate, everyone has said it, but I haven't said it.

But I know what happened in my state, and that is that in Minnesota, nearly 80 percent of Southwest's flights in and out of our Minneapolis Saint Paul Airport were canceled over the Christmas holiday weekend. And meanwhile, the breaking in the crew scheduling led to a lot of overworked Southwest employees with little direction on how to improve the situation.

We all know it is unacceptable, and I appreciate the apologies and the comments about the changes that are going to be made. Senator Moran and I Co-Chair the Travel and Tourism Caucus of the Senate.

We are very focused on this, as I know the Chair is, and many others. So, I worked with Senators Moran and Capito just recently to introduce the NOTAM Improvement Act, which is a simple beginning to all this with a task force to recommend improvements to prevent future outages.

Representative Stauber from Minnesota, carrying it in the House, it actually already passed the House. And I know there is going to be many other ideas. I know that Senators Duckworth,

Thune, Moran, Fischer, and Kelly, and myself are working on a bill to expand the FAA's workforce development, which is also a key part of this, both at the FAA and the private airlines.

So, Captain Murray, in your testimony, you highlight how in November you warned about risks associated with crew scheduling and IT systems. Why do you think your warnings were ignored?

Mr. MURRAY. Thank you, Senator. That podcast was one of many warnings that we had relayed to Southwest either publicly, privately. And we have been trying, as is I testified a little bit earlier, you know, we have tried to offer solutions where we see breakdowns.

And so, we have gotten very little traction in that regard. And so, as we have moved forward, we have been expressing some very dire warnings about how brittle.

Senator KLOBUCHAR. OK. I am going to go to you, Mr. Watterson. Southwest recently announced a \$1.3 billion investment to update the technology. Is that going to get at the issues that Captain Murray raised? How is the money going to be spent?

Mr. WATTERSON. Thanks, Senator. Yes, the \$1.3 billion is a 25 percent increase over 2019 pre-pandemic levels. So, we are increasing our IT spend, obviously faster than our company is growing, and we are going to use that across the operation, both in the crew scheduling area, but also in our ground operations and flight operations area so that we can make sure that we have modernized our operation.

Senator KLOBUCHAR. OK. Thank you. Ms. Pinkerton, in addition to the operational challenges this winter, there were also disruptions during the spring and summer of 2022. Part of it was post COVID travel demand. What changes did airlines implement to correct the operational challenges they faced during this time period?

Ms. PINKERTON. You are absolutely right, carriers did learn lessons post-pandemic. We had to change our staffing models as a result of people being sick, increased absenteeism. The two most important things we did, we reduced our schedules by 15 percent in 2022.

And then second, we went on a hiring binge. We hired 50,000 people in 2022. And, you know, as I was saying earlier, carriers have identified the fact that they need 5 to 15 percent more staff to fly a smaller schedule.

Senator KLOBUCHAR. OK. Thank you. Mr. Watterson, different subject, customer service. Senator Baldwin. I heard asked some questions about it. Could you talk about what steps you have taken to improve customer service in communication with passengers? Senator Capito got at clearly some of the remedies.

Mr. WATTERSON. Thank you, Senator. Yes, we have implemented improved ways for customers to inquire with us about refunds, baggage return, and the like. And we have also made sure that we stayed well within the DOT guidelines for how we reimburse and refund customers who have had disruptions.

We pride ourselves on having high net promoter scores, so we are making sure we have increased staff, increased investment to be able to respond to our customers when they contact us.

Senator KLOBUCHAR. OK, very good. I think you know how important I believe it is to have competitive airlines and have more competition. So, I am with you hoping that this is all going to work and that you get at some of these cyber issues because we can't have no competition in the airline.

And you are clearly, as we all know, and your employees are one of the key competitors for people to get affordable. And I would put a pitch in for Sutton Country Airlines of Minnesota as well on that front.

Ms. Pinkerton, I mentioned this legislation to get—to strengthen the resiliency and the cybersecurity of the NOTAM system. In your view, how can we make sure something like this doesn't happen again?

Ms. PINKERTON. It is a great question. I think that thank you for the for the legislation. I think that is a great first step. I will say that I think that that is just the tip of the iceberg at the FAA.

Their capital budget has been stagnant for 14 years, so I think we are going to see more and more—the program is 30 years old, their facilities are 50 years old. I think this issue requires leadership from the White House, OMB, DOT, FAA, and then Congress supporting an ask for additional resources, frankly, and accountability—and accountability.

Senator KLOBUCHAR. Right. And as well, I am out of my time here. And maybe I will ask you a question on the record later, but just about the investment on the private side as well. It goes together.

Ms. PINKERTON. It absolutely does. That is something we need to do together. We had record \$21 billion worth of investment in technology this year, and we are predicting forecasting \$27 billion next year compared to the \$2.9 billion that the FAA is doing. For 5 percent of the GDP is what we support, so that is an important investment.

Senator KLOBUCHAR. Thank you. Thank you all of you.

The CHAIR. Senator Vance. Thank you. Senator Vance.

**STATEMENT OF HON. J. D. VANCE,  
U.S. SENATOR FROM OHIO**

Senator VANCE. Thank you, Madam Chairwoman. Thanks for everybody for your time. But I want to start actually just asking, maybe following up a little bit all that Senator Klobuchar talked about and some of the antitrust questions, so I would like to direct this to Mr. Hudson and then to Ms. Pinkerton, because I would like to get, you know, both sides perspective here.

You know, there has been a lot of argument that the, you know, if you look at margins in the airline industry, if you look at certain geographic routes, if you look at certain practices, that there is some evidence of consolidation and consolidation in a way that is very anti-competitive and not in the best interest of consumers.

I would love to get your reaction to that. What do you think the evidence is for consolidation? What do you think the evidence against it is? Because I would like to understand, frankly, what is going on.

Mr. HUDSON. Thank you, Senator. If we can look back at the history, 45 years since the Deregulation Act, what we see is originally

there was a great profusion of new airlines that come into the system. Then it causes instability and many of the older ones go bankrupt and there is consolidation.

We now have a system which essentially four airlines control over 80 percent of all the domestic flights. They essentially have an oligopoly. And the way we think you have to deal with that is have reasonable regulation as well as competition. I would like to quote two people who are really authorities in this who couldn't be here today.

One, Alfred Kahn is a former Chairman of the CAB and considered the father of airline deregulation. He said this about 25 years ago when the problems we're really raising that we have today, these problems drive home the lesson that the dismantling of comprehensive regulation should not be understood as synonymous with total Government *laissez faire*.

The principal policy failures over the past 15 years have been failures on the part of Government to vigorously and imaginatively fulfill responsibilities that we, and he is talking about himself really, in deregulating the industry never intended to abdicate. One other person I would imagine—

Senator VANCE. Sorry, sir—because of the limited time. Thank you, but Ms. Pinkerton, I would love to get your thoughts too.

Ms. PINKERTON. Absolutely. I will give you the evidence. And I think the first piece of data, again is air fares, which are the fares and the ancillary fees in the last 40 years have dropped 55 percent.

Flying used to be for the rich. It is not anymore. We want to keep it that way. Deregulation has democratized air travel. It is critical that we not turn the clock back on that. In terms of consolidation, don't forget, there were a lot of bankruptcies after 9/11 and there was consolidation after that.

But has it produced? It has produced an industry where we have fierce competition, we have low-cost carriers, we have ultra-low-cost carriers, and we have global network carriers. A lot of people like to make the global network carriers out to be the bad boogeyman. The fierce competition from the low-cost carriers and the lower cost carriers means they are carrying 50 percent of the market today.

Global network carriers have lost market share. It has gone from 72 percent 20 years ago to 51 percent today. So, I think the evidence is in the data. It is the customer service and airfares, and the variety of airlines that are out there. 11 years—we just had two new airlines get into this industry, Breeze and Avelo, plus the other 11 airlines that are out there competing fiercely every day.

Senator VANCE. Thank you. I appreciate that both. And during this last question, Mr. Watterson, just because this may have a policy implication, it may not, but how often do you get to talk to one of the senior executives of America's airlines, or one of America's biggest airlines.

And so, you know, I have heard this from constituents many times. I have experienced this myself. You know, you go to the gate and your flight is supposed to leave in 20 minutes. And yet the flights that is supposed to take you to where it is supposed to go has not even arrived.

And of course, it has to deplane and all that stuff. And then, you know, it is supposed to leave in 10 minutes and then you go and ask the gate agent, is the flight going to leave on time? And they say, yes, even though the flight hasn't arrived yet. And then an hour and a half later is when your flight actually departs.

I mean, that is a pretty common experience, I think, for a lot of travelers across a number of airlines. I am just curious why you guys do that. Is there a business practice that motivates that decision? Because it seems like it is pretty obvious to everybody the flight is not going to leave on time, but there isn't always transparency about that fact.

Mr. WATTERSON. Thank you, Senator. And I apologize if you experience that in Southwest Airlines. The system—the situation we often find ourselves in is more smaller times, not an hour and a half.

But usually when the flights are maybe plus or minus 15 minutes, we are—we have two choices, be super transparent, and the time could go plus or minus 5 or 10 minutes every 5 or 10 minutes or stick with the original time knowing that you are kind of a little bit off.

And so, a lot of times we have customer confusion or it is a debate of like how frequently to update them knowing that time will change frequently, or do you stick with the original time even if it be off a little bit? So, there is probably not a very good answer in the end on which way to go.

Senator VANCE. Thank you.

Senator KLOBUCHAR. Senator Markey.

**STATEMENT OF HON. EDWARD MARKEY,  
U.S. SENATOR FROM MASSACHUSETTS**

Senator MARKEY. Thank you, Madam Chair. During the first 11 months of 2022, more than 25 percent of Southwest flights either arrived late or were canceled. Southwest's worst performance since 2014.

Southwest pilots have been sounding the alarm about these operational issues for years. Yet these warnings were apparently summarily ignored. Mr. Watterson, did the Southwest Airline Pilots Association warn Southwest about the issues that led to the meltdown, yes or no?

Mr. WATTERSON. Thank you, Senator. They warned us about some of the issues that were part of the meltdown.

Senator MARKEY. OK. And why didn't you do anything about it?

Mr. WATTERSON. Thank you, Senator. We were addressing part of those issues. Obviously, it was unsuccessful, but with regard to some of the crew scheduling, we had invested in those areas.

Senator MARKEY. Well, again, because you did not listen to those warnings, catastrophic conditions were created for passengers by the hundreds of thousands all across our country. So, that is absolutely unacceptable. You were warned.

That mismanagement absolutely led to real pain, real harm for families. In response to what happened, Senator Blumenthal and I called on Southwest to provide a cash hardship payment beyond refunds and reimbursements to help compensate for passengers

suffering. Instead, Southwest gave each passenger frequent flier miles.

Mr. Watterson, will Southwest commit to providing customers with a cash hardship payment instead of frequent flier points, if passengers desire that?

Mr. WATTERSON. Thank you, Senator. We believe being generous with the reimbursements and giving frequent flier points is a preferable way to compensate our customers.

Senator MARKEY. Well, unfortunately for those customers, those payments are little consolation for passengers like Christine Pastore and her husband, who were unable to visit their sick daughter at the hospital on her birthday over the holidays because of Southwest cancellations.

Mr. Watterson, if an impacted passenger refuses to fly Southwest again, will Southwest commit to providing the passenger with a cash payment instead of the frequent flier points, yes, or no?

Mr. WATTERSON. Thank you, Senator, for the question. I think we have plenty of opportunities for them to fly us. They choose to fly somebody else, that is certainly their choice.

Senator MARKEY. It is their choice. Would you give them a cash payment in order for them to fly on another carrier rather than Southwest?

Mr. WATTERSON. No, Senator. We will not pay them cash to be in another airline unless it is for reimbursement of a flight they took in the disruption.

Senator MARKEY. And again, that just misses the whole point about the customers, how they were inconvenienced, and how they need to be compensated with cash. It is deeply disappointing to us.

For many passengers, the point system that you want to use is just going to be useless. It is nothing but an empty gesture. And I will say that 14 of the senators wrote you a letter asking you to answer questions on this and get the answers back by February 2nd. It is now February 9th.

Obviously, your answers could have helped us to prepare for this hearing, and it is unacceptable that Southwest did not respond to the Congress in time so that we can be fully prepared for this hearing.

Ms. Pinkerton, in your testimony, you write that 66 percent of flight cancellations between January and November of last year were caused by weather or the national aviation system. Here is another way to look at that data.

More than one-third of cancellations were the airline's own fault, such as maintenance or staffing issues. Ms. Pinkerton, what percentage of flights were canceled in 2019 due to the airline's own operational problems?

Ms. PINKERTON. Senator, I don't have that data at my fingertips, but what I did earlier was say that we take responsibility when cancellations are within our control. We acted very quickly in 2022. We did two things. We reduced our schedule by 50 percent and we went on a hiring binge. We hired 50,000 people in 2022.

Senator MARKEY. Right. Well, the answer is 28 percent, far less than the 35 percent last year that is due to the airline's own operational problems. And in 2018, it was under 25 percent. And in

2017, that figure was below 23 percent. So, again, this number just keeps rising year after year.

There is a serious problem. In total, the airlines caused 53,000 cancellations in the first 11 months of 2022, more than double than before the pandemic. Airlines also caused over 33 million minutes in flight delays during that period, up 65 percent over pre-pandemic figures. That data tells a clear and obvious story.

Airlines failed travelers last year over and over. Passengers missed birthdays and weddings. And Congress needs to put guardrails on the industry to stop this putting of profits over people, and we also need to pass my Fare Fees Act so airlines stop nickel and diming customers for basic airline services, including my Families Fly Together Act, which reintroducing again today to prevent airlines from charging fees just so a mom can sit with a 5-year-old daughter on a plane.

Ms. PINKERTON. Senator—

Senator MARKEY. It is absolutely unacceptable that airlines charge for that service.

Ms. PINKERTON.—I have to make clear, none of the air freight carriers charge a family seating fee. There are a couple of carriers that do so, but that is not targeted at us.

But I also want to say, just on the whole ancillary fees, just because I know it's a passion of yours, I wanted you to know ancillary fees have actually been reduced over the last several years. In fact, change fees are now a third of what they used to be—

The CHAIR. OK. So, Ms. Pinkerton, we have to get on to other people. This is an important issue and I guarantee you we will get into a much heavier debate. But accountability isn't reregulation, and I think we will have a lot of conversation about how to grow the airline industry and how to protect consumers.

