

GAO Highlights

Highlights of [GAO-21-109](#), a report to congressional committees

Why GAO Did This Study

Consumer advocates, airlines, and other stakeholders have raised concerns about how DOT enforces aviation consumer protection requirements. DOT has the authority to enforce requirements protecting consumers against unfair and deceptive practices, discrimination on the basis of disability or other characteristics, and other harms.

The FAA Reauthorization Act of 2018 contained a provision for GAO to review DOT's enforcement of consumer protection requirements. This report examines: (1) DOT's approach to the enforcement of aviation consumer protections and the results of its efforts, and (2) selected stakeholder views on this approach and steps DOT has taken to address identified concerns. GAO reviewed DOT data on consent orders and consumer complaints; reviewed other DOT documentation related to its enforcement program; interviewed DOT officials and selected industry and consumer stakeholders, including advocacy organizations, which we identified from prior work and a literature review; and identified leading practices for regulatory enforcement.

What GAO Recommends

GAO is making two recommendations, including: that DOT publish information describing the process it uses to enforce consumer protections, and that DOT take additional steps to provide transparency into the results of its efforts. DOT concurred with these recommendations.

View [GAO-21-109](#). For more information, contact Andrew Von Ah at (202) 512-2834 or vonaha@gao.gov.

October 2020

AVIATION CONSUMER PROTECTION

Increased Transparency Could Help Build Confidence in DOT's Enforcement Approach

What GAO Found

The Department of Transportation's (DOT) enforcement approach generally uses a range of methods to encourage compliance with consumer protection regulations, including conducting outreach and information-sharing, issuing guidance, and sending non-punitive warning letters for those violations that do not rise to the level that warrants a consent order. DOT usually enters into consent orders when it has evidence of systematic or egregious violations. Such orders are negotiated between DOT and violators (e.g., airlines) and typically include civil penalties. DOT officials see benefits from using consent orders, which can include credits for actions taken to benefit consumers or to improve the travel environment. Annual consent orders increased from 20 in 2008 to 62 in 2012, but then generally declined to a low of eight in 2019. GAO's analysis showed that the decline in consent orders was most marked among those issued against non-air carrier entities (e.g., travel agents), those addressing certain types of violations such as advertising, and orders containing smaller civil penalty amounts. DOT officials said that the agency did not change its enforcement practices during this time.

Examples of DOT's Compliance Promotion and Enforcement Efforts



Compliance promotion: Activities to encourage regulated entities to comply with consumer protections, such as outreach, responses to frequently asked questions, guidance, scheduled meetings, and other communication with regulated entities.



Non-punitive enforcement: Enforcement actions, such as (unpublished) warning emails or letters addressed to individual violators. These warnings are designed to help violators achieve compliance and to resolve issues before they require punitive enforcement.



Punitive enforcement: Legal actions before an administration law judge (rare) and consent orders (common) to address systematic or egregious violations. Negotiated with violators, consent orders are published and seek, among other things, to deter similar violations.

Source: GAO analysis of Department of Transportation (DOT) information. | [GAO-21-109](#)

Airlines and consumer advocates GAO interviewed said that DOT's enforcement process lacked transparency, including into how investigations were conducted and resolved and about when and why DOT takes enforcement actions. Moreover, DOT publishes limited information related to the results of its enforcement activities, notably information about the number and type of consumer complaints it receives as well as issued consent orders. DOT does not publish other information such as aggregated data about the number or nature of open and closed investigations or issued warning letters. DOT is taking some actions to increase transparency, such as developing a publicly available handbook, but none of those actions appears to fully address the identified information gaps such as information about the results of investigations. Some other federal agencies provide more information about enforcement activities, including publishing warning letters or data about such letters. Publishing additional information about how DOT conducts investigations and enforcement, and about the results of enforcement activities, could improve stakeholders' understanding of DOT's process and help build confidence in its approach.