Aviation Regulatory Update

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FAA FIELD OFFICES FACING MONTHSLONG BACKLOG OF WORK ORDERS

Due to prolonged lapses of federal funding and significant staffing shortages, the Federal Aviation Administration's International Field Offices ("IFOs") are facing significant delays when acting on foreign air carrier requests. Several IFOs are currently advising that processing could take **60-90 days** for requests being submitted now, creating added pressure on already time sensitive requests (e.g., approving new aircraft for use in U.S. airspace). The ongoing backlog of approvals and inspections could contribute to extended operational bottlenecks at the FAA, so foreign air carriers are strongly encouraged to submit Operation Specifications ("OpSpecs") requests to IFOs as soon as possible. Under normal circumstances, foreign air carriers are required to submit requests for OpsSpecs amendments at least 90-days in advance for changes related to acquisitions/mergers, types of operations, and resumption of operations following a suspension of operations, and at least 30-days in advance for all other changes (see 14 C.F.R. 129.11(d)). To avoid unnecessary delays and streamline approvals, foreign air carriers should submit complete and accurate documentation to the FAA the first time to minimize back-and-forth with inspectors. While the FAA works to clear the backlog of existing work orders, carriers should prioritize high-impact requests (such as the addition of new aircraft or long-term ACMI agreements) and clearly communicate operational urgency to FAA inspectors as needed, even though the FAA is already warning carriers that they are aware the current backlog may cause operational delays. Doing so will account for realistic lead times (i.e., 60-90 days) and limit the need for last-minute submissions. If foreign air carriers need assistance with specific OpsSpecs amendments (e.g., adding aircraft, new routes, or changing maintenance programs), please do contact us directly to ensure close coordination with applicable IFOs and responsiveness to FAA inquiries.

FAA PROPOSES GREATER FLIGHT RESTRICTIONS THAN PREVIOUSLY ANTICIPATED AT ORD

On March 18, 2026, the FAA invoked its statutory delay-reduction authority to reconvene a scheduling reduction meeting among itself, U.S. air carriers, and the Chicago Department of Aviation to consider additional flight restrictions at Chicago O'Hare International Airport for the Summer 2026 scheduling season. Earlier this month, the FAA proposed limiting daily operations at ORD throughout the Summer 2026 season at 2,800, yet regulators now plan to cap total daily operations at 2,680 takeoffs and landings. In accordance with the IATA Worldwide Airport Slot Guidelines, the FAA will utilize each carrier's Summer 2025 schedule at ORD as the baseline for determining flight reductions to be

borne by those carriers during the upcoming season. Given that flight restrictions are being proposed at a time when published schedules exceed 3,080 daily operations, there could be considerable pushback from U.S. air carriers, especially low-cost carriers with modest operations compared to those of major U.S. air carriers such as United and American. For example, Spirit Airlines filed comments in which it argued that a carrier-specific reduction methodology should be implemented whereby the burden of flight reductions should be borne by those "carriers whose aggressive expansion created the crisis." According to Spirit, American and United are to blame for the congestion and therefore the FAA should saddle those two carriers with the responsibility to implement the requested reduction framework. Spirit contends that the FAA can surely achieve its capacity target without penalizing carriers, like Spirit, who are purportedly not to blame for the congestion caused by the current "scheduling arms race" between American and United.