Senator MARKEY. So, can I just say 10 seconds, 10 seconds. Customers just feel like they are shaken upside down at the counter for all these additional charge fees. It just has to.

The CHAIR. Thank you. Senator Duckworth, I am turning the gavel over to you. I hope you will call on Senators Budd, and yourself, and Senator Schmitt, and then recess us until after the secure briefing.

We are going to take inventory to make sure that people do want to come back and ask further questions, but we will take account of that. But anyway, I am turning the gavel over to you to call on, Senator Budd is next. Thank you.

Senator DUCKWORTH. Yes, thank you, Madam Chairwoman. Senator Budd.

**STATEMENT OF HON. TED BUDD,  
U.S. SENATOR FROM NORTH CAROLINA**

Senator BUDD. Thank you, Chair. And I thank the members of the panel for being here today. So, Mr. Watterson, Southwest December failure disrupted the Christmas plans of tens of thousands of Americans, as we all know. Families were unable to gather. People were left stranded.

Luggage was shipped all over the country, separating from their people, from their possessions and sometimes even from their vital medications and their appointments. Now, you have had to answer

a lot today, but for the sake of the folks I represent back in North Carolina, I would like to hear your answers to a few questions.

So, what steps are your airline taking to make sure that you are ready for the next busy travel season, and also to deal with inclement weather?

Mr. WATTERSON. Thank you, Senator. Our plan involves three buckets of actions. The first bucket is immediate short-term actions we have implemented just after the disruption so that this exact similar type of activity with regards to some of our crew scheduling software and some of our decisionmaking were remediated.

We have a second bucket, which is each operations department is going back and revisiting the disruption and understanding what they in those departments could do better. That could be engine covers and engines, you know, de-icing trucks, things of that nature in these department.

And then third, we have a systemic reviews at the company level where we understand how all the dominoes and sequence led to that last domino. And so, that third one will be bigger changes that we must fund over the balance of this year so by the next winter season we are ready.

Senator BUDD. Thank you for that. So, in 2022, I understand that your operating revenues were around just shy of \$24 billion and Southwest spends about \$1 billion on technology every year. And I understand that you plan to spend \$1.3 billion in Fiscal Year 2023 on technology upgrades, right, so far?

Mr. WATTERSON. Yes. Yes, that is correct.

Senator BUDD. OK, great. So, is roughly spending the same amount of money on this issue going to fix what went wrong back in December? So, here is the question behind the question, is it really a technology problem or is it a management problem?

Mr. WATTERSON. Thank you, Senator. We have technology needs that need to be addressed. So, we will spend incremental to that \$1.3 billion if necessary. If we find that there is technology that requires additional—that is not already funded.

Number two, I mentioned earlier that we have some winter weather capabilities which we need to invest. And so, I think that is the biggest root cause we found so far, and so, that will take the likely the largest amount of our effort and our funding.

Senator BUDD. Thank you. So, of all your annual technology spending, was Southwest prioritizing its crew software for upgrades prior to December?

Mr. WATTERSON. Thank you, Senator. We were—that spending was across all operation. The crew spending was in the earlier stages of its modernization, so to speak, whereas maintenance that had just been finished and flight operations was about midway.

Senator BUDD. Sounds like it was in the mix, but it wasn't the priority. It was part of a total technology upgrade plan, it sounds like.

Mr. WATTERSON. Thank you, Senator. It was more timing. The timing doesn't mean priority, so it is very important we will fund it. But the maintenance system came first and then came our ground operations, and now we are working on the flight operations.

Senator BUDD. So, thanks to—Mr. Watterson, thanks to airline deregulation, customers have many low-cost flying options and they get to vote with their feet and with their dollars.

So, it is obvious that you all messed up and your customers, they expect you to fix it. So, will you commit to keeping us informed on the steps your company is taking to make sure that these melt-downs never happen again?

Mr. WATTERSON. Absolutely, Senator. We will definitely follow up.

Senator BUDD. Thank you. Well, again, I want to thank the panel. Consumers, again, they get to vote on airline policies and performance, especially with their feet, and that vote is where they take their business.

Travelers should never have to experience what happened over Christmas again. When carriers melt down, they need to fix the problem and regain customers' trust. Thanks to deregulation and increased customer choice, airlines already have a powerful incentive to provide services in ways that their customers find valuable, and we should keep it that way. Thank you.

Senator DUCKWORTH. I will recognize myself, five minutes for questions. Mr. Watterson, Chicago is home to Midway Airport, Southwest's second largest base of operations, and what happened over Christmas was appalling.

We have heard many of these stories already today, and I am going to add to them because it is important to keep telling these stories because these are individual human beings who were significantly affected. One Chicagoan who was scheduled to fly with two young children to see their grandparents checked their coats and the children's car seats, only to be told their flight was canceled, and because of a staffing shortage, there was no one who could return those essential items to them.

Imagine going without coats in Chicago in December. It is dangerous, and so, is putting children, small children, in a car without a car seat. It is actually illegal. I don't know what a family like this was supposed to do or how they were even able to get out of the airport and home safely. Another Southwest customer with stage four cancer got stuck in Chicago while trying to fly home for treatment.

And the thing that I find so shocking is that while all these delays and cancellations were happening, and passengers were calling Southwest for help, it took hours to reach a live person, if they ever reached a live person at all.

Mr. Watterson, will Southwest guarantee that passengers on canceled flights will be able to reach a live person within a reasonable amount of time when they call Southwest for help? Just say yes or no. It is a simple question.

Mr. WATTERSON. Thank you, Senator. In a normal disruption, we aim for a three to 9 minute average speed of answer, and that is how we fund our union represented call centers.

Senator DUCKWORTH. What is your—what is acceptable to you in terms of delay when it is not a normal disruption? Three days?

Mr. WATTERSON. Unfortunately, Senator, it is a disservice to all your constituents that we had during that period of time, despite having all of our people that were available working in on

overtimes. There is no amount of people we could have put in place to handle all the calls of that time because of the scale of the disruption.

Senator DUCKWORTH. OK. So, you won't guarantee that in a canceled flight, especially in an instance like that, that anybody will be able to reach a live representative from Southwest? That is what you are telling me?

Mr. WATTERSON. Senator, in a day like today or analogous day, yes, we will be able to. An exact repeat of that situation, I apologize, we can't staff—there is no way we could staff that high.

Senator DUCKWORTH. OK, so, maybe they need to come to a senator and we will call a hearing, and then we will hand you pieces of paper with names and phone numbers on them. That is how people get reached. I mean, there are people still waiting to hear from Southwest, to reach a live person, and it has been a month.

Mr. WATTERSON. I am deeply sorry, Senator. Our average speed of answer yesterday was 2 minutes. And so, we have definitely staffed. And to extent, people are not getting through, I deeply apologize. And definitely, please hand me the piece of paper and I will follow up.

Senator DUCKWORTH. For someone with a disability such as a visual impairment, the inability to reach someone by phone at Southwest is especially frustrating. Not all websites and mobile apps are easily accessible for persons with disabilities, despite existing guidelines and industry best practices, and also law, the ADA.

Mr. Watterson, when was the last time Southwest reviewed its website and smartphone app to ensure that it is fully accessible for passengers with disabilities?

Mr. WATTERSON. Senator, thank you for the question. I am unsure of the exact time that we did the last review. I will say that our Vice President over call centers is visually impaired, and that is a passion point for him.

Senator DUCKWORTH. OK. Well, I want to know when the last time that you reviewed was. If you could just get back to me, that would—

Mr. WATTERSON. Yes, ma'am, I will.

Senator DUCKWORTH. Thank you. Ms. Pinkerton, I am working on legislation to require the Department of Transportation to audit air carrier website accessibility. Given A4A's recent accessibility efforts, am I safe to presume that I can count on your organization's support for establishing such a requirement?

Ms. PINKERTON. I would be absolutely happy to work with you on that. Senator Duckworth, I heard you loud and clear in your previous statements, especially about the wheelchair damage. And as you probably are aware, our CEOs recently recommitted to doing better on accessibility issues.

I don't know if you are familiar with that, but it includes having an advisory committee at each airline, and the disability community is part of that, to hear those concerns. We have also committed to retraining all of our front-line employees and improving that training.

And we have also committed to third, working with the disability community, identifying barriers in planes, and studying and trying

to develop standards to provide better access. So, I just want you to know this has taken on a new level of importance at our organization and our CEOs. We are committed to doing better.

Senator DUCKWORTH. Well, I look forward to working with you on it. For my final question, you know, what is particularly frustrating about this meltdown is that Captain Murray and others literally warned that Southwest was one bad storm away from suffering serious disruption.

Clearly, Southwest failed to heed the warnings of its frontline personnel. And I just have to say that we need to be reminded that the air crews are responsible for people's lives. This isn't just about lost luggage. These are professionals who commit every day to keeping their passengers safe and to making—not just for getting people from one place to another, but literally to safeguard their lives.

And I think we often forget the role that aircrew members play. Mr. Watterson, what specific steps is Southwest implementing over the course of this year to earn back the trust of your flight crews, your gate agents, and all the other frontline personnel who were thrown into the breach by this collapse that many of your own personnel predicted could happen at the very next instance of significant bad weather, and then it did? What are you doing to earn back the trust of your crews and personnel?

Mr. WATTERSON. Thank you, Senator. That is a very important point for us to do. And so, within our lessons learned work, we looked at systemic issues we face here. We are involving our union leaders, both in the input stage right now of what their opinions of what went wrong.

We had a session with both our flight attendant and pilot unions, as well as our other front line work forces, and we committed them that once we have a comprehensive view of what went wrong, we will then share the recommendations out of that and work with them on developing the details of that, because I think the—involving them in the work to make sure this doesn't happen again is the best way to show engagement with them and to make sure it doesn't happen again.

Senator DUCKWORTH. I am going to ask you a question for the record, and I want you to respond to me in writing. Please explain this specific benchmark Southwest must hit in the coming months and years to fulfill your promise that this will never happen again. And make sure to address how the company would transparently measure progress and hold executives accountable for missing those benchmarks.

Mr. WATTERSON. Thank you, Senator. Yes, Senator.

Senator DUCKWORTH. Thank you. I now recognize my colleague from Missouri, Senator Schmitt—my neighbor.

**STATEMENT OF HON. ERIC SCHMITT,  
U.S. SENATOR FROM MISSOURI**

Senator SCHMITT. Thank you, Chair. I also want to just preface this by saying it is an honor to serve on this committee. The State of Missouri has had for nearly 50 years someone on this committee to ask important questions and advocate for the people of the state. Southwest, of course, serves Saint Louis and Kansas City. Probably

the principal carrier, certainly in Saint Louis. I know in Kansas City, too.

And so, I am not going to rehash a lot of the questions that have been asked. I do want to ask, though, specifically on the IT and the technology issues that have been identified as part of the problem.

What is the plan moving forward for that kind of maintenance and repair? Is there a schedule that has been put forth from an operational perspective? How are you guys addressing this in the long term?

Mr. WATTERSON. Thank you, Senator. So, with regards to our flight scheduling software, there is a specific issue we had during the disruption and that one will be put in a fix we put in tomorrow into production. But the overall flight scheduling system, we are looking to upgrade, to replace that.

So, we have conducted a request for information from software vendors to evaluate those, and we will be going to a request for proposal here after we have the findings from our assessment of what went wrong and after we reengage with our flight attendant and pilot unions.

Senator SCHMITT. Now is that the Sky software?

Mr. WATTERSON. The system we call SkySolver, Senator, is what has—for patch, for a lack of a better word, they will be implemented tomorrow. SkySolver is a decision support tool, not necessary a scheduling tool.

The scheduling tool underneath that is the one, that functioned fine during the meltdown, is one that we are looking to replace over the course of this year and next. And that is one we will engage with our unions on.

Senator SCHMITT. OK. And then, Dr. Winston, I have a question for you. Are you there, Dr. Winston? No longer?

Dr. WINSTON. Yes, I am here.

Senator SCHMITT. OK. There we go. Thank you, and I know that we have obviously been very focused on what happened with Southwest, but there was more disruption in travel in January. And as you may recall, thousands of flights couldn't take off because of a failure of the FAA's NOTAM system.

And I think it was Captain Murray that mentioned the normalizing of organizational drift. And I want to address that here with the Department of Transportation as it considers more red tape and regulations. In December of 21, 2021, the system known as the Notice to Airmen System was changed to the Notice to Air Mission Systems to be, as I quote, "more inclusive to all aviators in missions."

And with the 2023 FAA reauthorization bill approaching, how can we ensure that the FAA stays true to its mission of making sure that it is the safest, most efficient aerospace system in the world as opposed to this kind of virtue signaling?

Dr. WINSTON. I think the position that we have had now for many, many years is that it is really a bad idea to have the FAA both be a regulatory agency and a technology agency. It is not really equipped to do both.

And I think the general recommendation is that we split the FAA to a regulatory part and the technology part. And that the technology part should be privatized, and the model for that is Air

Canada. And I think that is really where we can make progress. And as you know, the FAA has been talking about a new air traffic control system for decades, and repeatedly it is found to be over-budget, behind schedule, but most importantly, it is behind the technology.

You know, other countries have satellite-based air traffic control. You know, give much more freedom to more efficient flight paths to pilots. We don't have that. We still have a radar-based system.

And that is obviously something that puts us behind. So, I think the recommendation of legislation that has been around for quite a while is separate FAA into a regulatory group, and then have a new group to do work on the technology, is sound, and that is what I would suggest that you focus on.

Senator SCHMITT. And Dr. Winston, just a follow up on that, do you know how much time was spent, again, trying to address this kind of language as opposed to putting that time and effort into making sure the system works best for customers, and that it is on time, and it is safe? Because this is not the first time the Department Transportation has engaged, again, in this kind of virtue signaling. Are you aware of how much time, or how could that time be better spent?

Dr. WINSTON. Well, if we are interested, frankly, in improving air travel, and reducing delays and cancellations, start with the airports. I am serious. Introduce congestion pricing at airports. That could make an incredible difference in terms of the efficiency of the system.

Senator SCHMITT. Thank you. Thank you, Madam Chairman.

Senator DUCKWORTH. Thank you. As you can see, many of the members have gone to vote. We are voting on the floor right now, so I am going to put the hearing into a recess, subject to the call of the Chair. Thank you.

[Recess.]

The CHAIR. The Senate Commerce Committee will reconvene. I appreciate our witnesses dealing with the Senate schedule and the secure briefing that members are attending. The briefing part has ended. The members are in their questions.

