

# United States Senate

WASHINGTON, DC 20510

January 23, 2020

The Honorable Elaine L. Chao  
Office of the Secretary  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, DC 20590

Dear Secretary Chao:

We write to inquire about any actions the U.S. Department of Transportation (DOT) has taken, or plans to take, to prevent surging airline prices for evacuees of emergency situations. According to reports and consumer complaints on social media, Puerto Ricans seeking refuge from the series of earthquakes that have recently struck their island may be facing excessive fees for flights to the continental United States.<sup>1</sup> We have heard similar stories from our constituents and are deeply troubled about any possible price gouging in the face of a natural disaster. Local elected officials in our states have also raised these concerns to our offices as they work to support individuals and families recovering from the earthquakes. Although we understand that some airlines have also announced fare caps to assist earthquake evacuees,<sup>2</sup> we believe that the DOT must act to ensure consumers do not have to rely on these voluntary business commitments.

The recent stories out of Puerto Rico are unfortunately not the first time this issue has arisen. In 2017, reports indicated that airlines were charging more than \$3000 for basic tickets from Miami to New York City for individuals seeking to escape Hurricane Irma.<sup>3</sup> In response to Congressional inquiries,<sup>4</sup> DOT merely promised to monitor the situation and noted that some airlines had “increased capacity, implemented liberal rebooking policies, and placed upper limits on prices for certain fares from cities in the path of the storms.”<sup>5</sup> While we applaud this type of action by those airlines that acted then and now, we are disturbed that emergency price gouging remains a permissible business practice in the absence of any federal action to protect consumers facing natural disasters and severe weather events.

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<sup>1</sup> Sara Moniuszko, *Airlines offer fare caps amid worry about Puerto Rico flight prices in wake of earthquakes*, USA TODAY (Jan. 10, 2020), <https://www.usatoday.com/story/travel/airline-news/2020/01/09/puerto-rico-earthquakes-american-airlines-jetblue-cap-fares/4420617002>.

<sup>2</sup> *Id.*

<sup>3</sup> Chabeli Herrera, *Got \$3,000? That's what some airlines are charging to fly last-minute ahead of Irma*, MIAMI HERALD (Sept. 6, 2017), <https://www.miamiherald.com/news/business/article171497187.html>.

<sup>4</sup> Press Release, Office of U.S. Senator Edward J. Markey, *As Hurricane Irma Makes Landfall, Blumenthal and Markey Call on Department of Transportation to Investigate Skyrocketing Airline Prices for Evacuees* (Sept. 6, 2017), <https://www.markey.senate.gov/news/press-releases/as-hurricane-irma-makes-landfall-blumenthal-and-markey-call-on-department-of-transportation-to-investigate-skyrocketing-airline-prices-for-evacuees>.

<sup>5</sup> Letter from James C. Owens, Acting General Counsel, U.S. Department of Transportation, to U.S. Senators Edward J. Markey and Richard Blumenthal (Oct. 2, 2017), <https://www.markey.senate.gov/download/airline-price-gouging-dot-response>.

The DOT is uniquely empowered act upon claims of anti-consumer conduct in the transportation industry, and should not merely monitor allegations of emergency price gouging. As Secretary of the DOT, you have the authority to “order the air carrier . . . to stop” “an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation” after a hearing if it is in the “public interest.”<sup>6</sup> Public interest includes “the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices.”<sup>7</sup>

Airlines should not be allowed to impose exorbitant, unfair prices on Americans simply trying to get out of harm’s way. Individuals trying to evacuate Puerto Rico or any other area affected by emergency situations should not have to hope that private companies will make voluntary commitments to limit their prices. We therefore request that DOT update us on any actions it has taken, or plans to take, to investigate and address surging airline prices for emergency evacuees seeking safety.

Thank you for your attention to this important matter. We respectfully request your response to this letter by February 14, 2020.

Sincerely,

  
Edward J. Markey  
United States Senator

  
Elizabeth Warren  
United States Senator

  
Richard Blumenthal  
United States Senator

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<sup>6</sup> 49 U.S.C. § 41712 (a).

<sup>7</sup> 49 U.S.C. § 40101(a)(4).