U.S. AIRLINE EXECUTIVES URGE CONGRESS TO FUND DHS

On March 15, 2026, chief executive officers of nine U.S. air carriers and Airlines for America all signed a joint letter to Congress urging lawmakers to immediately fund the U.S. Department of Homeland Security. Since DHS funding expired on **February 14, 2026**, the letter explained that federal aviation workers (e.g., Transportation Security Administration officers, U.S. Customs and Border Protection clearance officers, and some air traffic controllers) are working without pay at the same time as a well-publicized affordability crisis. If the partial shutdown continues much longer, airline executives are concerned that lengthy lines at TSA checkpoints, prolonged travel delays, and significant flight cancellations will become all too common. With approximately 171 million passengers set to travel in the coming months, American Airlines, Delta Air Lines, United Airlines, Southwest Airlines, Alaska Airlines, JetBlue Airways, Atlas Air, UPS, and FedEx came together to advocate for swift action ahead of major events which will necessitate air travel, such as FIFA World Cup 2026 and the country's 250th anniversary. Citing significant TSA-related staffing shortages at major U.S. airports, senior Trump administration officials are now warning that airports "are reaching a breaking point" and FAA-mandated schedule reductions could be implemented akin to the last government shutdown in November 2025. Carriers should pay close attention to the ongoing partial government shutdown, especially if operational concerns at U.S. airports intensify. Despite continued efforts among House and Senate lawmakers, lengthy TSA security lines at airports throughout the country are disrupting millions of travelers as the partial government shutdown becomes the longest in U.S. history.

A4A SEEKS GUIDANCE ON DISABILITY REPORTING REQUIREMENTS

On March 2, 2026, Airlines for America submitted comments to DOT concerning the usefulness of annual disability-related complaint reports that U.S. and foreign air carriers operating to, from, and within the U.S. are required to submit. Given that U.S. and foreign air carriers are already required to submit annual reports to DOT's Office of Aviation Consumer Protection, Airlines for America advised against expanding the scope and form of reported data. Airlines for America nevertheless requested regulatory guidance from OACP on the proper categorization of passenger complaints within the existing framework. For instance, since the launch of DOT's Aviation Complaint, Enforcement, and Reporting System ("ACERS") in August 2025, those in the aviation industry continue to experience an increasing number of erroneously categorized complaints which impacts the quality of the information reported to DOT. To remedy this issue, Airlines for America and other aviation stakeholders seek clarification from OACP on how regulators plan to categorize complaints submitted by artificial intelligence and/or other autonomous application programs (i.e., computer bots). Specific regulatory guidance from OACP on such matters will be helpful to carriers and regulators alike so that annual DOT disability reports accurately reflect compliance with consumer protection regulations.

DOT ACCEPTING TARMAC DELAY INCIDENT REPORTS AND CONTINGENCY PLANS VIA ACERS

On March 18, 2026, DOT's Office of Aviation Consumer Protection announced a new module in ACERS which will accept both tarmac delay incident reports as well as submissions of tarmac delay contingency plans. This marks the latest update to ACERS since its initial launch in August 2025 as OACP works to familiarize the industry with DOT's new reporting system. Please be advised that any written reports of lengthy tarmac delay incidents occurring on or after **April 1, 2026**, must be submitted through the new module on ACERS. If incidents occur on or before **March 31, 2026**, carriers should submit reports via email (reporttarmacdelay@dot.gov). As for the submission of contingency plans for lengthy tarmac delays, U.S. air carriers will be permitted to submit updated plans via this new module. Only U.S. air carriers are required to submit updated plans every three years with the next submission due in 2027.

PASSENGERS FILE "UNFAIR AND DECEPTIVE PRACTICES" COMPLAINTS

On March 17, 2026, a formal DOT complaint was filed against American Airlines alleging that the carrier engaged in "unfair or deceptive practices" by advertising that passengers purchasing tickets at added cost could select their seat regardless of the flight operator. After paying to select seats on two multi-city tickets, the complainant contends that she was unable to select her seats on American-ticketed flights which were operated by a foreign air carrier unless the passenger first agreed to pay additional charges. As asserted by the complainant, references to "non-refundable" charges during the booking process and American's own advertised benefits by fare were violative of consumer protection regulations. To remedy such violations, the passenger requested a formal DOT investigation into the carrier's advertising practices and a full refund since she was not permitted to select her seats as advertised. A similar "unfair or deceptive practices" complaint was filed on March 15, 2026, claiming that All Nippon Airways employed "website loopholes" and obstructive customer service tactics to avoid DOT regulatory obligations. Specifically, the complainant asserted that ANA intentionally routes U.S. consumers to the carrier's Japanese website rather than the U.S. website to avoid DOT's advertising and refund requirements. Like the American complainant, the passenger demands that OACP investigate ANA's "deceptive" tactics when advertising air transportation services.

