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Office of the Attorney General

March 7, 2022

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Ave., S.E.
Washington, D.C., 20590-0001

**RE: Customer Service Practices/Proposed Frontier and Spirit
Airlines Merger**

Dear Secretary Buttigieg:

In 2020¹ and 2021², the Colorado Department of Law urged the U.S. Department of Transportation (“USDOT”) to investigate the flight change policies and customer service practices of Frontier Airlines. As complaints about these practices continue and, in light of Frontier and Spirit Airlines’ recent announcement of merger plans, it is critical that the USDOT take action.

Both airlines have poor records on customer service and operational performance. Spirit and Frontier were ranked at the bottom of a group of carriers in the American Customer Satisfaction Index in each of the past seven years.³ Both were also in the bottom three of the Wall Street Journal’s recent ranking of nine U.S. airlines, which examined factors such as cancellations, extreme delays, and mishandled baggage, and Spirit received the highest rate of complaints of any airline analyzed.⁴

The Department of Law also continues to receive complaints concerning Frontier on a range of customer service issues, particularly regarding its failures to provide

¹ Letter from Colorado Attorney General Phil Weiser to U.S. Secretary of Transportation Elaine L. Chao (Sept. 1, 2020), available at: <https://coag.gov/app/uploads/2020/09/Colorado-AG-letter-toUSDOT-re-Frontier-9.1.2020-final.pdf>.

² Letter from Colorado Attorney General Phil Weiser to U.S. Secretary of Transportation Pete Buttigieg (Feb. 4, 2021).

³ American Customer Satisfaction Index, American Customer Satisfaction Index Travel Report 2020-2021 (April 27, 2021), available at: https://www.theacsi.org/images/stories/images/reports/21apr_travel-report.pdf.

⁴ Allison Pohle, *The Best and Worst U.S. Airlines of 2021*, Wall Street Journal (Jan. 28, 2022), available at <https://www.wsj.com/articles/the-best-and-worst-u-s-airlines-of-2021-11643374802>.

refunds or to promptly issue such refunds to consumers when required by law, including for flights cancelled or significantly changed or delayed by Frontier.

The proposed merger of two airlines with such a sub-par record of consumer service creates a real and pressing risk, should such merger be approved, that these suspect practices will worsen. Without competition between these two carriers, the merged entity will have fewer incentives to appropriately address complaints and treat their consumers fairly and in accordance with the law. Not only will consumers on the routes Frontier and Spirit serve have fewer travel choices if this merger is successful, but the subset of consumers that typically choose Frontier or Spirit may be unable to afford to switch to a carrier who may charge higher prices. The merger may therefore create a captive class of consumers who are particularly vulnerable to abusive and unfair practices.

The prospect of the Frontier and Spirit merger creates an immediate need for the USDOT to examine Frontier's business practices and to ensure both airlines have practices and policies in place that comply with laws requiring carriers to treat consumers fairly and honestly. Given the track record of these two airlines in violating consumer protection laws, we recommend requiring detailed compliance plans with measurable milestones, incentives, and reporting to achieve and sustain improved levels of customer service. As you know, the USDOT is empowered to address unfair or deceptive practices⁵ and to seek civil penalties of up to \$2,500 per violation.⁶ As I stated previously, a thorough investigation of this matter is critical.

Given the USDOT Office of Aviation Consumer Protection's expertise and experience enforcing federal aviation consumer protections and ability to act quickly to address this conduct, the USDOT is very well positioned to act to protect Frontier customers. Moreover, as the proposed merger is considered, it is crucial that the USDOT consider consumer protection concerns and options to address such concerns going forward.

The Colorado Department of Law is prepared to work with you to support a thorough examination of the airline's practices and develop approaches to ensure consumers are protected. Thank you for your consideration and protection of commercial aviation consumers.

Sincerely,

A handwritten signature in blue ink that reads "Philip J. Weiser". The signature is written in a cursive, flowing style.

Philip J. Weiser

Attorney General

⁵ 49 U.S.C. § 41712.

⁶ 49 U.S.C. § 46301(a)(1)(D).