

AIR CRASH VICTIMS FAMILIES GROUP

Department of Transportation – Office of the Secretary
1200 New Jersey Avenue, SE
Washington, DC 20590

Attention: Mail Docket Management System (DMS) – Room W12-140

**SUBJECT: 14 CFR Part 250 (OST Docket No OST-01-9325 – RIN 2105-AD63
Oversales and Denied Boarding Compensation)**

COMMENTS

The Air Crash Victims Families Group begs leave that this delayed filing be accepted and entered into the docket, although over 1,250 comments have already been submitted because:

- As participant for over twenty years in the development of domestic and international air transportation rules, regulations, as well as in the Convention and Treaties processes –
- most especially in the 1999 “Convention for the Unification of Certain Rules for International Carriage by Air”- signed by the United States and put into effect as the 30th country in 2003 ^{1/} – which in articles 14 (Delay) and Article 22.1 (Limits of Liability in Relation to Delay) specifically addresses the subject of this “Advance Notice of Proposed Rule Making” (ANPRM)
- Considering that the European Community (EC) which ratified the “Montreal Convention” in 2004 – and had in place already at that time implementing Regulations (EC) 889/2002 and (EC) 261/2004 which in articles 4,5 and 6 addresses the issues of: Denied Boarding, Cancellation and Delay ^{2/}
- Taking into account that transportation by air is conducted by carriers linked in world wide alliances and code sharing agreements – necessitating harmonization of rules and regulations in order to make airlines operations more cost effective,

^{1/} 79 countries have ratified the “Montreal Convention as of September 10, 2007

^{2/} 27 States are members of the “European Community” (EC)

- **Recognizing that under the “Free Skies” agreements carriers of signatory States have now unlimited access of each countries’ airports,**
- **Commenters submissions may be of assistance and interest to accelerate DOT’s further regulatory process to harmonize, unify, as well as bring it to present day standards and values.**

1. INTRODUCTION and SUGGESTION:

- **Through their fully computerized operations, carriers, today, have instant control over their seat management.**
- **travelers using on line booking (which is heavily promoted and encouraged by airlines) have knowledge of seat availability through the “seat selection” process,**
- **As have travel agents and corporate travel departments and other reservation originators.**

THEREFORE, OVERBOOKING OF FULLY PREPAID AND CONFIRMED FLIGHTS IS NOT ANY MORE JUSTIFIED AND SHOULD NOT BE ALLOWED.

- **The problem of justified cancellations by passengers or “no shows”, because of multiple booking, or for other legitimate reasons – making seats available at short notice - can easily be addressed by airlines accepting reservations on a STAND BY basis. (carriers follow this practice already in the transportation their own off duty employees).**
- **If and when seats become available by cancellations or by the carriers opening blocked seats (exit rows, bulkhead, etc) on the flights desired by the travelers, they can be moved up from “Stand by” to “Confirmed and Prepaid” Status.**
- **As flight time nears carriers may also wish to inform “Stand By” travelers as to their status and at the same time offer alternate flights.**

This solution would create transparency for the passenger in their travel planning and be eminently cost effective to the carriers.

- In addition the carrier could still address the needs of certain “stand by” listed, prospective passengers (frequent flyers – businessmen, etc) by asking for “volunteers” among the confirmed ones to relinquish their seats in exchange for later flights or for other inducements the airline wishes to offer.

Regretfully, experience has shown that clear, transparent solutions may be considered too simplistic. They are regretfully rarely considered.

1. COMMENTS ON THE SYSTEM IN FORCE AND HOW TO BRING IT TO PRESENT DAY STATUS.

- Since the twenty seven European Community Countries have already in place their Regulation EC 261/2004 with a comprehensive rule for “Denied Boarding” (Art 4) and “Right to Reimbursement or Re-routing” (Art 8) and
- Since the major United States carriers are intimately interconnected through Alliances and code share agreements with the Airlines located in the European Union
- Since all of those carriers are interlinked worldwide

It would be desirable, even mandatory and certainly cost effective to harmonize the United States regulations with EC 261/2004 – most especially since they operate in equal or similar social economic environments.

As to FR 14 part 250 – (status September 20, 2007)

250.1 Definitions

- The seat capacity definition should be changed to 6 seats.

Considering that smaller planes are increasingly used for scheduled passenger transportation by feeder airlines or on local routings not served anymore by larger, scheduled carriers.

250.2 Applicability

- Should be adjusted accordingly (strike: “large”)

250.3 Priority Rules

- **Priority Rules should be listed by Regulation in order to avoid differences among carriers priorities – and establish equity and uniformity.**

250.5 (a) Amount of denied boarding compensation for passengers denied Boarding involuntarily

- **The maximum amounts have to be brought to the standard/value existing at the time the Regulation is put into force and updated by CPI-U annually to preserve present day value. Reimbursement of provable economic damages should also be considered.**

250.6 (b) Exeptions to eligibility for denied boarding compensation

- **Strike (b) – It is not the passengers fault that the carrier substitutes a smaller plane, with less seating capacity or has to reduce the number of seats available on the original plane.**

250.8 Denied Boarding Compensation

- **(a) Add: or a charge reversal if the original payment was made by credit card.**

250.9 Written Explanation of Denied Boarding Compensation and Boarding Priorities

- **This explanation in adjusted language should be provided all passengers without any seat assignment at the time of the booking.**

250.11 Public Disclosure of Deliberate Overbooking and Boarding Procedures.

- **Considering that today the ticket and boarding pass process has been automated to the point that the use of check in counters is minimized, other means have to be provided to inform/alert passengers of their rights and obligations – by displaying easily readable posters – informing “non advanced seated” passengers at the time of their booking, etc.**

Missing:**Penalties:**

- Adequate penalties should be added for carriers non compliance

Vouchers for future travel:

- Unrestricted vouchers with at least twelve months validity in the Dollar value of at least double the cash payment with an obligation to upgrade from lower grade, if seats are available.

Right to Care:

- See Article 9 of EU Regulation 261/2004 concerning services to be provided to “bumped” passengers (meals, hotel accommodations, ground transportation, communication facilities, access to airline lounges, etc)

CONCLUSION

The present regulation allowing deliberate prepaid confirmed oversales by carriers without prior knowledge by the prospective passenger that he may be denied boarding is a most objectionable procedure which a Government Agency like the Department of Transportation should neither continue to sanctify, nor tolerate any more.

For the innocent traveler this procedure creates real hardships – regardless what the carriers are doing in a material way to remedy the situation: missed connections, loss of prepaid hotel reservations, tours, cruises, business meetings, paid engagements, inconvenience to families, friends, business contacts, etc. It also exposes affected passengers to emotional health impairing stresses

The cost concerns advanced by carriers are questionable since airlines are essentially service organizations whose expenses from whatever source are folded into the cost of doing business - ultimately passed on and recouped through the ticket prices, charged to future travelers.

Respectfully submitted

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Spokesman

September 20, 2007