Importantly, both formal complaints cite to 49 U.S.C. § 41712 ("Section 41712") as the legal mechanism by which DOT can hold carriers accountable. As the primary source of statutory authority to regulate airline consumer practices, Section 41712 prohibits U.S. air carriers, foreign air carriers, and ticket agents from engaging in "unfair or deceptive practices" and "unfair methods of competition" in air transportation. While the former Biden administration broadly applied Section 41712 to regulate U.S. and foreign air carrier conduct, President Trump and Secretary Duffy prefer a narrower interpretation of "unfair or deceptive practices" consistent with the Trump administration's deregulatory stance. Depending on how American and ANA respond to each complaint, DOT may take this opportunity to clarify the terms "unfair" and "deceptive" as intended within the statutory authority. Doing so would provide clear guidance to industry on the current enforcement policy regarding the advertising of air transportation service to or from the United States by foreign air carriers.

DOT DISMISSES ALLERGY-RELATED COMPLAINT AGAINST SOUTHWEST

On March 18, 2026, DOT's Office of Aviation Consumer Protection formally dismissed a third-party complaint against Southwest Airlines which argued that the U.S. air carrier violated the Air Carrier Access Act by not allowing passengers with food allergies to preboard Southwest aircraft to wipe down their seating areas. In November 2022, several nonprofit organizations representing individuals with food allergies filed a complaint, contending that individuals with food allergies should have been permitted to preboard flights to wipe down their seating areas. According to the nonprofits, doing so would have substantially mitigated "life-threatening" dangers posed to passengers caused by even trace amounts of exposure. After acknowledging that the safety risks of dairy, egg, or shellfish allergies can be

as severe as those of nut allergies, DOT explained that the right to preboard an aircraft to clean seating areas continues to only be tied to nut allergies. Given that Southwest reaffirmed its policy to permit preboarding for those with nut allergies, DOT determined that no further action was necessary and dismissed the complaint. If DOT were to expand accessibility protections to cover all food allergies, regulators explained that formal notice-and-comment rulemaking processes would be more appropriate than carrier-specific enforcement determinations.

AVELO FACES $65,000 PENALTY FOR DRUG AND ALCOHOL TESTING VIOLATIONS

On March 10, 2026, the FAA announced a proposed $65,000 civil penalty against Avelo Airlines for allegedly neglecting to conduct random drug and alcohol testing of flight personnel. Between April 2024 and November 2024, the FAA claims that Avelo, an ultra-low-cost carrier based in Texas, failed to include ten (10) flight attendants and flight crewmembers into the carrier's random drug and alcohol testing pool in violation of FAA safety regulations. To ensure strict compliance with aviation safety standards, the FAA requires carriers to perform random drug and alcohol testing of safety-sensitive aviation personnel (e.g., pilots, flight attendants, and maintenance staff). Even though most drug and alcohol tests are conducted randomly throughout the year, FAA regulations make clear that drug and alcohol testing is not merely a one-time requirement but an ongoing compliance obligation. For example, carriers must perform drug and/or alcohol testing of airline employees performing safety-sensitive functions as soon as possible following certain aviation accidents or incidents. A carrier's failure to implement and maintain an FAA-compliant drug and alcohol testing program could result in civil penalties and, when safety concerns warrant, loss of FAA certification. In the case of Avelo, the Houston-based carrier will have thirty (30) days from receipt of the enforcement letter to respond. Covered carriers are strongly encouraged to periodically analyze and update their program to verify strict adherence to the FAA's drug and alcohol testing regulations.

DOT EXTENDS DUBLIN AIRPORT DISPUTE PROCEEDING

On March 5, 2026, DOT issued an order which provided additional time for intergovernmental negotiations to continue in response to the International Air Transportation Fair Competitive Practices Act complaint filed by Airlines for America against the Republic of Ireland and the European Union. By way of background, Airlines for America filed the initial complaint due to concerns that Ireland and the European Union were violating the U.S.-European Union Air Transport Agreement by restricting the number of passengers at Dublin International Airport to 32 million passengers per year. In the latest filings, A4A continues to assert such allegations and further contends that DOT must ensure that Ireland enacts legislation removing the purported passenger cap at DUB by April 2026. If DOT fails to enforce compliance with U.S.-European Union Air Transport Agreement and guarantee removal of the passenger cap, A4A worries that U.S. air carrier historic slots at DUB will be withdrawn and competitive distortions will emerge at the expense of the traveling public. To promote intergovernmental discussions and legislative remedies, DOT extended the period by which U.S. regulators must act through **April 6, 2026**.