So, I do believe that we will get rejoined with some of our colleagues here who didn't get a chance to ask questions. And hopefully in the next half an hour or so we will be able to wrap up those who are interested in asking questions today. So, if you can bear with us, we appreciate it.

While we are waiting for colleagues to arrive, you know, one of the issues that we definitely want to look at in the FAA bill, and something that came up in the conversation, maybe I could get a little bit of input on is, what is this staffing capacity issue? Does anybody have a number for it?

Does anybody have a percentage of increase over what our current system is that we think that we need to be skilling and training for that would help us build the kind of capacity that we need? We can talk later about whether we think the model that, say, United or other people have, which is I think a little bit about over-staffing and thus being able to handle outages and systems better.

But let's just get an idea of what people think are the issues for staffing right now, that we need to do an upskilling for the workforce that we need.

Ms. PINKERTON. So that I am clear, Senator, are you talking about the FAA or the carriers?

The CHAIR. I throw it all in. I care about an aviation system that works. The safety and security bill that we have worked on clearly identified the needs of the FAA. We feel like the FAA needs a lot more technical workforce to keep pace with the level of innovation. But we, I am sure my members from both sides will show up and say that, you know, their economies are constrained by lack of pilots.

You know, I have an airport in my state, Wenatchee, where people are telling them, well, we can only have one flight a day because we don't have enough pilots. We can't have rural economies basically just stranglehold because we don't have enough pilots, so we need to figure this out.

So, anybody who has a thought on where we need to go in building capacity, that way—OK, we will go right down the line.

Mr. HUDSON. Thank you, Senator, for that question. We think that there are a number of things that could be used to take care of that problem. Right now, the airlines set their own requirements for reserved capacity, whether it is personnel or equipment. There are no minimum standards set by the Government.

So, we think that there needs to be some minimum standard for that. Because the way it is now, some airlines are actually operating on negative reserves. So, in a perfect day, they cancel at least 1 to up to 3 or 4 percent of their flights. That saves them money. And as I indicated in my earlier testimony, we need to change the financial incentives from offering bad service that is profitable, and in this case, unreliability or unsafe, to service that is good for the system and good for the consumer.

With regard to supply of pilots, we made a number of suggestions in June of last year, and it is attached to my testimony. Two of them were to authorize temporarily raising the age of mandatory retirement from 65 to 68 with good health. The second one was to offer temporary visas to foreign pilots that are already authorized by the FAA to fly to and from the United States, to fly temporarily within the United States.

And a third proposal is to set a minimum wage for commercial airline pilots because we have increased the hours up to 1,500 as a minimum. But the, in many cases, the starting pilots especially are at a very, very low wage and that restricts supply, as two of those other things.

The CHAIR. Thank you. I see my colleagues have arrived. I don't know whether Senator Blackburn is ready to go. She is ready to go. Senator Blackburn.

**STATEMENT OF HON. MARSHA BLACKBURN,  
U.S. SENATOR FROM TENNESSEE**

Senator BLACKBURN. I will pick up right where you are. Senator Graham has a bill that would allow pilots—

The CHAIR. Is your microphone on?

Senator BLACKBURN. Yes.

The CHAIR. OK.

Senator BLACKBURN. It is. Is it picking up? OK. That would allow—let's see what he calls this thing, Let Experienced Pilots Fly Act. And it would allow pilots to fly up into age 67. So, what I would like to hear, Mr. Watterson, let me start with you. See what you think about that and then let's see, is it Captain Murray? I would like to hear from you on this also.

Mr. WATTERSON. Thank you, Senator. I would respectfully say that I think more can be done on the other end of the spectrum so to speak. It takes far too much money for an airline pilot to go through schooling and get the experience to qualify to become an airline pilot. Other professions in the United States receive Government assistance and education process, and that is not, to a fulltime, available to pilots.

Senator BLACKBURN. Well, that takes time, sir. So I am talking about alleviating issues today. I live in Nashville. Fly you all a lot. I know sometimes we have grouchy flight attendants in some planes, people that are overworked. I talk to pilots. They are doing yeoman's work, and God bless them all, and all the ticket agents and gate agents that worked so hard through this debacle.

So, this is something that could be done in the short term. You are talking about a long-term fix. I am talking about today. So just answer me, yes or no, would you support that?

Mr. WATTERSON. Thank you, Senator. Unfortunately, I will defer to Captain Murray. We stand behind our pilots with regard to age limits.

Senator BLACKBURN. All right, Captain.

Mr. MURRAY. Well, and mine won't be a simple yes or no. I believe very strongly, especially with FAA reauthorization, that a lot of our issues with where the pilot shortage is occurring is at the evaluation level, and FAA availability to really test pilots and help them come up and get through check rides.

And so, moving forward, that is where we have to address it, is really at the cradle. I have spent a fair amount of time with—

Senator BLACKBURN. Well, and I agree with that. And when we do the FAA reauth, we can have those discussions. A part of that is someone who is 65 years old today and is going to turn 66 next month, and they are in good health and they have a great record and they want to continue to fly for a year or two. It is allowing them to stay and to continue to work. That is simply what this bill does.

Mr. MURRAY. And what we saw in 2008 with the age 60 to 65 had some caveats in there as we—having to do with medicals, having to do with who flew. There were ICAO issues. And so, we would have to see how that is addressed in allowing from 65 to 67 or 68, and however that is.

Senator BLACKBURN. OK. All right. Thank you for that. Let's see, Ms. Pinkerton, I want to ask you about this. We have seen fuel cost escalate, and I know for years Southwest had done a pre-purchase on their fuel and they kept the costs low. It helped with their ticket price.

And right now, one of the things that I hear from pilots and others is the accelerated cost of fuel and the effect that that has had, and how airline companies are having to take funds that were set

aside for other activity and place it to cover fuel cost. Give me your read on that. What do you see?

Ms. PINKERTON. Well, definitely fuel prices in 2022 were up 87 percent over the prior year, so there is no doubt. And then in the month of January, we saw it go up even further.

So, it is the price of oil, but we also have a unique situation with jet fuel has to be refined separately, and we have got, frankly, refinery shortages in this country—

Senator BLACKBURN. So, supply chain issues—

Ms. PINKERTON. Exactly, exactly—

Senator BLACKBURN. OK, let me—Mr. Watterson, how has the increased cost of fuel affected you all? Did that take money away from other projects like enhancing your technology?

Mr. WATTERSON. Thank you, Senator. We are—it doesn't take it necessarily directly away from our other projects. We are experiencing elevated both fuel costs, but also what is called the "crack spread." The difference between the price of oil and the price of jet fuel is elevated because of refinery capacity issues.

Senator BLACKBURN. Thank you for that. Madam Chairman, I hope that as we look at this issue and look at FAA reauth, that we will hear from some of the other airlines about their response on this December storm.

I know that there are airlines that have not made refunds. I know there are airlines, I know families that booked with air miles and the flight got canceled, but they won't give the air miles back to people here.

And this was—they had no control over this. So, it is not just Southwest. I think Allegiant, American, Delta, all of these, JetBlue, we need to hear from all of them on how they are dealing with these issues.

The CHAIR. I couldn't agree more, Senator Blackburn. And consumers deserve refunds—

Senator BLACKBURN. Yes, they do.

The CHAIR. If we give a licensure through the FAA to certify that you can be an air carrier and deliver service, you need to deliver it or give a refund. OK, Senator, Sinema is next.

**STATEMENT OF HON. KYRSTEN SINEMA,  
U.S. SENATOR FROM ARIZONA**

Senator SINEMA. Thank you, Chair Cantwell. And thank you to the witnesses for joining us today. Southwest Airlines is one of the largest airlines serving my home State of Arizona, with a base at Phoenix Sky Harbor and a significant footprint at Tucson International. And due to Southwest's connection with my state, our office has heard from many, many Arizonans who were impacted by Southwest's 15,000 flight cancellations over the holidays.

In many cases, these Arizonans were unable to be with their families for Christmas. And many Americans who wanted to celebrate the holidays on vacation in Arizona couldn't make it there, which hurt both the travelers and the small businesses in Arizona who were ready to welcome them to the State.

So, just like so many Arizonans, the staff of Senate offices were also impacted by Southwest cancellations. One of my staffers was stranded at his connecting airport, rebooked on a flight multiple

days later, which was incidentally also canceled, and never made it home for the holidays because of the disruption.

So, my first question is for Mr. Watterson. We know that many Southwest passengers, like my staffer, were stranded for days at their connecting airports. And my question is, what did Southwest do, if anything, as the cancellations increased to ensure that passengers with special needs, like unaccompanied minors, persons with disabilities, those with dietary restrictions, were safe and able to obtain food and lodging, particularly when many businesses were closed on Christmas Day?

Mr. WATTERSON. Thank you, Senator, for the question. With regards to unaccompanied minors and young travelers, early in disruption, I can't remember exactly what day, but we can follow up with your staff, we prohibited the travel of young travelers under the age 18 and unaccompanied minors on connecting journeys. We allowed them on just a point-to-point flight, that way we reduce the risk of them being stranded because of a disruption in the connecting point.

With regards to travelers' disabilities, we certainly, in a retrospective, looked at the number of our complaints and failures with regards to assistive devices, and we found 11 of those. And in each 11 of those we offered replacement services for those customers while well we serviced their equipment, and that rate was similar to the rate we experienced in our normal times, which we believe is still too high and have efforts under way to lower that. Thank you, Senator.

Senator SINEMA. According to your website, Southwest, has committed to, "reimbursing reasonable expenses incurred as a result of disruption, including meals, hotel accommodations, and alternate transportation." And on the website, the word reimbursement is used repeatedly.

Yet the calls I am getting to my office say that when folks are receiving these payments, the payments are being labeled as settlements instead of reimbursements. Now, not everyone understands the difference there, but as I am sure you appreciate, the term settlement implies that customers are agreeing to forfeit their rights to pursue legal remedies, something that is not disclosed to customers on the website when they are uploading the receipts for reimbursement.

So, why is Southwest describing these payments as reimbursements on the website, but as settlements when the payment is made? That is my first question. And my second question is to ask you for a commitment that despite this language change, I would like you to make clear that Southwest is not arguing that a customer has waived their legal rights because they followed your company's instructions to submit receipts for reimbursement?

Mr. WATTERSON. Thank you, Senator. I was unaware that on the payment website that it was label settlement. We did not mean it to be that way. We only meant it to be, we are returning your money and nothing else.

Senator SINEMA. OK, so, folks—So, you do want—So, you believe that Southwest customers do retain all of their legal rights and are not waiving them when they receive their reimbursements?

Mr. WATTERSON. I am unfamiliar with the topic, Senator. It is our intention just to refund people's money and not take away the legal rights. I can certainly follow up with that. I apologize, I don't know that information off the top of my mind.

Senator SINEMA. Great, good. Well, that commitment is very important. On the topic of reimbursements, we heard that Southwest wasn't promising to reimburse expenses until multiple days after the cancellations began.

So, a lot of customers in the early days didn't book alternative transportation, like they didn't book expensive alternative flights because they didn't know whether or not Southwest would pay them back.

So, my question is, why did it take so long to make this commitment? And for customers who are concerned about this for the future, I am asking that you update your contract of carriage to clearly state that reasonable expenses will be reimbursed in the event that a similar disruption occurs in the future.

Mr. WATTERSON. Thank you, Senator. The early part disruption was a weather event like everyone else experienced, and then it turned into a crew mix event that only we experienced. And when that happened, my recollection is that we then changed our language to be that we would reimburse.

And then I believe we have held true to that word as well. And as far as the updates to our contract of carriage, I believe we are consistent with the DOT policy. We certainly want and endeavor to reimburse our customers, but I will commit you that we will go back and we look at that language and make sure it is up to date.

Senator SINEMA. Thank you. Chair Cantwell, I know my time has expired, so I am going to submit another question for the record about code sharing and interline agreements around rebooking on other lines. I don't have time to get to that today, but it is something I am very concerned about, and so I will follow up. Thank you.

The CHAIR. Thank you. Thank you for that question. Senator Rosen.

**STATEMENT OF HON. JACKY ROSEN,  
U.S. SENATOR FROM NEVADA**

Senator ROSEN. There we go—and if I can get the unmute button to work. Thank you, Chair Cantwell, Ranking Member Cruz. Today's hearing is so important because I don't have to tell anyone here that Nevada's tourism economy, it is the backbone of our state.

And like my colleagues, I agree that it is unacceptable that thousands of flights during the busiest travel season of the year were canceled or significantly delayed. They left many travelers stranded, affecting plans to be with families and loved ones.

And like every other state, these cancellations had a devastating impact on families across Nevada. I received messages from all around the state, people who were affected by this unmitigated disaster. One gentleman wrote to me about spending all of Christmas Day at the Reno-Tahoe Airport after multiple flight cancellations, going back at 4 a.m. on Christmas Eve morning.

Another constituent e-mailed me about cancellations, stranding his family on the way home to Las Vegas cost him more than \$3,000 in alternative transportation and lodging. Besides all this impact to travelers, the cancellations also hurt the workers in my state. They are the backbone of Nevada's travel, tourism, and hospitality industry. It hurt our airports, which are the gateways to our economy, and it will hurt the future travel to my state if we don't fix the problems caused by this calamity right away.

And so, I am a former computer programmer. I am going to talk a little bit about IT integration here. I want to discuss Southwest technology infrastructure. Mr. Watterson, we have heard today the primary reason for the meltdown in December was a system failure based—caused by your outdated optimization technology.

Why now, when you mix a decades old IT system that the airline's outgrown with a staffing shortage and winter storm in the busiest travel season of the year, the end result—well, we know what it was, over 15,000 flights canceled, people sleeping in airports, people missing holidays or medication, so on and so forth. It might have been the perfect storm, but it was entirely predictable.

So, Mr. Watterson, in addition to the upgrades you plan to make as a result of this incident, does Southwest have a long-term plan for—what is your plan for long-term technology, for the integration of these outdated systems?

And what is your next phase? And what is that long-term strategic plan that the traveling public, number one, and then the hospitality industry that relies for jobs and income on people traveling, what is your long-range plan so you don't outgrow these systems as well?

Mr. WATTERSON. Thank you, Senator. With regards to our disruption, technology was an issue, it wasn't the root issue. But there is technology work to do as a result, and we will certainly fund that both out of our current plans and incremental money if necessary. Additionally, the root cause, we believe, of the disruption was our capacity to handle winter operations, and that needs substantial improvement this year.

And so, that is what we endeavor to fix this year. But over a multi-year period, we will be going through every part of our operation and modernize it. And it is one of the tenets of our new CEO, to modernize the operation over the next 3 years. And so, we will be proceeding apace in every work group, whether it is technology, equipment, or processes.

Senator ROSEN. And so, I am going to build on that because, of course, we have a hospitality work force, and our hospitality and our travel, the ecosystem of travel, relies on staffing, flight crews on the plane, maintenance people, baggage handlers, off the plane, all of that. So, it relies on staffing to be sure that people who are traveling get to where they need to go.

So, can you talk about your staffing a little bit? How is it disruptions over the holiday season, how it impacted your pilots, your flight attendants, other airline employees, like I said, baggage handlers, gate agents and the like?

How do we be sure that they are taken care of and this is not going to happen to them in the future? Did you reimburse them for

all the accommodations and meals, transportation if they were stranded?

Mr. WATTERSON. Thank you, Senator. Our people were the hero of the event. They showed up. We had absolutely no problem with attendance nor service, and so we are very grateful for our people who showed up.

There is no way we can give back the time that was taken from them, but we were able to show them some gratitude with the incremental pay and then we are going to be involving them in our efforts to make sure this doesn't happen again. I think it is the part—the biggest thing we could do.

Senator ROSEN. And then, of course, I just have a few seconds left, but how are you working with the airports? Every airport and major airport and states, this is a huge economic driver. Again, the ripple effects for the related entities, airport concessionaires and their workforce. Are you working with airports? Can you tell us briefly what you are doing to be sure the impact on their staff, that is so great?

Mr. WATTERSON. Thank you, Senator. There are specific airports where we had infrastructure shortcomings, not because the airport failed to provide it, but because we did not ask for it. And now we will ask for incremental infrastructure as part of our effort to re-vamp our winter operations.

Senator ROSEN. And I am going to submit this for the record because we would like some actual data, but does everyone have their luggage, their strollers, their other essentials, wheelchairs? You can respond to that.

I am sure I might have somebody after me and I have gone over my time. But I want to be sure that everyone who was traveling is reunited with the important items that they left home with.

Mr. WATTERSON. Yes, Senator. We have returned every single bag except for there is 200 we still have that have no markings nor identifying information that we are holding, and we will continue to hold those until we can find somebody who owns it.

Senator ROSEN. Thank you very much. Thank you, Madam Chair.

The CHAIR. Thank you. Senator Luján.

**STATEMENT OF HON. BEN RAY LUJÁN,  
U.S. SENATOR FROM NEW MEXICO**

Senator LUJÁN. Thank you, Madam Chair. And I will pick up where Senator Rosen concluded there. From a reimbursement perspective, I am pleased to see that Southwest is taking its commitment to customers seriously, providing reimbursements and refunds, points and direct delivery.

As we have heard from colleagues today, that many constituents that we have across the country still have not been made whole. Nonetheless, I hope that there is a process that we can talk about, as our offices are working on this with everyone.

Southwest has set up a portal, but if there is a way for our offices with constituent services to be able to work with our constituents and make sure that we are pointing in the right place, that would be appreciated.

And I hope you all can let us know what that is, and where it is, and who the person is for us to work with. Can you share the number of customers who have not received reimbursements?

Mr. WATTERSON. Thank you, Senator. Let me consult my notes here. Senator, we have had 284,188 cases, eligible cases submitted, and we have reimbursed 273,406. And that leaves 10,782 that have not yet been reimbursed, but those are ones that have been submitted most recently. And we were within the DOT timelines of 30 days for processing all those.

Senator LUJÁN. I appreciate those numbers. Mr. Watterson, is Southwest still working to follow through to ensure 100 percent of your customers are made whole, including reaching out to customers who may be unaware of the available remedies via e-mail or phone?

Mr. WATTERSON. Yes, Senator. We have e-mailed every single person that was disrupted and gave them points, as well as apologized and gave them resources to contact us back, should they need so.

Senator LUJÁN. Do you know that every Southwest customer that was impacted has an e-mail?

Mr. WATTERSON. We know which ones do and do not. The large majority have an e-mail. As part of their purchase, you have to enter an e-mail to get your receipt. So, except for exceptionally small circumstances, everyone has an e-mail, Senator.

Senator LUJÁN. So, for the folks that don't have an e-mail that you have identified, how have you reached out to them?

Mr. WATTERSON. I am unaware—I can follow up with you, Senator. It is a very small number.

Senator LUJÁN. I appreciate that. Well, I hope that they are not just left out say, oh, well, that is the cost of doing business, because it turns out in America, you know, connectivity is a problem. So, coming from a more rural state, I just hope that we can get there. So, I look forward to hearing back there as well.

Now, several of my colleagues today have raised concerns about the fact that Southwest frontline employees, from pilots to flight attendants to customer service representatives, have been sounding the alarm on many of these known issues for years, and yet Southwest did not implement changes to address them.

I am disappointed to hear that the voices of staff on the frontlines of Southwest Airlines operations, including pilots, flight attendants, and customer service representatives, have not been a priority.

Mr. Watterson, I want to follow up on your commitment to my colleague, Senator Duckworth, that your front-line employees will be at the decisionmaking tables as Southwest reflects on the December 2022 meltdown.

Mr. WATTERSON. Thank you, Senator. Yes, we have involved all of our unions from our frontline in our lessons learned. We are looking at understanding what went wrong. And then once we synthesize that into what we should do about it, we will reengage with each union and with the efforts that were, you know, relevant to their work group, and involve them in the plan for going forward.

Senator LUJÁN. I appreciate that change. As a result of implementing that—changes, is Southwest considering changes to the

management structure and decisionmaking process to ensure the voices of your frontline workers are heard and prioritized as part of Southwest decisionmaking process?

Mr. WATTERSON. Thank you, Senator. I think with a certain of our work groups, our relationship has maybe atrophied. And I have committed in my position to reengage and work with their elected union officials to develop a better relationship, maybe a return of a better relationship with those work groups.

Senator LUJÁN. That is a yes to the question?

Mr. WATTERSON. I believe that Senator. Maybe I misunderstood the question.

Senator LUJÁN. So, Southwest, in addition to the change that you just laid out to me with creating a process to hear from more front-line employees, has Southwest also changed its management structure to ensure that that is included?

Mr. WATTERSON. I am sorry, Senator. Specifically, what kind of things do you have in mind? I am not sure if I follow your question.

Senator LUJÁN. They weren't being listened to before ? so they weren't being listened to before. Your management structure told them, thanks for being here, but I am not going to listen to you. So, have you changed your management structure so that that is not happening?

Mr. WATTERSON. Thank you, Senator, for the explanation. Yes, we have made management changes and we will change our management practices more than the structure of how we engage with our union leaders going forward.

Senator LUJÁN. I appreciate it. Thanks for the time, Madam Chairman.

The CHAIR. Senator Young. And then Senator Hickenlooper, and Senator Sullivan.

**STATEMENT OF HON. TODD YOUNG,  
U.S. SENATOR FROM INDIANA**

Senator YOUNG. Well, I thank our witnesses for being here today. And I know a number of my constituents are tuning in for this hearing because the recent challenges experienced by Southwest have impacted some of them and really in a personal way.

This whole situation is sort of interesting to me, not in an academic way, but I think academics will take note. I mean, this will be like a business case study moving forward, from the lead up to the Christmas time flight issues, to the initial response, the realization that things have really hit the fan, and now the current response by businesses.

And to me, it is an illustration, as I watch it play out, that the market really can work. I think a number of consumers are making up their mind. Are they going to continue to—are they going to continue to do business with Southwest Airlines? In my experience, most will probably conclude, yes, because of the value proposition.

Others haven't made up their mind yet and so forth. But that ability to exercise choice, which is the hallmark of the free enterprise system, is playing out before our eyes. And I think we have to be really careful here, as we discuss an appropriate regulatory framework, not to overshoot and limit choice too much.

So, all of us here, I think, without exception, would say Government has an appropriate role to play regulating, especially in the area of safety, regulating our carriers. I think it is very important to make sure that we don't destroy the proverbial goose that lays the golden egg.

Now, with that lead in, I want to ask a question to Dr. Winston. I think he might be joining us remotely. That is my hope. Because in his testimony, he discusses a few policies that would enable the U.S. aviation system to more effectively respond to unexpected events, events like the Christmas time flight challenges.

So, I ask Dr. Winston, if you are still there, sir. Can you discuss some of those policies, namely the issue of foreign competition and cabotage rights?

Dr. WINSTON. OK. Well, that is, you know, what we are talking about there is a longer run policy. And the idea, obviously, is to stimulate airline competition with all the benefits that we have already received from deregulation, and effectively another round. You will have more people then competing on routes and offering new innovative services.

And there will be spare capacity, so to speak, or at least additional capacity. You know, I have had experiences, probably everyone has, had a canceled flight on one carrier, but there was another airline operating at the airport and I went to them and took that flight.

So, those kinds of backups could be around and would help. But I think the other one, the point that I keep on harping on that doesn't seem to get much attention is the role of airports. All this is happening at airports, right. It is their property, so to speak.

What are they doing to be working with carriers and trying to provide transparent information, and accommodating them in some kind of sleeping arrangements when things break down? I think that is where we need to stimulate much more competition and interaction, where airports have an incentive to work with airlines and have the airports, for example, be in charge of de-icing.

It is kind of amazing that the airlines have that response when the airports should be doing that, and I think they would compete to do that. So, I think it is the combination of both, the infrastructure and competition that is going to, you know, improve things greatly.

Senator YOUNG. Dr. Winston, thank you for that response. And with your indulgence, I would like a member of my staff to follow up with you about those suggestions, if that is OK.

Dr. WINSTON. Sure.

Senator YOUNG. All right. Ms. Pinkerton, your association represents a number of U.S. airlines, and I am interested in the broader context about what is happening industrywide, and what should happen to passenger carriers as a whole in response to this high-profile flight disruption. Can you briefly touch on whatever piece you think is relevant about the state of the industry and being concerned about efforts to reregulate the industry?

Ms. PINKERTON. Well, absolutely. As I explained in my testimony, I think carriers at the beginning of 2022 saw that they were living in a post-pandemic world. They adjusted their schedules.

They reduced their schedules and they went on a hiring binge. All of our carriers have done that.

And then they focused on making sure that the schedule they put out, that they have the resources to meet that schedule. So, I take what Chair Cantwell said very seriously, accountability is appropriate. But what the concern is here, for example, in the refunds base, I said in the last 3 years since the pandemic, we have refunded \$32 billion worth of cash refunds.

So, and we have brought the complaint rate down to 0.01 percent. So that is just one example of a place where I think there, you know, there is plenty of incentive. The customers are voting with their feet, their wallets. They will make decisions about what carrier they want to fly.

But I think it is important, since we know that deregulation has reduced fares dramatically, brought us more service and more choice, not to overreact on the regulatory framework with a one size fits all type of approach.

The CHAIR. Thank you. Your time has expired. Senator Hickenlooper. And after Senator Hickenlooper, Senator Sullivan.

**STATEMENT OF HON. JOHN HICKENLOOPER,  
U.S. SENATOR FROM COLORADO**

Senator HICKENLOOPER. Thank you, Madam Chair. And thank you all for taking your time out of your busy lives to be here with us. Ms. Pinkerton, the FAA has an important mandate to ensure passengers have reliable, safe, accessible access to travel.

Agency oversight rule applies to large hub airports, essential air services for rural communities, and more. Ms. Pinkerton, what would the FAA do to improve air service with a permanent Senate confirmed administrator in place?

Ms. PINKERTON. Probably a better question for FAA, but I can say what we would like a new administrator to do is to exercise leadership. And I think one thing that is essential to support small community service is having the adequate staffing and technology at the FAA, quite frankly. I mean, it is very important.

The National Air Traffic Controllers Association has told us there is a controller shortage. We know that for small communities there is a serious pilot supply issue. I want to applaud those who are working on legislation that would provide aid for pilot education and training. Those are the types of things we would hope a new administrator could focus on.

Senator HICKENLOOPER. Great. Thank you. And the FAA is not here per se. They are here, but I just wanted to speak to the other committee members that President Biden re-nominated in January, Phil Washington to become the first African American to lead FAA. And he is someone I worked with a number of years.

I want to just make sure that the other committee members know that this is long overdue. We need leadership at that level. And this is a classic example of where that would be needed. Mr. Washington served our country for 24 years in the U.S. Army. He rose to the back of the rank of command, Sergeant Major, which means he is one of those people that actually gets things done.

Some people say he hasn't had enough air experience, but immediately following the winter storm catastrophe, Mr. Washington is

now the head of the third busiest airport in the world, Denver International Airport.

Mr. Washington, after that winter storm catastrophe, he launched an after-action review with its airline partners, including Southwest Airlines, and they are hard charging in terms of identifying operational barriers and methods to improve service in and out of DIA, and how to make sure that each airport is doing everything they can to make sure these things won't—such an event doesn't happen again.

Mr. Washington has led major transportation organizations now for the last 12 years. He was a CEO—I first met him when he was running the regional transportation district in Colorado, which had passed fast tracks 121 miles of new light rail track, at the time, the largest transit initiative in the modern history of the United States. He was so successful that we lost him.

He was lured away to Los Angeles to run their county Metropolitan Transportation Authority. And then he was brought back as the CEO of DIA about three and a half years ago and was appointed with unanimous support by city council. Even as he hit—came to DIA, hit the ground running because he was in a situation—we were at about 60 million or 65 million passengers every year in an airport that was designed for 50 million.

He put the Great Hall Terminal Project, which had been through years of delays, got it right back on track and back on budget. It will modernize the airport's terminal and screening capacity dramatically.

He launched DIA's Vision 100, which is an initiative to make sure that we can support 100 million annual passengers by the end of this decade. And he created the first of its kind Center for Equity and Excellence in Aviation, to grow a skilled and diverse aviation workforce of tomorrow.

Now, as Congress prepares to reauthorize FAA for the first time since 2018, it needs to have a permanent leader in place. The agency, I think, is hamstrung on major rulemaking is without a permanent administrator. They need to be able to implement bipartisan infrastructure law programs.

I think Mr. Washington is uniquely and exceptionally qualified to serve at the FAA. He has got the military discipline, the organizational leadership, and the forward-looking vision. So, I want to urge the committee to make sure that we hold the hearings and get Phil Washington's nomination confirmed ASAP.

So you guys got off the hook there a little bit. Thank you. I yield back.

