

# United States Senate

WASHINGTON, DC 20510

November 26, 2019

Mr. Richard H. Anderson  
President and CEO  
Amtrak  
60 Massachusetts Avenue  
Washington, D.C. 20002-4285

Dear Mr. Anderson:

We write to express our concern that Amtrak's mandatory arbitration and class action policy is gravely imperiling traveling Americans' access to justice and public accountability. As our national railroad, Amtrak has a responsibility to ensure the traveling public – including victims of crashes – have their day in court. We demand that Amtrak immediately eliminate this anti-consumer arbitration and class action policy.

In January, Amtrak implemented a new policy that forces disputes into arbitration instead of allowing claimants to go to court or band together with other similarly affected consumers. Claims subject to forced arbitration are relegated to private forums where powerful defendants, like Amtrak, can stack the deck against claimants and cover up wrongdoing. Faced with these daunting odds, many potential claimants decline to file claims in the first place. Moreover, the closed-door nature of forced arbitration lacks transparency in the form of public proceedings or hearings. This is particularly troubling in instances of major injury and fatality – removing the public's ability to stay informed of issues that impact their health and safety.

One of the fundamental principles of our American democracy is that everyone gets their day in court. Forced arbitration deprives Americans of that basic right. Arbitration is a private system without any legal protections. There is no public review of decisions to ensure the arbitrator got it right, and federal law does not require that arbitrators have legal training or even follow the law. Forced arbitration can also cost thousands of dollars that most Americans cannot afford.

Amtrak's agreement is particularly disturbing due to its broadness of scope. In your updated agreement you state that the arbitration requirement is "intended to be as broad as legally permissible, and, except as it otherwise provides, applies to all claims, disputes, or controversies, past, present, or future, that otherwise would be resolved in a court of law before a forum other than arbitration." This includes, claims of discrimination, and any personal injury claims including gross negligence and wrongful death. Amtrak's policy also extends past the individual to include "any individuals for whom you purchase tickets, including, without limitation, family members, minor passengers, colleagues and companions." Effectively, an

individual waives the rights of someone else by buying a ticket on their behalf, even in the case of a child.

Americans have fought hard for dozens of laws that protect them against discrimination based on age, sex, religion, race, and disability. They have fought for their day in court and this country is better because of it, yet your updated arbitration agreement would force American's to dispute claims of discrimination behind closed doors in private meetings.

It is also concerning that claims of gross negligence and wrongful death would be forced into arbitration. While Amtrak accidents that result in serious injury or death are not common, they are not unheard of. The 2015 train derailment in Philadelphia, the 2017 derailment in Washington State, and the 2018 collision in South Carolina left hundreds injured and took the lives of 13 crewmembers and passengers. In arbitration, victims and families would have no say in what state the arbitration will occur in, the payment terms for the arbitration, and under what rules the arbitration will take place, making a tragic situation much worse.

Amtrak's decision to disallow class action claims is equally problematic. The new agreement discourages passengers from making formal complaints about small violations, and by not allowing passengers to band together to file suit, they are less likely to file at all. The Consumer Financial Protection Bureau found that each year roughly 32 million consumers are eligible for relief through class action settlements. That number starkly contrasts with the 600 arbitration cases that are filed by individuals each year.

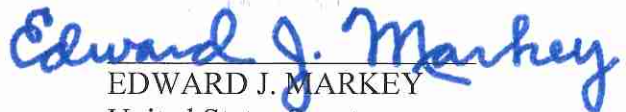
Please explain your choice to implement mandatory arbitration and class action policy earlier this year – including why Amtrak continues to defend its decision. We urge you to reverse course and expect a response by no later than December 23, 2019.

Thank you for your attention to this critical consumer rights issue.

Sincerely,



RICHARD BLUMENTHAL  
United States Senate



EDWARD J. MARKEY  
United States Senate



KAMALA D. HARRIS  
United States Senate




KIRSTEN GILLIBRAND  
United States Senate

  
CHRIS VAN HOLLEN  
United States Senate

  
RICHARD J. DURBIN  
United States Senate

  
SHERROD BROWN  
United States Senate

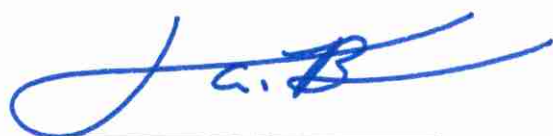
  
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United States Senate

  
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