

Comments of Aviation Consumer Action Project (ACAP) on Reporting Requirements and Data Collection by Bureau of Transportation Statistics, Research and Innovative Technology Administration, U.S. Department of Transportation (DOT)
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These comments are in follow up to verbal comments made at the public meeting with airline representatives held on June 20, 2007, at DOT headquarters regarding Reporting Requirements for Aircraft Gate Returns and Diverted Flights.

The Executive Branch is charged with faithfully executing the laws of the United States. The DOT is specifically charged with regulating airlines so as to prevent and penalize deceptive or unfair practices. The FAA is charged with regulating the airlines so they operate in a safe and convenient manner. Top officials take an oath of office to do so. And the Bureau of Transportation Statistics plays a key role in protecting the public from misleading or unfair practices, and also in enabling the public to make rational choices in air transportation.

This should encourage service competition among airlines, punish bad airline behavior as consumers will tend to patronage those with superior service over those with inferior service or a record of consumer abuse. However, there can be no effective market place regulation or self regulation by an industry where incomplete or misleading information is issued by BTS on abuses and problems of airline customer service and flight delays.

Accordingly, delay statistics that are so incomplete or inaccurate as to be misleading or deceptive to the public should obviously be corrected. But the present situation demands more than this. Special and immediate remedial action by DOT is necessary. Publication of misleading data and statistics must cease and/or be issued with many caveats and qualifications as to their incompleteness or inaccuracy, so as not to mislead or deceive the flying public. Otherwise the agency charged with preventing deceptive airline practices is itself guilty of such conduct.

Delay statistics are heavily relied upon by the public and airlines. If an airline performs badly in one area vis a vis its competitors, market and management pressure is swiftly brought to bear to improve performance. However, when important types of delays are omitted, both the public and even the airlines are misled, the problem is masked and will only grow worse. This is the situation with delays airline passengers suffer caused by—

a) flight cancellations (which are now incredibly and misleadingly miscounted as zero minutes of delay in DOT statistics although they now represent 1 out of 20 flights, and would normally result in passenger delays of several hours or more),

b) flight diversions (of which there were over 16,000 in 2006, but were not counted as delaying passengers, although such would normally result in passenger delays of many hours to several days),

c) extended tarmac confinements of 3-12 hours on aircraft (which DOT now admits are not reported at all if a flight is cancelled or diverted as most are, but which are known to have occurred for at least 135 flights since December 29th, 2006 to June 13, 2007 according to press reports and verified eye witness accounts, see CAPBOR RC), and finally

d) abandonments (i.e. where a flight is diverted or cancelled and passengers are abandoned by flight crews and other airline personal to fend for themselves as the aircraft takes off without them without arranging for alternate transportation) of which several have been documented in the Coalition for an Airline Passengers' Bill of Rights (CAPBOR) Report Card (CAPBOR RC) study issued June 13, 2007 <http://www.flyersrights.com/>
<http://strandedpassengers.blogspot.com/>.

This present situation is intolerable. Unless BTS moves to swiftly correct these gross deficiencies it will have become part of a de facto cover up rather than an honest and competent reporter of airline customer service data.

These data and reporting deficiencies are so serious that they undermine the public confidence and credibility of the DOT, as they understate or omit the most serious air transportation delay situations, and give a false picture of on time performance of many airlines.

Lacking overall statistics however should not prevent some estimates of the true situation, and we submit sampling and voluntary reports by the airlines and passenger representatives should be used until a new comprehensive data set is available.

At a minimum a directive should be issued forthwith that airlines must report any tarmac confinements over 2 hours in duration in real time to a DOT/FAA emergency hotline and justify continued holding of passengers without permitting deplanement ever hour thereafter. Passenger surveys show most passengers want the right to deplane after one hour so they can use alternative transportation to continue their trip, make connections, or cancel their trip and attend to other matters.