**STATEMENT OF HON. DAN SULLIVAN,  
U.S. SENATOR FROM ALASKA**

Senator SULLIVAN. Thank you. Well, I guess the Chair has left, so I am going to call on myself here.

[Laughter.]

Senator HICKENLOOPER. I was going to call on you.

Senator SULLIVAN. Oh, thank you. So, Captain Murray, I am curious about the role that the pilots association are going to play in the third-party assessment that is being commissioned by South-

west. I am a big fan of our pilots, fly a lot, being the senator from Alaska.

And I know almost all—I feel like I know almost all the pilots up in Alaska. A lot of them are veterans. I am sure a lot of them are veterans in your organization. But how are—how do you think you guys are going to fit into this assessment, and what are going to be the highlights from your perspective?

Mr. MURRAY. Well, thank you, Senator, and thank you for the question. I think that SWAPA is uniquely qualified to provide input, and we have been trying to do that for many years. I would like to say that Southwest has an airline to run.

We have an airline to analyze. And that is what we do, and we have some of the best in the world at analyzing. And as I have spoken about processes before, that is where I feel, along with, you know, an IT support system for the correct processes, has to be addressed.

Mr. Watterson just testified that, you know, tech was an issue but not the issue. And I agree. He said primarily, though, it was the capacity to handle the storm. And with that, I disagree with.

We have been sounding the alarms for years, and I know that has been echoed in this room today, over two dozen times, through podcasts, through e-mail blasts. We have been trying to draw attention to the chaos that all of our pilots have to deal with every day.

And so, I am concerned moving forward that we are not going to be addressed or any of the front-line employees are going to be addressed as true partners.

Senator SULLIVAN. Yes.

Mr. MURRAY. And that has to be done.

Senator SULLIVAN. Well, I hope that happens. I mean, Mr. Watterson, is that going to be—obviously, I mean, your intention. That is part of the reason you brought the pilots in, I am assuming, for the third-party assessment.

And I am sure you have seen Captain Murray's testimony, which has these history of meltdowns that he lays out on this chart. Is that going to be your intention to work with them in terms of the assessment?

Mr. WATTERSON. Yes, Senator. We have met with them on a couple of occasions. We intend to meet with them on a lot more occasions. We also intend to improve the processes Captain Murray discusses and others. An effort that had already been started prior to the disruption to do exactly that, but it certainly will work ahead for us.

Senator SULLIVAN. Good. I want to turn to the broader topic, I know we have already talked about it a lot, Ms. Pinkerton, on the issue of technology, and then everybody else kind of weigh in.

And we had a—well, I noticed the CEO of United Airlines, Scott Kirby, in his tech infrastructure—well, it was an earnings call in mid-January. He said the FAA, as well as most airlines, with the exception of network characters have, “outgrown their technology infrastructure and simply cannot operate reliably in this more challenging environment.”

Do you agree with that? And do others agree with that? And do we do about it? And is that both—is that, and I am—I mean, obvi-

ously I would rather have Mr. Kirby speak to his own words. But do you think he is getting at aviation infrastructure technology, or FAA, or the combination of both?

Ms. PINKERTON. So, I won't address a particular airline's comments, but what I will do is speak for the entire industry.

Senator SULLIVAN. Well, he was trying to speak to—you know, as the CEO of a big, prominent airline, he probably has a pretty good purview.

Ms. PINKERTON. Yes, I would say I do as well, having worked closely with carriers now for over 15 years. So, I can tell you that this year, 2022, all of our carriers together made record investments in their people and in their product and technologies to make sure that they can recover from operational issues.

We hired more people in 2022. You have heard we have needed that extra staffing even for a smaller schedule. Technology is something that is a constant refresh. I put these technology bucket investments into three categories. One is for the passenger, the apps, the communication, the bag tracking that goes on automatically from your phone. Then we have got what we give our front-line employees.

They have got iPads and Apple phones and technologies that they can use to assist passengers. But then importantly, there is this operational technology bucket. And I can tell you, our carriers have made—done a lot of things that I think are actually instructive for the FAA, such as moving some of their onsite, on premises technology to the cloud to make sure that, and then having, you know, an East Coast cloud and a West Coast cloud so that if the East Coast cloud goes down, you have still got the West Coast and you don't have everything at one physical location.

More operational kind of computing juice so that when you have this influx of data with irregular operations, you can handle it. So, \$21 billion is a record for investment, and we are forecasting \$27 billion. I think carriers are absolutely taking the operational reliability and technology issues very seriously and they are investing robust amounts of money.

Senator SULLIVAN. Let me ask—Madam Chair, can I ask one final question? I know I have run out of time. But, you know, there has been a couple reports in the news, just in the last months, of some FAA—of some near-misses within our airline system.

Fortunately, nothing happened in terms of an accident, but I think most Americans take for granted but are proud of how safe our passenger airline service is, because it is quite remarkable when you think about it. But are there any things that you, Ms. Pinkerton, or anyone else on the panel, think that we need to be thinking here to get ahead of the curve?

What I always think, when Congress is acting at its best, it is preempting challenges and getting in front of them, before—you know, you don't want to have a hearing because there was a major midair crash, and the FAA realized it had a problem.

From a safety perspective, is there anything right now that any of you would say, hey, make sure you are getting on this and watching it before something bad happens, none of which—we don't want anything bad to happen. I will start with you.

Ms. PINKERTON. Yes. And I can't obviously talk about any particular incidents that were under investigation. But I will tell you, we are extremely proud of our safety record. It is because we do things like systems, management systems analysis of safety issues to see if there are trends.

And so, we try to be more predictive in our work on safety than forensic, for example. So, I am not aware that there are any troubling trends that are out there right now. And again, I think our safety record—I have seen a couple of stories post these incidents that compare our record.

It is much safer to fly than it is to drive, be in a bus, or train. But that doesn't—we take every incident seriously and we learn from it.

Senator SULLIVAN. Any other panelists who want to just comment?

Dr. WINSTON. Can I make a comment?

Senator SULLIVAN. Sure.

Dr. WINSTON. Can I talk? OK. So, let me just stress again, I think the fundamental problem is that the Government's comparative advantage is not really to manage and operate a technology service. That is something the private sector can do much better.

And that is why it is important to separate FAA into a safety regulatory responsibility and have a new agency, preferably private, that is responsible for adopting a new technology for air traffic control that focuses on a constellation of satellites, which will keep much better watch on aircraft and expand airspace capacity in the process.

I think that is really the first order of business, if you really want to improve the system in the long run.

The CHAIR. OK, quickly, Captain Murray and Mr. Hudson.

Mr. MURRAY. Yes. I just want to add that there is an infrastructure issue that has to be addressed. That is what you all will be doing. But at the end of the day, whatever failures occurred, and it is still under investigation, the latest one, at the end of the day, what saved those two airplanes was an experienced professional crew that broke the error chain at the very last moment.

And it is an incumbent, as we move forward and as we see emerging technologies, that two crew members stay on the flight deck to prevent exactly what occurred in Austin.

The CHAIR. Yes, Mr. Hudson.

Mr. HUDSON. Some things that we have suggested in the past would be to involve NASA, not just the FAA, in what has been called NextGen, which has been delayed or has gone through maybe five iterations.

Second, that we need stress tests on the computer systems, both the scheduling and the safety. We don't have that right now. And we would agree somewhat with the doctor here that we should consider standing up a new agency for air travel regulation and taking the safety aspects from the FAA and the economic regulation in Transportation Office of the Secretary, which is really there are by historical accident, and put them into a new agency that will really be focused on safety as well as good regulation.

The CHAIR. Thank you.

Senator SULLIVAN. Thank you, Madam Chair.

The CHAIR. Yes. Thank you, Senator. I know how important air travel is to Alaska, so. Well, believe it or not, I think we are at the end of the road here of getting members to ask questions of our witnesses. I did want to clarify something, Mr. Watterson, on the question Senator Luján asked.

How many tickets actually were canceled because of people—you gave a number, but then I wasn't sure if that was how many people had asked for refunds. Do you know a number of how many actual tickets were canceled?

Mr. WATTERSON. I have the refunds. Would that be sufficient?

The CHAIR. No, no. I am asking—if you don't have it today, if you get that for us. What we are really trying to understand here, you can imagine if you are in any kind of oversight of this, you really want to know how many people really had their tickets canceled. And then you want to know how many people you really did refund.

So, until you know that you don't really know the answer. You know how many people submitted something, but what we really want to know is how many tickets actually were canceled, that didn't fly? So, if we could get that information from you, that would be helpful.

Mr. WATTERSON. Certainly.

The CHAIR. Thank you. OK, so, I thank all of our witnesses for today. We will have the record remain open for four weeks until March 9, 2023. Any Senators wishing to submit questions for the record, do so in the two weeks from now until February 23.

And we ask the witnesses to be able to return that information to the Committee by March 9, 2023. And that concludes today's hearing. Thank you all very much.

[Whereupon, at 1:32 p.m., the hearing was adjourned.]



## A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY DUCKWORTH TO  
ANDREW WATTERSON

TOPIC: ESTABLISHING BENCHMARKS AND MEASURING PROGRESS

*Question 1.* On December 25, 2022, Southwest cancelled 74.3 percent of its flights, more than every other airline combined. Between December 27 and December 29, among flights originating or terminating in the United States, Southwest cancelled 7,566 flights. By comparison, all other airlines combined cancelled 1,077 flights. Finally, on December 30 more than a week after Winter Storm Elliott hit, Southwest returned to a normal travel schedule. In total, Southwest cancelled nearly 16,000 flights during this period. Can you explain what specific benchmarks Southwest must hit in the coming months and years to fulfill your promise that an operational failure like this will never happens again and how the company will transparently measure progress and hold executives accountable for missing these benchmarks?

Answer. Prior to these events, our operations performed well throughout 2022 relative to the rest of the industry. In the fourth quarter, our on-time performance of 80.0 percent improved over the prior year's result of 72.6 percent and we achieved a multi-year high flight completion factor of 99.1 percent. Key benchmarks that we set and measure year-to-year include completion factor, on-time performance, and mishandled bag rates. Each year, we establish these benchmarks and other operational goals, and executive/leadership compensation is in-part tied to meeting or exceeding such benchmarks. These annual benchmarks are outlined in our public filings and related data are reported to the U.S. Department of Transportation's Bureau of Transportation Statistics. We have every incentive to run an operation that provides safe, friendly, reliable, low-cost air travel to our Customers. To do that we are working to build more resiliency into our operation, with a major focus on strengthening our extreme winter weather resiliency, investing in technology and equipment, and further reinforcing the resiliency of our route network. Nearly all of our planned 2023 capacity additions are for existing Southwest city-pair markets. These additional flights will add depth and greater resiliency by providing additional options for Customers, Crews, and aircraft when weather or other factors create irregular operations. Our growth plans also will foster greater airline competition and the many consumer and economic benefits which more competition produces.

*Topic: Website Accessibility Review*

*Question 2.* Technology lowers barriers that people with disabilities encounter in their daily lives and allows them to participate and enjoy the benefits of the digital society. For someone with a disability such as visual impairment, the inability to reach someone by phone during this meltdown was unsatisfactory. Not all websites and mobile apps are easily accessible for persons with disabilities, despite existing guidelines and industry best practices. When was the last time Southwest reviewed its website and smartphone app to ensure that they are fully accessible for passengers with disabilities, and how often does Southwest conduct such a review?

Answer. Southwest Airlines is committed to ensuring our legendary Hospitality is provided to Customers with disability-related needs. Our digital content design teams are required to take accessibility training to ensure we create content that meets accessibility standards. Our desktop website experience was designed with a full accessibility check, and we carry out ongoing accessibility checks for each new feature and page that is added to ensure we remain accessible as the site evolves. Our mobile apps are designed to be compatible with the accessibility features of the iOS and Android platforms. Accordingly, accessibility checks are an ongoing and continuous process.

We are committed to continuously improving our tools for and our service to Customers with disability-related needs. Our policies and procedures are developed in accordance with 14 CFR Part 382, Nondiscrimination on the Basis of Disability in

Air Travel. We want to exceed minimum requirements and provide the legendary Hospitality that Southwest is famous for to every Customer. To that end, we welcome feedback and the opportunity to work with you and your staff on this incredibly important issue.

*Topic: Winter Weather Equipment*

*Question 3.* The fact that Chicago has cold weather in the winter should not be a surprise to Southwest. Yet, Southwest has a history of not having enough de-icing capacity in Chicago and resulting flight cancellations. In February 2018, Southwest canceled more than 250 flights when it ran short of glycol and a pump on one of the glycol tanks failed. What is Southwest doing to ensure that it will have enough de-icing capacity and other winter weather equipment at airports so that flights will not need to be canceled due to a lack of winter preparedness?

*Answer.* For the last 38 years, Southwest has been a part of the Chicago community, and over the decades, our People in Chicago have provided valuable and reliable service to the community. While we are not perfect, we are very proud of the reliable operation that our nearly 6,000 Chicago-based Employees provide, including during many previous winter weather events. In hindsight, we did not have enough extreme winter operations resiliency at several airports in our network, including at Midway, for the unique conditions of this extreme storm, from where and how we de-ice aircraft to the operability of our ground support equipment and infrastructure in extremely cold winter weather conditions. Ultimately, none of this is an excuse. We need to make sure our operational resiliency is strengthened for future extreme weather events. We owe that to our Customers and to our Employees.

To mitigate the risk of any repeats we're investing in capabilities across the airline. This will address everything from ground equipment to the amount of de-icing we can accomplish in the harshest conditions, to how we communicate and align across multiple operational workgroups during disruptions, to strengthening our interconnected systems so they remain functioning in extreme circumstances where historic levels of problems are thrown at them.

We're also reprioritizing and increasing investment in technology and have \$1.3 billion budgeted for technology projects in 2023, which is about 25 percent higher than what we spent in 2019. We're prioritizing enhancements to our crew scheduling software, and we've strengthened our early indicator dashboard to escalate operational issues earlier. We've identified and trained teams that can quickly mobilize to bring additional people power to support crew recovery efforts. We've also made organizational changes to improve communication and coordination among key divisions of the airline so that we can much more quickly access data to keep our overall system moving.

*Topic: Chicago Midway International Airport Upgrades*

*Question 4.* During the hearing you mentioned that Chicago Midway International Airport needed "substantial upgrades and that we're already pursuing that with the airports". Please provide what specific upgrades are needed, what your implementation timeline is and how much this will cost Southwest Airlines and Chicago Midway International Airport?

