

# Air Travel Disruptions and DOT Aviation Consumer Protection Rules

July 25, 2024

On Friday, July 19, 2024, a faulty software update for the Windows operating system from cybersecurity firm CrowdStrike led to outages that disrupted multiple business sectors around the world, including airlines, banks, and health care, as well as government and emergency services.

The technology outage appeared to have hit airlines especially hard, forcing Delta Air Lines, American Airlines, United Airlines, Allegiant Air, and Spirit Airlines to ground flights in the United States, which led to thousands of flight cancellations, extensive delays, and long waits at airports on Friday and over the subsequent weekend. Flight tracking website [FlightAware](#) indicated that between July 19 and July 21, more than 7,500 flights within, to, or from the United States were canceled, and 32,500 flights were delayed, as reported by Aviation Daily on July 23, 2024.

The large number of flights and passengers affected is reminiscent of the [Southwest Airlines service meltdown](#) between December 21 and December 29, 2022, which was initially caused by winter storms and compounded by an internal breakdown of the crew-scheduling system. This led to over 16,700 flight cancellations, affecting over two million passengers. Congressional hearings, a Department of Transportation (DOT) investigation, and a subsequent \$140 million fine against Southwest was part of [the federal response](#) to this incident.

While most airlines appeared to have recovered from service disruptions and restored operations after the weekend, Delta Air Lines continued cancelling significant numbers of flights. [Delta reportedly](#) has canceled more than 5,500 flights since the start of the Friday outage, including at least 700 flights canceled on Monday, July 22, 2024, accounting for about two-thirds of all cancellations worldwide that day. As of July 24, 2024, [Delta announced](#), “[a] travel waiver, which offers customers the ability to make a one-time change to their itinerary, or to cancel and receive a refund for the unflown portion of their ticket upon request, is in effect for customers with travel scheduled for July 19-28. The fare difference will be waived when rebooked travel occurs on or before August 4, in the same cabin of service as originally booked.”

On July 23, 2024, Senator Maria Cantwell, chair of the Senate Committee on Commerce, Science, and Transportation, sent [a letter](#) to Delta regarding the airline’s operational and customer communications problems in the wake of Friday’s outage. DOT [announced](#) on the same day that it was launching an

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investigation into Delta's widespread flight disruptions and customer service failures, drawing further attention to [DOT aviation consumer protection rules](#).

The rights of domestic airline passengers are set forth at three different levels: in federal statute, in regulation, and in airlines' policies known as "contract of carriage."

The 1978 economic deregulation of the U.S. airline industry eliminated federal control over many airline business practices, including ticket price and domestic route selection. However, the federal government continues to legislate and enforce certain consumer protections for airline passengers. The House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation are the primary congressional committees of jurisdiction over airline passenger rights. Congress can authorize DOT to establish and enforce certain consumer rules on certain issues, and it can enact requirements for airlines through direct legislation. In specific cases, DOT can take enforcement actions against airlines that violate consumer protection rules.

Most of DOT's consumer protection rules are authorized by 49 U.S.C. §41712, which directs the agency to "protect consumers from unfair or deceptive practices." Some rules are also empowered by DOT's authority to require air carriers in interstate transportation to provide "safe and adequate service" (49 U.S.C. §41702). The [definition and interpretation](#) of "unfair or deceptive" can affect the scope of DOT's rulemaking and enforcement authority. DOT's current aviation consumer protection rules ([14 C.F.R. Part 259, Enhanced Protections for Airline Passengers](#)) include the [airline ticket refunds final rule](#) issued on April 24, 2024, that clarified the definitions of "cancelled flight" and "significant change." The rule codified that it is an unfair business practice to refuse to provide timely refunds when a carrier has cancelled or made a significant change to a scheduled flight, and consumers deemed the alternative transportation offered to be unacceptable. A few major requirements in this [final rule](#) include the following:

- Automatic refunds to consumers when airlines cancel or make a significant change to a scheduled flight, and the consumer is not offered or rejects alternative transportation and travel credits, vouchers, or other compensation.
- These refunds must be provided promptly (i.e., within seven business days for credit card payments and within 20 calendar days for other forms of payment).
- Refunding fees to consumers for ancillary services that passengers paid for but did not receive, including for checked baggage if the bag is significantly delayed.
- Travel vouchers or credits that are transferrable and valid for at least five years from the date of issuance to consumers who are unable to or advised not to travel as scheduled because of a serious communicable disease.

The airline ticket refund requirements and other aviation consumer protection provisions were included in the FAA Reauthorization Act of 2024 (P.L. 118-63, enacted on May 16, 2024) Title V, Passenger Experience Improvements.

As federal agencies and lawmakers investigate airline service disruptions triggered by technology outages such as the one caused by the CrowdStrike faulty update and consider policies to deter such incidents and mitigate the impact on customers in the future, they may consider several issues that may not be in the conventional federal oversight scope, including the following:

- If and to what extent airlines are responsible or accountable for incidents (besides weather) that may be outside of their control.
  - If and to what extent airline information technology system security and resilience could be included in the [airline fitness assessment](#) when DOT determines whether the airline applicant is "fit, willing, and able" to conduct commercial airline operations.
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- Whether or not to require airlines to develop contingency plans addressing service disruptions from computer system outages as a part of the [customer service plans](#) required by 14 C.F.R. 259.5.

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