No airline has publicly explained and justified tarmac involuntary confinements of more than two hours of parked aircraft, yet it keeps happening, at least in part because it can save airlines from paying some refunds, and reduce expenses for alternative travel, lodging, food, and ground transportation expenses (American Airlines is reported to have falsely told passengers that there were no hotel rooms or rental cars available on flights diverted from DFW to San Antonio on April 24th and then bused them to a school gym to sleep on Red Cross supplied cots). Because DOT does not prohibit or sanction such conduct and BTS does not collect data on extended tarmac confinements, the problem is hidden and airlines can falsely claim that nothing should be done because while unfortunate the problems are insignificant and do not merit legislation or regulation. Obviously the tens of thousands of stranded passengers who have joined CAPBOR in the past six months feel very differently.

As to diversions, the total time of delay suffered by passengers should be reported (as a range if necessary) from the scheduled departure time to the actual arrival time of the diverted flight or the alternate flight(s) used by

the airline to get passengers to their destination beyond the scheduled time. And if the airline never provides alternative transportation, the time should be scored based on the next available transportation available to the stranded passengers.

Reports from the December 29th , 2006 stranding and diversions by American Airlines at DFW indicate that some passengers suffered delays of over 45 hours and tarmac confinements in poor to unspeakable conditions for up of 12 hours. However, BTS has never included any of this or the other 8 mass stranding incidents since then in its statistics or reports.

As the BTS has previously reported, 95% of delays or cancellation are not extreme weather related. Insiders have informed ACAP that some airlines use tarmac confinements for what is euphemistically called "passenger migration" prevention. One former US Airways customer service supervisor recounted at a press conference on strandings by CAPBOR on June 13th instances where that airline boarded passengers on flights that could not take off so that they did not have to listen to any more complaints, or even so that they (airline supervisors) could go to dinner!

OTHER INACCURACIES OR QUESTIONABLE DATA REPORTED BY BTS/DOT

On a related issue, the DOT web site misleadingly states that it "handles" airline passenger complaints whereas the truth is that it "records for statistical purposes and may occasionally investigate" complaints. This should be changed to accurately reflect what DOT does with airline passenger complaints it receives. And the DOT should also consider arranging for at least a pilot program with groups like ACAP or CAPBOR to handle complaint resolution with cooperating airlines or else do so for selected complaints using its own staff.

As the BTS is well aware, airlines overwhelming report reasons for delays that are not their fault or responsibility and have strong financial and business incentives for doing so. Therefore if the BTS is to rely on such data, it must check it for accuracy and bias. This can be done by sampling a statistically significant sample of such reports to audit and verify their accuracy, and by listening to aviation consumer group complaints as well as whistle blower and union complaints. NASA has an anonymous hotline for safety violation reports that usually shields airline employees and sometimes airlines from FAA sanctions and employer sanctions. A similar system may be needed for customer service abuses.

If bias or false reporting is a problem, the data from that airline can be rejected until it proves its accuracy and internal controls, some data can be adjusted, the airline fined for inaccurate reporting, and in repeated or extreme situations even stronger sanctions imposed. The integrity of such data is essential for flying public, no less than the accuracy of corporate financial data reported to the SEC is essential for the investing public.

Obviously such statistics may be fuzzy compared to those collected now, but such are necessary at least until a new comprehensive system is in place. Furthermore, BTS should not just rely on airline reporting for stranding or diversion or delay statistics, but should be checking these against passenger reports and complaints. BTS laxity and airline bias in data reporting has been allowed to grow out of control, so that now the flying public has precise measures of minor delays but virtually no accurate information on the most

serious incidents. This is analogous to a doctor reporting that the patient has hang nails while omitting that he also has cancer.

In conclusion, we believe that the lack of proper data on delays has resulted in misleading testimony being given to the Senate Commerce, Science and Transportation Committee on April 11th and the House Aviation Subcommittee on April 19th by DOT officials, by the Air Transport Assn. and others. Accordingly these errors should be corrected immediately so the false or misleading statistics do not lead to inappropriate conclusions and/or legislative findings.

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