*Answer.* Southwest Airlines and the Chicago Department of Aviation are in alignment on a project that would convert the use of additional existing airfield infrastructure for the purpose of deicing. We need FAA approval for this modification, and we hope that approval will be timely. Once FAA approval is provided, this project will enable significant improvements in deicing capacity at Midway. Beyond modifying facilities for additional deicing capacity, we are implementing other lessons-learned from this event to improve our winter weather operations under extreme conditions at Midway. Regarding costs, Southwest is eager to invest in the improvements. As you know, commercial service airports are funded by their users. Southwest carried 17.3 million Customers through Chicago Midway in 2022, which is 93 percent of the total passengers at the airport. Through rents, charges, and passenger-paid airport fees, Southwest and our Customers cover the lion's share of costs associated with operating Chicago Midway. Midway is a fantastic airport and an economic engine for Chicago. We provide vital competition in the Chicago travel market, and we have an incredible team of nearly 6,000 Southwest Employees based in Chicago. We are committed to these improvements.

*Topic: Addressing Disability Complaints*

*Question 5.* In 2020, the Department of Transportation reported that 32 U.S. air carriers received 35,510 disability-related complaints in the previous calendar year. The report also showed that the problem had been worsening over time. How does Southwest and the members of Airlines for America:

- Make sure that passenger complaints related to travelers flying with a disability are addressed quickly and effectively?
- Ensure that staff are properly trained to engage with and assist passengers with disabilities, and how often does this training take place?

Answer. Southwest complies with all requirements of the Air Carrier Access Act and DOT's implementing regulations (14 CFR Part 382). Southwest has a dedicated team of Specialists (*i.e.*, our Customer Advocacy Team) who are considered experts in 14 CFR Part 382. Their focus is to research and respond to disability-related complaints within the required DOT timeframes. For Customers with disabilities that do not have a written complaint but instead want to speak to a Complaint Resolution Official (CRO) verbally, we train reservations leaders, airport-based Customer Service Leaders (supervisor and above), and Operations Agents (boarding agents) as CROs.

Southwest provides CRO training or disability awareness training annually to our Employees in Departments ranging from Ground Operations, Ramp, and In-Flight (flight attendants) to Customer Experience and Customer Support & Services. Our CRO Initial training for Ground Ops Leaders and Ops Agents will be back to 100 percent in-person this month. The Customer Advocacy Team works with SWA University (our training Department) on a weekly basis to update and improve our disability awareness and CRO training enterprise-wide.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO  
SHARON PINKERTON

*Airline Refunds and Scheduling.* During the first few months of the COVID-19 pandemic, A4A member airlines did not always issue refunds for cancelled and significantly delayed flights—instead offering vouchers—or did not process refunds in a timely manner. As a result, in 2020, DOT was inundated with 29,687 refund complaints against U.S. airlines, a 4,634 percent increase over 2019. And in 2021, when things had allegedly improved, complaints were still 959 percent higher than before the pandemic.

We are still waiting for the final 2022 data, but it will likely be even worse than 2021. Through November 2022, DOT had received 6,379 refund complaints. As a result, DOT has proposed a new rule to codify, clarify, and strengthen existing refund standards.

Scott Kirby, CEO of United Airlines, recently stated that there are currently some airlines “who cannot fly their schedules” and that “any airline that tries to run at the same staffing levels that it had pre-pandemic is bound to fail and likely to tip over to meltdown anytime there are weather or air traffic control stresses in the system.”

*Question 1.* Should DOT investigate airlines that sell schedules that they can't possibly operate? Do you believe such scheduling practices contribute to a decrease in reliability and resiliency in airline operations?

Answer. DOT's authority permits investigations when there is evidence of an unfair or deceptive practice. An unfair practice causes or is likely to cause substantial injury, which is not reasonably avoidable, and the harm is not outweighed by benefits to consumers or competition.

A deceptive practice is “is likely to mislead a consumer, acting reasonably under the circumstances, with respect to a material matter.” We are not aware of evidence that would meet the criteria of an unfair or deceptive practice. Scheduling practices can be one factor amongst many that can impact airline operations.

*Question 2.* To increase transparency across the system, do you believe that airlines should report to DOT the number and type of refund complaints they receive? If no, why not?

Answer. DOT already accepts complaints from consumers on a multitude of consumer regulations, including refunds and reports the number of complaints it receives in the monthly Air Travel Consumer Report (ATCR). This current system provides transparency to the public on consumer complaints, including ranking carriers in the ATCR on various factors. The current system of reporting works. There is no evidence that a significant increase in reporting by requiring complaints received by carriers, be reported to DOT is necessary, useful, or would outweigh the tremendous burdens such reporting would have on DOT (fundamentally changing the ATCR) and carriers. Switching from complaints DOT receives to a system that includes DOT and carrier received complaints would provide data consistency concerns and less transparency to the public.

*Junk Fees.* In your testimony you stated that no member airline of Airlines for America charges a family seating fee. On February 21, United Airlines, an A4A member airline, announced a new family seating policy that would help families sit together without paying additional seat selection fees.

*Question 1.* Would you like to clarify your testimony that now seems inconsistent in light of United's new family seating policy?

Answer. No A4A member airline charges a family seating fee. A4A members have seating fees for all customers purchasing certain fare classes but no member specifically charges for a child to sit next to an adult.

*Question 2.* Are there other A4A member airlines that would assess seat selection fees to allow a family to sit together?

Answer. As mentioned above, no A4A member has a "family seating fee" (e.g., a fee for a child to sit next to an adult).

*Question 3.* If A4A member airlines do not charge a family seating fee and make every effort to seat families together, do you believe that should be the baseline applicable to all airlines?

Answer. We do not believe that there is a reason to further regulate family seating. Carriers have worked with DOT over the past several years to improve families getting to sit together. DOT and carriers receive low numbers of complaints in this area and no further regulation is necessary.

*Question 4.* A4A takes the position that government restrictions on ancillary fees will prevent the industry from innovating services and remaining competitive. However, do you believe airlines should clearly disclose ancillary fees to consumers when they book tickets so that consumers can make informed choices that best match their circumstances?

Answer. Airlines disclose ancillary fees today to consumers shopping on carrier websites and have all the information they need to make informed choices. There is no market failure or unfair or deceptive practice for DOT to regulate. Airlines provide ancillary fee information by various means that efficiently provide information to passengers.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. AMY KLOBUCHAR TO  
SHARON PINKERTON

***Airline Information Technology Investment.*** Airlines for America's written testimony highlights how U.S. passenger airlines are reinvesting record sums in their products to continually improve the customer experience, enhance operational reliability, increase efficiency and reduce emissions.

*Question.* What investments are the airlines making to modernize their technology infrastructure to help reduce the risk of future disruptions to air travel? How will these investments complement current Federal programs?

Answer. In 2022, A4A passenger carriers an aggregate of \$6.5 billion in annual IT operating and capital expenditures. Further, over the five-year period 2018–2022, total IT spend by A4A passenger carriers was approximately \$28B, or about \$5.6B annually. This includes a wide range of both customer-facing technology initiatives that make it easier for travelers to shop for tickets and other services; check in for their journeys and navigate airports; check or track bags; to modify their itineraries; redeem vouchers or loyalty points; and to stay apprised in real-time of changes to their flights during irregular operations in addition to bolstering IT systems resiliency. All dedicated to maintaining, operating and improving the customer experience.

Our industry investments would be best complemented with increased funding for the FAA. We support additional funding for the FAA's capital programs—particularly the Facilities and Equipment (F&E) account—through higher authorization levels and appropriations that match those levels. F&E has been stagnant for the last 14 years and resources have not kept up with inflation, much less the needs of the NAS.

We recently joined 15 other aviation associations on a letter to Congress expressing our support for ensuring America has a safe, reliable and modernized air traffic control (ATC) system. While we commend the Administration for a budget recommending increased funding for the Federal Aviation Administration (FAA) in FY2024, we believe more can and needs to be done to better balance not only the maintenance and sustainability of the ATC system but also the modernization of that system. We have growing concerns about the urgent need for additional human and technological resources to ensure a healthy and scalable National Airspace System (NAS). The U.S. aviation system remains the safest mode of transportation in

the world. However, we must continue to develop our safety culture and invest in both human and technological infrastructure to maintain and improve that safety record.

The aviation industry—from commercial aviation to general aviation, manufacturing, Advanced Air Mobility (AAM) and many other emerging technologies—accounts for more than five percent of the U.S. gross domestic product (GDP). Robust investment in our aviation system is critical to continued safety and our global competitiveness and the private sector is investing billions in both human and capital expenditures to keep pace. However, controller staffing shortages and slow modernization demonstrate that the FAA is not keeping up with the growing needs and complexity of our aviation system and the demands being put on it to the detriment of consumers. These technology, personnel, and regulatory challenges need to be addressed if the U.S. is to maintain its global leadership in aviation safety and innovation. (Referenced Letter Attached)



March 9, 2023

The Honorable Maria Cantwell  
Chairwoman  
Senate Commerce Committee  
511 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Ted Cruz  
Ranking Member  
Senate Commerce Committee  
127A Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Patty Murray  
Chairwoman  
Senate Appropriations Committee  
154 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Susan Collins  
Ranking Member  
Senate Appropriations Committee  
413 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Sam Graves  
Chairman  
House Transportation and Infrastructure Committee  
1135 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Rick Larsen  
Ranking Member  
House Transportation and Infrastructure Committee  
2113 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Kay Granger  
Chair  
House Appropriations Committee  
H-307 The Capitol  
Washington, D.C. 20515

The Honorable Rosa DeLauro  
Ranking Member  
House Appropriations Committee  
2143 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairs Cantwell, Murray, Graves and Granger, Ranking Members Cruz, Collins, Larsen, and DeLauro:

We are writing to express our support for ensuring America has a safe, reliable and modernized air traffic control (ATC) system. While we commend the Administration for a budget recommending increased funding for the Federal Aviation Administration (FAA) in FY2024, we believe more can and needs to be done to better balance not only the maintenance and sustainability of the ATC system but also the modernization of that system. We have growing concerns about the urgent need for additional human and technological

The Honorable Maria Cantwell  
March 9, 2023  
Page 2

resources to ensure a healthy and scalable National Airspace System (NAS). The U.S. aviation system remains the safest mode of transportation in the world. However, we must continue to develop our safety culture and invest in both human and technological infrastructure to maintain and improve that safety record.

The aviation industry – from commercial aviation to general aviation, manufacturing, Advanced Air Mobility (AAM) and many other emerging technologies– accounts for more than five percent of the U.S. gross domestic product (GDP). Robust investment in our aviation system is critical to continued safety and our global competitiveness and the private sector is investing billions in both human and capital expenditures to keep pace. However, missed certification deadlines, controller staffing shortages, and slow modernization demonstrate that the FAA is not keeping up with the growing needs and complexity of our aviation system and the demands being put on it to the detriment of consumers. These technology, personnel, and regulatory challenges need to be addressed if the U.S. is to maintain its global leadership in aviation safety and innovation.

We recognize and acknowledge the important discussions about the broader budgetary pressures facing our nation. However, the aviation system is unique given the significant role it plays in our nation's economy through both the movement of people of goods throughout the country and the world. Moreover, the travelling public and users of the system fund it by paying taxes into the Airport and Airway Trust Fund (AATF). Supporting the system through robust appropriations primarily derived from the AATF will ensure the system has the resources necessary to grow safely and sustainably. In addition, with the AATF expected to have surpluses in the next few years, it is critical to ensure those funds be spent to address critical system needs.

Thank you for your attention to these growing concerns and your recognition of the importance of that system to safety and our continued economic growth and global competitiveness.

Sincerely,

Aerospace Industries Association  
Aircraft Owners and Pilots Association  
Airlines for America  
Air Line Pilots Association  
Association for Uncrewed Vehicle Systems International  
Cargo Airline Association  
Experimental Aircraft Association  
General Aviation Manufacturers Association  
Global Business Travel Association  
Helicopter Association International  
National Air Carrier Association  
National Air Traffic Controllers Association  
National Air Transport Association  
National Business Aviation Association  
Regional Airline Association  
U.S. Travel Association

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY DUCKWORTH TO  
SHARON PINKERTON

*Topic: Addressing Disability Complaints*

In 2020, the Department of Transportation reported that 32 U.S. air carriers received 35,510 disability-related complaints in the previous calendar year. The report also showed that the problem had been worsening over time. How does Southwest and the members of Airlines for America:

- Make sure that passenger complaints related to travelers flying with a disability are addressed quickly and effectively?

Answer. Airlines take passenger complaints relating to passenger with disability accessibility services very seriously and dedicate significant resources to ensure they are addressed quickly and effectively. Under the U.S. Department of Transportation's accessibility regulations, our members ensure that each of their Complaint Resolution Officers (CRO) have authority to make dispositive resolution of complaints on behalf of the airline, prompt dispositive action by the CRO for immediate complaints, and dispositive action for written complaints within 30 days (giving the necessary time for investigation of the incident which may have occurred up to 45 days prior).

A4A members also take additional efforts and best practices to help passengers submit accessibility service concerns to the airlines and respond to those concerns, including:

- Providing links on electronic communications for passengers with disabilities to submit feedback at any time during the journey;
- Providing an accessibility hotline that is available 24/7 that is monitored by a team that will respond to the customer's concerns within 24 hours;
- Staff with the specific responsibility of monitoring social media for potential complaints and to identify trending social media accessibility issues to reach the customers and mitigate the issue;
- Soliciting specific feedback to identify trends and opportunities that are raised with field leadership for action on identified issues;
- Processes to ensure chat, direct messages, SMS text and e-mails received by other departments that are accessibility related are forwarded to the correct team for an expeditious response;
- Automated processes to identify complaints that are accessibility related;
- Assignment of CRO teams to handle specific issues and address post-event actions;
- Having a specialty team in the customer relations department, with specialized training on disability regulations, to handle accessibility services complaints;
- Giving high priority to accessibility related complaints for handling by a CRO-trained customer care agent;
- Training frontline employee leaders, including reservation leaders, airport customer service leaders, and operations (boarding agent) leaders as CROs;
- Analysis of complaints and CRO reports into categorized and detailed reports that are used to investigate issues and take action within the respective operational department; and
- Monthly quality control reviews regarding complaint response processes.
- Ensure that staff are properly trained to engage with and assist passengers with disabilities, and how often does this training take place?

Answer. Our members provide significant training for frontline employees regarding accessibility services and have made an explicit commitment to enhance their accessibility services training for frontline workers and educate their employees about passengers with disabilities.

