

United States Senate

WASHINGTON, DC 20510

April 16, 2018

Acting Administrator Dan Elwell
Federal Aviation Administration
United States Department of Transportation
800 Independence Avenue, SW
Washington, DC 20591

Dear Acting Administrator Elwell,

A recent investigation by CBS News' *60 Minutes* revealed a troubling number of mechanical safety issues within the fleet of low-cost air carrier Allegiant Air. According to the investigation, over a 22-month period ending in October 2017, Allegiant Air was 3.5 times more likely than seven other airlines to have serious in-flight mechanical failures, including mid-air engine failures, smoke and hazardous fumes in the cabin, rapid descents, flight control malfunctions, hydraulic leaks, and aborted takeoffs.¹ Despite Allegiant's high number of significant and repeated mechanical incidents, the Federal Aviation Administration (FAA) has not brought a single enforcement action against the company in three years. The *60 Minutes* investigation and its interview of the FAA's Executive Director of Flight Standards Service raise several questions about the FAA's compliance and enforcement policy.

In 2015, the FAA's compliance philosophy changed from one emphasizing enforcement and penalties to one focusing on airline cooperation.² According to the FAA, as long as an airline is willing and able to address compliance issues, the FAA will not cite an airline for a safety violation. Only if there is evidence that an airline supports an intentional deviation, reckless or criminal behavior, or other significant safety risk will the FAA consider an airline ineligible for non-enforcement actions.

But according to the *60 Minutes* report, following an emergency landing in 2015 due to a missing component in the pilot's flight control apparatus, an FAA investigator found that Allegiant and its maintenance contractor failed no less than five times to perform procedures that would have caught the error. The FAA investigator called the issue "a deliberate and systemic act of non-compliance" that had endangered thousands of passengers on more than 200 subsequent Allegiant flights. Despite the investigator's recommendation that the FAA take strong enforcement action and fine Allegiant Air up to the maximum penalty, the FAA did neither and closed the case. Since then, Allegiant has experienced more than 100 serious incidents, including multiple engine failures, aborted takeoffs, and cabin pressure loss.

¹ Steve Kroft, CBS 60 Minutes, *Allegiant Air: Budget Airline Flying Under the Radar* (Apr. 15, 2018), <https://www.cbsnews.com/news/allegiant-air-the-budget-airline-flying-under-the-radar/>.

² U.S. Department of Transportation, Federal Aviation Administration, FAA Compliance Philosophy, <https://www.faa.gov/about/initiatives/cp/>.

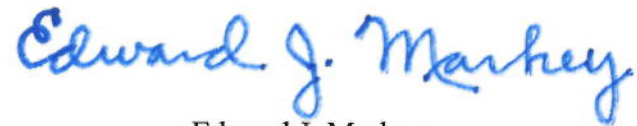
To better understand the FAA's compliance procedures and its continued work to improve the safety and operation of Allegiant Air, I respectfully ask that you respond to the following questions no later than the close of business on May 6, 2018.

1. The *60 Minutes* investigation alleged that Allegiant Air employees have been discouraged from reporting mechanical safety incidents for fear of retaliation, including losing their jobs. In certain instances the failure to report could be a violation of federal law.
 - a. Has the FAA looked into claims that Allegiant Air is creating a culture that discourages safety-related violation reporting? If not, why not?
 - b. The FAA representative interviewed on *60 Minutes* said that the FAA has not investigated the termination of an Allegiant pilot after he insisted on an emergency evacuation when smoke was discovered in the cabin of Allegiant Flight 864 on June 8, 2015. The letter of termination issued to the pilot blamed him for "an evacuation that was entirely unwarranted" and for not "striving to preserve the company's assets," despite on-ground emergency crews recognizing the pilot's concern with smoke in the cabin. Why has the FAA not investigated this safety incident and the circumstances surrounding the pilot's termination? What are the limiting factors in the FAA's investigating this issue?
2. The FAA has a hotline that both consumers and airline employees can use to anonymously bring safety concerns to the FAA's attention.
 - a. How frequently do consumers and airline employees use the hotline?
 - b. How does the FAA encourage use of the hotline? Please provide examples.
 - c. What is the FAA's process for following up on legitimate concerns raised through the hotline?
3. In order to ensure that safety records are accurate and complete, what are the FAA's policies, practices, and procedures for following up on safety issues that are self-reported by airlines?
4. On September 25, 2017, after Allegiant Flight 514 landed in Fresno, California, the plane filled with fumes and smoke upon taxiing to the gate. According to the *60 Minutes* report, this serious incident was not included in the public record of service difficulty reports. Allegiant Air confirmed to *60 Minutes* that the fumes were from Skydrol 4, a hazardous hydraulic fluid. In a brief statement the day of the incident, Allegiant said only that "a mechanical issue arose that caused a visible haze to appear."
 - a. Why did this incident not appear in the public record? Would other incidents of a similar nature also not appear in the public record? If so, why?
 - b. Has the FAA further investigated this incident and taken steps to ensure the long-term safety of passengers exposed to the hazardous fumes? If not, why not?
 - c. Does the FAA review news reports or consumer complaints to ensure that significant airlines safety issues are not missed? If not, why not?

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Thank you in advance your attention to this matter. Should you have any questions, please have your staff contact Daniel Greene of my staff at 202-224-2742.

Sincerely,



Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator