

Deadline nears for Boeing decision on proposed MAX agreement

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Boeing was plunged into crisis mode in January when a 737 MAX flown by Alaska Airlines was forced to make an emergency landing after a fuselage panel blew out mid-flight.

More than five years after two fatal 737 MAX crashes, Boeing faces a fresh legal reckoning now that prosecutors have concluded the company

flouted an earlier settlement addressing the disasters.

By Friday night, the embattled aviation giant must say whether it accepts a Department of Justice proposed agreement that would require it to plead guilty to fraud during the certification of MAX airplanes, sources told AFP.

Boeing's latest legal predicament was triggered by a DOJ determination in mid-May that the company ignored a 2021 deferred prosecution agreement (DPA) by not meeting requirements to improve its compliance and ethics program after the MAX crashes.

Under a proposal presented by the DOJ to families of MAX crash victims, Boeing would pay an additional \$243 million penalty and agree to have an external monitor, said Tracy Brammeier, an attorney at Clifford Law who represents families of MAX victims.

"The [guilty plea](#) is significant. No one wants to be a convicted or admitted felon," said Brammeier, who nonetheless described family members as dissatisfied with the proposal.

The DOJ has said it will notify a US court on how it will proceed no later than July 7, with the agency expected to announce steps to prosecute Boeing should the company reject the settlement.

Boeing, which has previously said it honored the terms of the DPA, declined comment.



Family members of those who died aboard Ethiopian Airlines Flight 302 arrive with pictures of their loved ones during a U.S. Senate Commerce Committee hearing.

Public interest served?

The original DPA was announced in January 2021 near the end of the Trump administration over charges that Boeing knowingly defrauded the Federal Aviation Administration during the certification of the MAX.

The agreement required Boeing to pay \$2.5 billion in fines and restitution in exchange for immunity from [criminal prosecution](#).

A three-year probationary period was set to expire this year. But in January, Boeing was plunged back into crisis mode when a 737 MAX flown by Alaska Airlines was forced to make an emergency landing after a fuselage panel blew out mid-flight.

In a May 14 letter to the US court, DOJ officials said that Boeing breached its obligations under the DPA by "failing to design, implement, and enforce a compliance and ethics program to prevent and detect violations of the US fraud laws throughout its operations."

Families of victims, who have pressed for a criminal trial of Boeing and its top executives, remain unhappy that the new plea agreement does not explicitly link Boeing's fraud to the 346 fatalities from crashes in Ethiopia and Indonesia, according to Brammeier.



Michael Stumo, father of Samya Rose Stumo, who died in the 2019 crash of Ethiopian Airlines Flight 302.

"The families want accountability and still are not getting it," Brammeier said.

Michael Stumo, who lost his daughter, Samya Rose Stumo, in the 2019 Ethiopian Airlines crash, said the DOJ should also impose much stiffer fines on Boeing—from \$10 to \$20 billion—with the caveat that they could be suspended if the company invests in safety and quality control.

"It's too good a deal for Boeing," said Stumo, who added that Boeing should not have a say in who is appointed its independent monitor.

Miriam Baer, a law professor at Brooklyn Law School, said the DOJ's decision to stick with the original charge—rather than supplement it—reflects a desire to "bring the claims that could be most easily proven if it goes to trial."

John Coffee, a [law professor](#) at Columbia University, said DPAs like Boeing's often "poorly serve" the public interest because "prosecutors probably care much more about achieving a conviction than ensuring the defendant is adequately deterred and restrained," he wrote in a blog post this week.

Coffee suggested the DOJ should consider measures such as barring CEO compensation models that encourage risk-taking, or ensuring that funds clawed back from executives who plead guilty of wrongdoing go to whistleblowers as a way "to shift some of the cost of deterrence from shareholders to senior management."

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