ALLEGIANT AND SUN COUNTRY MERGER CLEARS EARLY HURDLES

On March 16, 2026, Allegiant and Sun Country announced that the U.S. Department of Justice terminated the statutory waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, marking an important step towards combining the two U.S. low-cost air carriers. Having received U.S. antitrust clearance from DOJ, Allegiant and Sun Country then applied for approval from DOT on March 25, 2026, seeking to transfer all international authority held by Sun Country to Allegiant. In related filings, Allegiant and Sun Country contend that the proposed merger will not harm competition within the domestic airline industry as only one nonstop overlapping route (between Appleton, WI and Fort Myers, FL) is currently operated by both carriers. If anything, the parties claim that Allegiant's proposed acquisition of Sun Country could create a more viable competitor to American, Delta, and United within the leisure-focused market. Upon completion of the merger, Allegiant and Sun Country are expected to operate as standalone carriers for the

foreseeable future with independent, albeit overlapping, management. The transaction is expected to close in the second or third quarter of 2026.

HOUSE APPROVES SUPERSONIC CIVIL FLIGHT LEGISLATION

On March 24, 2026, the U.S. House of Representatives passed the so-called Supersonic Aviation Modernization Act which could expedite coast-to-coast air travel if enacted into law. The Act, as proposed, would overturn the FAA's longstanding ban on supersonic civil flights over the United States and allow for the operation of civil aviation aircraft at speeds of Mach 1 or higher under certain conditions. The Act would effectively codify President Trump's "Leading The World in Supersonic Flight" executive order from last year in which the FAA was directed to revise existing regulations to accommodate new supersonic technologies preventing sonic booms from reaching the ground. The FAA could also be tasked with establishing new noise standards to implement innovative aircraft noise reduction technology and integrate evolving global regulatory standards for civil supersonic flight. Following passage in the House, the Act will now be considered by the U.S. Senate before it can be signed into law by President Trump, paving the way for the first supersonic flights over the United States since 1973.

DOJ AND FTC PLAN TO UPDATE ANTITRUST GUIDELINES

The U.S. Department of Justice's Antitrust Division and the Federal Trade Commission are seeking industry involvement on how best to update guidance addressing collaborations among competitors. Given uncertainty into how antitrust laws apply to competitor collaborations in the modern economy, antitrust enforcers hope to solicit insight from industry into the ways in which competitor collaborations, joint ventures, and alliances are procompetitive. Whether directly or through industry groups, U.S. and foreign air carriers count on alliance agreements and metal-neutral joint ventures to provide consumer benefits derived from legitimate, pro-competitive business practices. At a time when DOJ and FTC are seeking industry input on new enforcement guidance for competitor collaborations, U.S. and foreign air carriers should seriously consider submitting comments to better inform antitrust enforcers on how strategic collaborations and joint ventures can unlock meaningful benefits for millions of passengers. If there are new technologies and/or collaborative business models within the industry where U.S. and foreign air carriers need clear regulatory guidance (e.g., algorithmic pricing), comments are welcome as DOJ and FTC consider updating their guidelines in this area. Comments are due no later than **April 24, 2026**.

ECKERT SEAMANS ATTORNEYS AT LAW

This Aviation Regulatory Update is intended to keep readers current on developments in the law. It is not intended to be legal advice. If you have any questions, please contact Evelyn Sahr at 202.659.6622 or esahr@eckertseamans.com; Drew Derco at 202.659.6665 or dderco@eckertseamans.com; Andrew Orr at 202.659.6625 or aorr@eckertseamans.com; Tyler Myers at 202.659.6642 or trmyers@eckertseamans.com, or any other attorney at Eckert Seamans with whom you have been working.