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September 8, 2000

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Honorable Trent Lott
Majority Leader
United States Senate
The Capitol, S-230
Washington, D.C. 20510-1601

Honorable J. Dennis Hastert
Speaker of the House
United States House of Representatives
The Capitol, H-232
Washington, D.C. 20515-6501

Honorable Thomas Daschle
Minority Leader
United States Senate
The Capitol, S-221
Washington, D.C. 20510-7010

Honorable Richard A. Gephardt
Minority Leader
United States House of Representatives
The Capitol, H-204
Washington, D.C. 20510-6502

RE: Deceptive Practices by Air Carriers

Dear Messrs. Lott, Hastert, Daschle, and Gephardt:

As you are aware, airline passengers throughout the country are experiencing a disturbing number of flight delays and cancellations. While much of the publicized problems have focused recently on United Airlines, the largest carrier in the country, the problems encountered by the public have increased with respect to the entire airline industry.

As state attorneys general, we are particularly concerned about the failure by the airlines to provide their advertised air transportation services, and by allegations that some airlines may be providing false or misleading information to the traveling public. Additionally, there are accounts of certain carriers failing to accommodate their stranded customers pursuant to applicable airline regulations.

Regardless of the reasons for the airlines' failure to deliver their advertised services, this industry should be held to a standard of truthful advertising and honest business dealings with its customers. While some flight delays are beyond the control of a carrier because of weather or air traffic congestion, some of the problems encountered by the traveling public appear to be caused by business practices over which carriers have control. According to published reports from the U.S. Department of Transportation, the number of airline flights delayed or canceled is at an all-time high

at airports throughout the United States. The problems with airlines' failure to deliver advertised services appear to be compounded by their failure to provide customers with accurate and reliable information which would allow customers to make informed choices about their travel options.

The widely reported complaints and other anecdotal information the past few months suggest that some carriers may be engaging in ongoing deceptive practices in the sale of air transportation services to the public. Such conduct may constitute violations of the Airline Deregulation Act of 1978 ("ADA"). See 49 U.S.C.A. § 41712. Additionally, these misrepresentations to the public should give rise to the appropriate sanctions for deceptive advertising practices under most state consumer protection laws. These remedies are not available to the States, however, as the result of the U.S. Supreme Court's ruling in *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374 (1992). The Court held in that case that neither the Texas Attorney General nor any other state attorney general has authority to enforce their state consumer protection laws against an airline because the ADA preempts state law. Consequently, in the absence of any meaningful ADA enforcement action by the U.S. Secretary of Transportation, airlines are virtually unaccountable to the public for deceptive advertising and sales practices.

It is difficult to imagine that Congress intended the Airline Deregulation Act of 1978 to completely hamstring states from preventing ongoing deceptive business practices by the airline industry within their states. However, under the Supreme Court's *Morales* decision, these consumer protection laws surprisingly do not apply to the entire airline industry.

As state attorneys general, we the undersigned, urge you to consider specific legislative action to amend the Airline Deregulation Act of 1978 to authorize the state enforcement of available consumer protection laws with respect to the advertising and sales of air travel services. This may be accomplished through narrow legislation to clarify that the federal airline laws do not preempt state attorneys general from enforcing their state consumer protection laws. In particular, the provisions of the Airline Deregulation Act at 49 U.S.C.A. § 41713, which now prevent any state enforcement of consumer protection laws against air carriers, can be amended as follows:

§ 41713. Preemption of authority over prices, routes, and service

(a) Definition.--In this section, "State" means a State, the District of Columbia, and a territory or possession of the United States. [Add] "State Attorney General" means the chief legal officer of a state.

[Add]

(c) Nothing in the provisions of this section shall be construed to prevent a State Attorney General from enforcing any state laws prohibiting unfair or deceptive business practices or unfair methods of competition with respect to air transportation or the advertisement and sale of air transportation services.

We are available to assist you in developing appropriate amendments to the Airline Deregulation Act. Through a prompt, concerted and cooperative effort, we can provide protection from misleading and deceptive practices presently being experienced by our citizens.

Thank you for your consideration of this matter.

Sincerely,



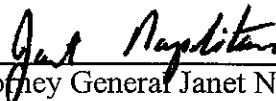
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Attorney General of Colorado



Attorney General Bruce M. Botelho
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Attorney General Toetagata Albert Mailo
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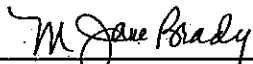
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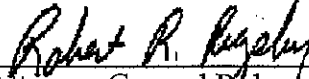
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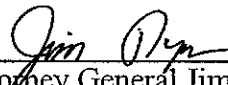
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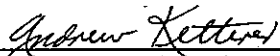
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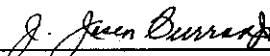
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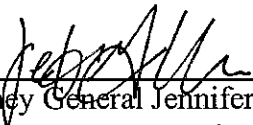
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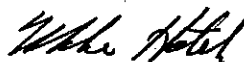
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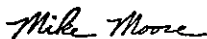
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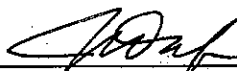
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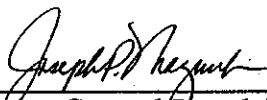
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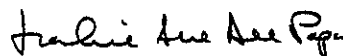
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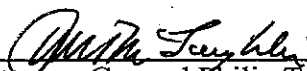
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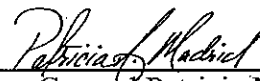
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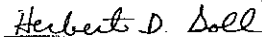
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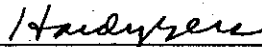
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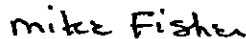
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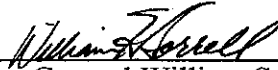
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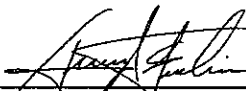
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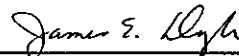
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Congressional Leadership

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