Additionally, the industry continues to support the recommendations of Department of Transportation's Air Carrier Access Act Accessibility Committee relating to training, including the adoption of best practices regarding the training on special service request codes, the involvement of disability community organizations to improve airline training and adoption of hands-on training for the handling of battery-powered wheelchairs or scooters.

On training, our members exceed the Department's regulatory requirements for accessibility services training, which already requires proficiency training for all personnel who deal with the traveling public, training with respect to awareness and appropriate responses to passengers with a disability, training to recognize requests for communication accommodation, and ensure that all such personnel re-

ceive refresher training every three years. These training obligations extend to our members service providers as well.

Examples of best practices that A4A members have implemented with regard to training and that exceed the Department's requirements include:

- Recurrent training on an 18 month, annual or quarterly basis (topic specific);
- Additional training through ad hoc communications;
- Training of personnel that do not deal with the traveling public (e.g., ramp agents); and
- Use of training developed by disability community organizations that explains the importance and impact of accessibility services.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RAPHAEL WARNOCK TO  
SHARON PINKERTON

**Investing in Infrastructure.** Though Southwest's meltdown over the December 2022 holidays was alarming, it was only one in a series of recent air-travel failures and disruptions that this country has experienced over the past few months. In mid-January, the Federal Aviation Administration (FAA) suffered an outage of their Notice to Air Missions (NOTAM) system, which caused all domestic flights to be grounded for almost two hours. Just a few days later, two planes nearly collided on the runway at John F. Kennedy International Airport, an incident which was nearly repeated a few weeks later in Austin, Texas. Each of these disruptions and near misses poses significant safety concerns and appears to be the result of both public and private underinvestment in critical infrastructure.

*Question.* Do you believe that underinvestment in critical aviation infrastructure, such as air traffic control software, is a challenge to our aviation system?

*Answer.* Yes, in fact we recently joined 15 other aviation associations on a letter to Congress expressing our support for ensuring America has a safe, reliable and modernized air traffic control (ATC) system. While we commend the Administration for a budget recommending increased funding for the Federal Aviation Administration (FAA) in FY2024, we believe more can and needs to be done to better balance not only the maintenance and sustainability of the ATC system but also the modernization of that system. We have growing concerns about the urgent need for additional human and technological resources to ensure a healthy and scalable National Airspace System (NAS). The U.S. aviation system remains the safest mode of transportation in the world. However, we must continue to develop our safety culture and invest in both human and technological infrastructure to maintain and improve that safety record.

The aviation industry—from commercial aviation to general aviation, manufacturing, Advanced Air Mobility (AAM) and many other emerging technologies—accounts for more than five percent of the U.S. gross domestic product (GDP). Robust investment in our aviation system is critical to continued safety and our global competitiveness and the private sector is investing billions in both human and capital expenditures to keep pace. However, controller staffing shortages and slow modernization demonstrate that the FAA is not keeping up with the growing needs and complexity of our aviation system and the demands being put on it to the detriment of consumers. These technology, personnel, and regulatory challenges need to be addressed if the U.S. is to maintain its global leadership in aviation safety and innovation. (Referenced Letter Attached)

*Question.* What can Congress do to encourage airlines, as well as the FAA, to invest in this critical infrastructure?

*Answer.* U.S. passenger and cargo airlines spent \$168 billion on aircraft, ground equipment, information technology, facilities and other capital improvements from 2010 through 2019 and an additional \$51 billion from 2020 through 2022. During this same time, passenger airlines spent \$581 billion on wages and benefits to build the largest workforce they have had in 20 years. And in 2022, A4A passenger airlines spent \$6.4 billion on information technology. The most important role Congress can play in encouraging more such investment by industry is to foster an environment in which airlines can thrive financially. Historical data shows a clear correlation between the industry's financial health and its ability to reinvest in its product and people.

For the FAA, Congress should identify programs that provide the most effective improvements in safety, capacity and efficiency and then apply metrics to evaluate the effectiveness and hold the FAA accountable for the impacts of the investments. Specifically:

*Increase Funding for FAA's Capital Programs*

We support additional funding for the FAA's capital programs—particularly the Facilities and Equipment (F&E) account—through higher authorization levels and appropriations that match those levels. F&E has been stagnant for the last 14 years and resources have not kept up with inflation, much less the needs of the NAS.

*Operationalize NextGen*

Our goal is to implement and integrate NextGen/ATC Modernization capabilities, aircraft equipage and people to achieve the intended purpose and produce measurable benefits for passengers and stakeholders. This includes throughput, efficiency, sustainability, fuel savings, emissions reductions, reduced miles flown and noise reductions in specific locations and time frames.

Our top priorities to achieve this goal and improve customer service are:

- **Flow Management/Flight Planning Tool**—Replace the FAA's outdated Traffic Flow Management System (TFMS) with a modernized national planning tool (Flow Data Management System or FDMS) by 2025. FDMS provides the FAA with the necessary capabilities in concert with operator flight planning automation enhancements to provide the basis for expanded capabilities for and improved use of automation by aircraft operators that are extremely limited by the current TFMS.

TFMS provides tools for users to develop, coordinate, issue and manage Traffic Management Initiatives that balance flight demand and NAS capacity. However, those tools have reached end of life and are exhibiting accuracy and latency issues, as well as shortfalls in reliability, maintainability and availability (RMA). The FDMS will provide a standards-based microservices architecture before the full implementation, and the final system will address operational needs such as improved means of flight plan revisions that address weather and traffic congestion, ultimately benefitting passengers and other stakeholders.

- **Airport Surface Management**—Implement (Terminal Flight Data Manager) electronic flight strips and at identified sites, aircraft operational metering at agreed upon locations and time frames to finish 46 sites by 2027.
- **Ensure the NOTAMs program is resilient, has redundancies and is modernized before 2030.**

Also, leverage investments by industry in aircraft-based equipage capabilities and flight planning management.

- **Navigation**—Increase utilization of Performance Based Navigation (PBN) and implement at additional designated airports sites recommended by industry. This includes the 48 site specific proposals made by the industry to the FAA under the NextGen Advisory Committee in the *Performance Based Navigation (PBN) Clarification Ad Hoc Team, NAC Task 19-4 Report* to achieve desired PBN outcomes in the implementation of the FAA's PBN NAS NAV Strategy. The FAA should continue the implementation of Established on Required Navigation Performance (EoR) Procedures and development of Multiple Airport Route Separation (MARS). The Agency should continue making use of Converging Runway Display Aid (CRDA) as a metering tool to facilitate PBN implementation.
- **Communication**—Complete initial EnRoute DataComm and implement full data services by 2024.
- **Surveillance**—We support leveraging carrier investment in ADS-B Out and ADS-B In aircraft equipage to provide operational benefits and enhance trajectory-based operations capabilities to improve airspace efficiencies and reduce delay in the NAS. The FAA has shown benefits from reduced spacing in Center airspace and should complete implementation of this efficiency and capacity capability using ADS-B at all locations by 2025. Expanded use of ADS-B surveillance should also be matured to implement reduced spacing at airports and in the Northeast Corridor as the Agency outlined in its report to Congress, as required by Section 505 of the FAA Reauthorization Act of 2018 (P.L. 115-254).
- **Satellite Communication (SATCOM)**— We recommend requiring the FAA to utilize equipage for ATC communications in remote areas without VHF radio capability to improve system performance and efficiency benefits. Reduction of procedural separation should be developed for implementation in Oceanic WTRs and Gulf of Mexico Airspace through SATCOM.

**Status of the Aviation Industry.** Though Southwest's December 2022 meltdown is certainly cause for concern, Southwest represents just one pillar of a diverse and

expansive aviation industry in the United States. As home to the county's largest airport in Hartsfield-Jackson International Airport, Georgians are keenly interested in the health and success of the aviation industry as a whole. With that in mind, I would like to learn more about the state of the aviation industry in the United States.

*Question.* Is the aviation industry, including both airlines and airports, fully staffed? If not, why?

*Answer.* Data from the Bureau of Transportation Statistics show in January U.S. passenger airlines employed their largest workforce since October 2001. They added 46,344 jobs in 2021, 49,796 in 2022, and 4,380 in January—a total of 101,519 full time equivalent employees (FTEs). Including cargo-only airlines, total industry headcount exceeded 787,000 in January. What has changed is that due to higher rates of employee absenteeism—in aviation and other sectors of the economy—and longer taxi times at airports, airlines now require more staff—especially pilots—and aircraft to produce the same amount of capacity as they did preceding the pandemic. Several airlines have announced plans to expand their payrolls further in 2023, especially their pilot ranks. At the end of 2022, U.S. passenger airlines employed 5 percent more pilots and 1 percent more flight attendants than they did at the end of 2019.

As to airports, A4A does not have specific data on airport staffing but we would encourage your staff to reach out to the airport associations for more information.

*Question.* How much debt is currently being held by airlines and airports as they seek to return to normal operations following the COVID-19 pandemic?

*Answer.* U.S. carriers amassed a significant amount of debt, which ended 2022 just shy of \$150 billion in 2022, despite the public and private actions taken over the course of the pandemic. This debt comes with heavy cash outlays for interest. In fact, net interest expense tripled from 2019 to 2021 and will remain elevated through 2023. As of February 7, nine publicly traded U.S. airlines had published their full-year 2022 results, posting just \$2.5 billion in pre-tax earnings—a modest 1.3 percent pre-tax profit margin. Notably, that comes on the heels of \$49 billion in pre-tax losses recorded in 2020 and 2021 combined.

As to airports, A4A does not have specific data on airport debt but we would encourage your staff to reach out to the airport associations for more information.

*Question.* How are inflation and supply chain issues affecting the industry?

*Answer.* Regarding inflation, from 2019 to 2022, while passenger airline operating revenues rose 8 percent, operating expenses rose 16 percent due to higher rates for labor, fuel, aircraft, maintenance, airports and other costs of doing business. And, thanks to the aforementioned debt burden, interest expense rose 183 percent, to \$5.2 billion for the 10 largest carriers alone. Meanwhile, supply chain issues (e.g., engines, avionics) are apparent in delayed deliveries of aircraft, as manufacturers have been forced to shift deliveries farther out in the calendar and deployment on new or existing routes is postponed accordingly. That is just one of several factors limiting capacity growth.

While there are certainly many supply chain challenges across the aviation sector, one key supply chain breakdown that is of particular and timely concern relates to the current 5G inference issue. Last November, a broad group of aviation stakeholders (including A4A) wrote the Administration regarding their commitment to finding reasonable solutions that allow implementation of 5G while addressing safety and operational disruptions in the National Airspace System. One component of those reasonable solutions is the ongoing effort to retrofit impacted aircraft with radio altimeters (RAs) that are not susceptible to interference from 5G signals. The aviation community has been actively and aggressively engaged in meeting retrofit deadlines, however, supply chain challenges and certification solutions are making deadlines difficult, if not impossible, to meet.

*Question.* What factors drive the costs of maintaining airline and airport operations?

*Answer.* The primary factor is the supply and demand balance for workers and materials. The most volatile cost input is the price of energy, which is primarily jet fuel for the airlines and utilities for the airports.

*Question.* What investments are needed to maintain a healthy aviation industry?

*Answer.* In addition to previous answers above related to investments there are also FAA funding and reform issues that should be addressed, including:

*Ensure Controller Staffing Model Updates Hiring Goals and Provide Funding*

The FAA and NATCA were directed by Appropriators to working through the collaborative resource workgroup (CRWG) to improve the process for determining controller staffing targets by evaluating staffing needs on a facility-by-facility basis as

well as improving the algorithm that determines the staffing target based on a variety of factors. That work, including MITRE's review, has been completed and although it is not publicly available, we believe this report should serve as the basis for increased funding and staffing to ensure the National Airspace System (NAS) is adequately staffed so that fewer passengers' itineraries are delayed or disrupted.

*Ensure FAA Continues to Operate Normally During any Government Shutdown*

Congress should ensure the FAA's operations are protected during any government shutdown by allowing the FAA to continue to draw from the Airport and Airways Trust Fund (AATF) during any funding lapse to pay controllers and other operational needs so that travelers and shippers of goods are not grounded during a shutdown.

*Apply Current Funding Mechanisms to New Entrants*

Given the rapid growth and importance of advanced air mobility and commercial space new entrants, as new entrants increasingly divert FAA staff attention away from moving passengers efficiently across the country, we recommend applying passenger taxes and the waybill tax to these stakeholders to ensure that everyone who utilizes the system also contributes to the AATF.

*Hold the FAA Accountable for Achieving Consumer/Operational Benefits*

NextGen Benefit-Focused Metric Task Force—As the FAA restarts its air traffic control modernization efforts following Covid related restrictions, we want to ensure the NextGen program finally achieves its intended purpose, namely greater energy efficiency and emissions reductions. Getting passengers and packages to their destination safely, efficiently and as quickly as possible is a top priority for our carriers.

Finally, ensure that the FAA is the sole regulator of safety and operations for the NAS. We recommend inclusion of language that codifies the FAA's singular authority over operations in the NAS. A Federal standard for operational and safety requirements ensures that all civil operators, including new entrants and drones, comply with equivalent safety standards and that state and local requirements cannot create a competitive advantage or disadvantage, or negatively impact safety and operations.

**Expanding Access to Air Travel.** Prior to the COVID-19 pandemic, the number of airline passengers had been steadily increasing for decades. As the aviation industry works to recover from severe reductions in service and operations, it may be helpful to understand why air travel was becoming increasingly accessible prior to the pandemic so that best practices may be repeated.

*Question.* What were the reasons for the steady increase in air travelers prior to the COVID-19 pandemic?

*Answer.* The largest single factor was and remains healthy competition, led by the rapid growth of (and low barriers of entry to) ultra-low-cost carriers, combined with unprecedented transparency in distribution and pricing of airline services. The roll-out of additional nonstop routes not previously served on a consistent, economical basis, was also a factor. Some of these are being showcased by new entrants such as Avelo and Breeze, who entered the U.S. marketplace in April 2021.

*Question.* In general, who were these new aviation consumers?

*Answer.* The simple answer is the new aviation consumers were consumers who could not previously afford to fly. Prior to the pandemic we were experiencing what many have called the "Golden Age" of air travel. U.S. airlines were flying 2.5 million passengers and more than 58,000 tons of cargo each day. In 2019, U.S. airlines carried an all-time high 927 million passengers in scheduled service. Those record numbers were in large part because of two main factors: affordability and accessibility. Accounting for inflation, and including ancillary services, average domestic ticket prices fell 15 percent from 2014–2019, 22 percent from 2000–2019 and 44 percent from 1979–2019—the 40-year period following the Airline Deregulation Act of 1978. Those lower fares made commercial air travel accessible to nearly all Americans. In fact, 42 percent of Americans who flew in 2019 had family incomes under \$75,000. Further, in 1971 only 49 percent of Americans had ever flown commercially. Today, 90 percent of Americans have flown in their lifetime—and more than half have boarded a commercial aircraft by the time they turn 16.

**Consumer Protection.** The significant service and operational disruptions caused by Southwest's December 2022 meltdown and the recent Federal Aviation Administration's Notice to Air Missions (NOTAM) system outage highlight the need for Congress to better protect consumers and airline passengers. Airline passengers deserve a travel experience that is free of surprises, as well as a guarantee that they will be appropriately accommodated should unexpected delays or cancellations occur.

*Question.* What investments has the aviation industry made to support customer service in the wake of these high-profile disruptions?

*Answer.* As noted in our testimony, U.S. passenger airlines are reinvesting record sums in their products to continually improve the customer experience, including a wide range of customer-facing technology initiatives that make it easier for travelers to shop for tickets and other services; check in for their journeys and navigate airports; check or track bags; to modify their itineraries; redeem vouchers or loyalty points; and to stay apprised in real-time of changes to their flights during irregular operations. The airlines have pared back planned growth and updated their staffing models—and hired tens of thousands of workers—to reflect post-pandemic operational realities.

*Question.* What steps are being taken by the aviation industry to ensure passengers are being appropriately accommodated when flights are delayed or cancelled, regardless of the cause of the delay or cancellation?

*Answer.* Under U.S. DOT regulations, U.S. airlines are required to have a customer service plan, which requires a number of steps to accommodate passengers during cancellations and delays and be transparent about those policies. For instance, the plan requires that carriers provide notice of known delays, cancellations and diversions, provide prompt refunds when due, meet passenger essential needs during tarmac delays, disclosing cancellation policies and notifying passengers in a timely manner. The U.S. DOT holds carriers to these customer service plans and will take enforcement action if the plans are not followed. In addition, the DOT Dashboard provides the public with additional information on carrier accommodations during delays and cancellations and DOT holds carriers to these public commitments.

<https://www.transportation.gov/airconsumer/airline-customer-service-dashboard>

**Improving Communication and Partnerships.** Unfortunately, airlines cannot control all of the variables that affect their operational performance. Weather, Federal operations systems, and air traffic controllers can all affect an airline's ability to transport passengers to-and-from their destinations. In order to improve the efficiency of the Nation's aviation system, collaboration between all industry parties and partners should be encouraged.

*Question.* What opportunities exist to foster increased partnership and collaboration between public and private aviation stakeholders?

*Answer.* The continued partnership that exists between the FAA's air traffic management system and the corresponding investments made by airlines in modern avionics and traffic management software typically referred to as NextGen is a key collaboration. Every effort should be taken to operationalize NextGen to implement and integrate NextGen/ATC Modernization capabilities, aircraft equipage and people to achieve the intended purpose and produce measurable benefits for passengers and stakeholders. This includes throughput, efficiency, sustainability, fuel savings, emissions reductions, reduced miles flown and noise reductions in specific locations and time frames.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO  
SHARON PINKERTON

1. The Department of Transportation (DOT) recently announced an investigation into Southwest's flight schedule using their consumer protection authority derived from 49 U.S.C. § 41712. Specifically, DOT is looking into whether Southwest was engaged in "unrealistic scheduling" which DOT identifies as an unfair or deceptive practice.

a. To what extent has DOT used this authority in the past?

*Answer.* We are unaware of DOT using this authority in the past.

b. If DOT elects to regulate flight schedules, what impact will that have on airline operations and consequently consumers?

*Answer.* It is likely that "regulation" of flight schedules would ultimately mean fewer flights available to the consumer, which would put upward pressure on fares and downward pressure on choice. It could mean not only fewer local options but also fewer connecting opportunities for a passenger without a nonstop option. We should not use the cloak of the anomalies caused by the pandemic to re-regulate schedules.

Prior to the pandemic, our industry was experiencing what many have called the "Golden Age" of air travel. U.S. airlines were flying 2.5 million passengers and more than 58,000 tons of cargo each day. In 2019, U.S. airlines carried an all-time high 927 million passengers in scheduled service. Those record numbers were in large

part because of two main factors: affordability and accessibility. Accounting for inflation, and including ancillary services, average domestic ticket prices fell 15 percent from 2014–2019, 22 percent from 2000–2019 and 44 percent from 1979–2019—the 40-year period following the Airline Deregulation Act of 1978. Those lower fares made commercial air travel accessible to nearly all Americans. In fact, 42 percent of Americans who flew in 2019 had family incomes under \$75,000. Further, in 1971 only 49 percent of Americans had ever flown commercially. Today, 90 percent of Americans have flown in their lifetime—and more than half have boarded a commercial aircraft by the time they turn 16.

c. If airlines reduce service, including the number of flights they run, how will that impact smaller markets?

Answer. Given a finite number of planes and pilots, smaller markets are often the first to experience service reductions, which we are seeing firsthand amid today's relative pilot scarcity. Over the past three years, mainline pilot ranks grew 10 percent but regional airline pilot ranks fell 14 percent. That is very telling of what would happen.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO  
DR. CLIFFORD WINSTON

*Competition in the Airline Industry.* Dr. Winston, in a recent press release, Airlines for America makes the claim that there is “robust competition among U.S. airlines” and that U.S. airlines “compete aggressively for customers.”

Yet since deregulation, many rural or smaller markets have been cut off from air service altogether or may have one service provider that is able to extract concessions from the community without the restraint of competition. That is certainly becoming a problem in smaller markets in Washington state.

*Question 1.* What solutions should Congress be looking at in order to enhance competition in the market, particularly in smaller or rural communities?

Answer. To enhance airline competition, Congress needs to enact policies that will stimulate new entry by air carriers. There are two policies that can accomplish that goal. First, Congress should work with other branches of government to grant foreign airlines cabotage rights, which would allow foreign airlines to serve U.S. domestic routes. Allowing cabotage would make it much less likely that low-density domestic routes connecting smaller or rural communities would be underserved because passengers on those routes could provide feed for foreign and U.S. airlines on international routes that originate in smaller communities in the US. Both U.S. and foreign airlines would seek to serve smaller communities with appropriate-sized aircraft and offer passengers seamless international service. (Note cabotage would enable U.S. airlines to serve foreign countries' domestic routes). Second, Congress could help to privatize the U.S. airport system, which would generate more airport and airline competition. Private airports in smaller communities would have a financial incentive to attract more airlines to serve their airport, which would increase airline competition, by improving their facilities and the operations of the airlines that serve their airport and by charging airlines attractive user fees. Private airports that attempt to charge monopoly user fees would be constrained from doing so because airlines could simply eliminate that airport from their network.

*Question 2.* How do we incentivize airline operators to establish and maintain service in smaller markets?

Answer. Generally, airlines are incentivized to serve markets where there are profit opportunities. Contrary to popular wisdom, airline deregulation incentivized airlines to serve smaller communities because airlines saw profit opportunities by connecting those communities to their hub and spoke networks. See, for example, my coauthored book and paper. Global airline deregulation, which would be facilitated by granting airlines cabotage rights, would provide airlines opportunities to increase their profits by expanding the markets they serve, including smaller markets, to compete more effectively in the deregulated global airline industry. Note that subsidizing airlines to serve smaller markets may have the unanticipated effect of reducing service by masking profit opportunities. See the aforementioned book for a discussion of how the Essential Air Service (EAS) program had that effect.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO  
DR. CLIFFORD WINSTON

*Question 1.* The Department of Transportation (DOT) recently announced an investigation into Southwest's flight schedule using their consumer protection authority derived from 49 U.S.C. § 41712. Specifically, DOT is looking into whether Southwest was engaged in "unrealistic scheduling" which DOT identifies as an unfair or deceptive practice.

a. If DOT elects to regulate flight schedules, what impact will that have on airline operations and consumers?

Answer. I would have to know specifically how DOT elected to regulate flight schedules to provide a precise evaluation, but the uncertainty itself of DOT's regulatory policy raises serious concerns. On what basis would DOT regulate flight schedules? How would they determine that their regulation would benefit travelers? Southwest has incurred substantial financial costs from their alleged "unrealistic" scheduling. Doesn't Southwest have a strong financial incentive to ensure that they can provide the flights that they schedule? By regulating flight schedules without addressing my concerns about the basis for and evaluation of the effects of their regulations, DOT could be providing a solution in search of problem, which could substantially hurt airline operations and consumers. Airlines have not been engaged in unrealistic scheduling for most of their flights since deregulation and as noted, airlines have a strong financial incentive not to engage in unrealistic scheduling. DOT has no justification to intervene in airlines' flight schedules, especially when it cannot set forth, let alone defend, a clear regulatory approach.

b. If DOT elects to impose new regulations on baggage fees, fare refunds, seating arrangements, etc. how will airlines respond and what impact will that have on customers?

Answer. The airline industry is highly competitive and air carriers earn close to a normal rate of return on their investment in the long run. In such an industry, firms cannot incur costs that they are unable to cover with their prices or they will go out of business. Accordingly, if DOT imposes new regulations on baggage fees, fare refunds, seating arrangements, and the like and those regulations impose costs on the airlines, then the airlines will have to recover those costs by either raising fares or finding another way to charge travelers to cover those costs. Overall, consumers will not be better off, but certain consumers who benefit from DOT's new regulations will benefit at the expense of all travelers who pay the higher fares.

*Question 2.* The air travel industry remains one of the most heavily regulated industries in the country.

a. Please describe existing barriers to new entrants and how that impacts competition?

Answer. There are two major entry barriers to competition in the U.S. airline industry. The first is that foreign airlines cannot serve domestic passengers on a route that consists of an origin and destination airport in the United States. For example, British Airways cannot serve travelers flying from Washington, DC to New York. The result is that the dozens of foreign airlines that serve travelers on U.S. international routes and on routes throughout the world are unable to compete for passengers in the U.S. airline market. The second entry barrier is that the U.S. commercial airport system consists almost exclusively of public airports, which limits airport competition because only one new major commercial airport, Denver International Airport, has been built in the United States since 1973. Private airports do not exist that compete with public airports. Public airport competition is clearly limited in major metropolitan areas, such as Atlanta, Minneapolis, and Denver, which are served by only one airport. The lack of public airport competition translates into a lack of *airline* competition because airports have entry barriers such as exclusive use gates, slot controls that limit operations, and the like.

b. What impact does increased competition have on the price of airfare?

Answer. The lack of competition from foreign airlines and the lack of airport competition cause fares to be higher than they would be if foreign airlines could compete in U.S. markets and if there were greater airport competition. Evidence that fares would decrease and service quality would increase if foreign airlines were allowed to compete in U.S. markets and if airports were privatized to increase airport competition is available in my coauthored book *Revitalizing a Nation: Competition and Innovation in the U.S. Transportation System*. In short, increased competition would lead to lower airfares in more competitive markets.

c. What role do low-cost carriers, such as Southwest, play in the market and what impact does that have on domestic airfare?

Answer. The entry of low-cost carriers into the airline industry has been essential for the success of airline deregulation. Southwest Airlines, in particular, has developed efficient operations that have enabled it to have lower costs than most other airlines. As a result, we report in chapter 7 of *Revitalizing a Nation* that Southwest has reduced fares, on average, 30 percent and that air travelers have gained \$67.6 billion (2000 dollars) from its entry during 1994–2014.

d. What actions can Congress take to increase competition in the air travel industry?

Answer. Congress can work with other branches of government to increase competition in air transportation by granting foreign airlines cabotage rights, which would allow them to serve U.S. domestic routes and to compete with U.S. carriers. Congress also can help to privatize the U.S. airport system, which would generate more airport and airline competition.

*Question 3.* In your written testimony you reference a New York Times article titled, “It’s Time to Finally Fix Air Travel” by William McGee, which was published on January 13, 2023.<sup>1</sup> In that piece, Mr. McGee claims the airline industry before de-regulation was stable, profitable, and competitive. Mr. McGee concludes that “the deregulation experiment since 1978 needs to be rethought.”

a. Do you agree that Congress should rethink airline deregulation?

Answer. Congress should not rethink airline deregulation. Instead, Congress should be more aware of the enormous benefits that airline deregulation has brought to travelers, in terms of lower fares and improved service quality, and to carriers, by giving them the freedom and incentive to be more efficient, without causing any degradation in airline safety. The policies that I recommend to increase competition in the airline industry would build on the benefits generated by airline deregulation.

*Question 4.* Southwest announced in late 2022 that it would be reinstating its dividend payments, which were suspended in early 2020, in 2023. Some have suggested these dividends would have been better used to improve its crew-assigning software.

a. As a general matter, how do dividends impact not just shareholders but the broader economy?

Answer. I am not an expert in corporate finance, but the basic principle of why firms pay dividends is the same as other actions that firms take to be more competitive. Firms pay dividends to help raise additional capital, which enables them to be more efficient and innovative. By raising capital that enables them to be more efficient and innovative, competitive firms are better able to benefit consumers and the economy.

b. How is this favorable compared to companies simply stockpiling cash, particularly in the low-interest rate environment we were in over the past several years?

Answer. Again, I am not an expert in corporate behavior, but all firms seek to get the highest return on their capital recognizing the tradeoff between risk and return. Stockpiling cash in a low-interest rate environment is a low-risk strategy but also a very low rate of return strategy. Paying dividends as part of a strategy to raise additional capital investment is likely to lead to higher returns without a commensurate increase in risk.

c. Southwest offers a ProfitSharing Plan and an Employee Stock Purchase plan, which allows employees to purchase Southwest stock at a discount so they can directly benefit from the company’s success. Considering this, how does paying dividends benefit the airline employees who are invested in the company?

Answer. Generally, firms offer benefits in addition to a salary to employees to be more competitive in the labor market and thus attract the best employees. Southwest’s Profit Sharing and Employee Stock Purchase plans are employee benefits in addition to an annual salary, which enable Southwest to attract high quality employees in all job classifications. Clearly, the employees value the benefits from the plans, including the dividends they receive as partial owners of Southwest. If employees did not value those benefits, Southwest would discontinue the plans because they were not helping them to be more competitive in the labor market.



<sup>1</sup><https://www.nytimes.com/2023/01/13/opinion/faa-air-travel-regulation-outage.html>