



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**Issued by the Department of Transportation
on the 14th day of April, 2016**

Société Air France

**Violations of 14 CFR Part 382 and
49 U.S.C. §§ 41705 and 41712**

Served April 14, 2016

Docket OST 2016-0002

CONSENT ORDER

This consent order concerns violations by Société Air France (Air France) of 14 CFR Part 382 (Part 382) with respect to the requirement that carriers provide dispositive written responses to written disability-related air travel complaints. Part 382 implements the Air Carrier Access Act (ACAA), 49 U.S.C. § 41705, and violations of Part 382 constitute violations of the ACAA. Violations of 14 CFR Part 382 and 49 U.S.C. § 41705 also constitute violations of 49 U.S.C. § 41712, which prohibits carriers from engaging in unfair and deceptive practices and unfair methods of competition.

The violations addressed in this order were found during an on-site regulatory compliance inspection conducted by the staff of the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) at Air France's headquarters in Montreal, Canada. This order directs Air France to cease and desist from future similar violations and assesses a compromise civil penalty of \$200,000.

Applicable Law

Pursuant to 14 CFR 382.155(d), carriers are required to provide a dispositive written response to a written complaint alleging a violation of Part 382 within 30 days of receipt of the complaint. An appropriate dispositive response must specifically discuss the complaint at issue, specifically admit or deny whether the carrier believes that a violation of Part 382 occurred under the circumstances, summarize the facts and reasons that led the carrier to its conclusion of whether or not a violation of Part 382 occurred, and advise the complainant of his or her right to pursue DOT enforcement action under Part 382.

Facts and Conclusions

Upon reviewing all of the responses Air France provided to its passengers that filed disability related complaints on covered flights in 2013, the Enforcement of Office found that Air France systematically failed to respond to passengers in accordance with 14 CFR 382.155(d). In the majority of its responses to

passengers, Air France failed to summarize the facts in the complaint and specifically admit or deny that a violation of Part 382 occurred in violation of 14 CFR 382.155(d)(1)-(2). Furthermore, in a significant number of those responses, Air France failed to inform passengers of their right to pursue enforcement action with the Department in violation of 14 CFR 382.155(d)(3). Violations of 14 CFR Part 382 also constitute violations of 49 U.S.C. § 41705 also constitute violations of 49 U.S.C. § 41712, which prohibits carriers from engaging in unfair and deceptive practices and unfair methods of competition.

Mitigation

In mitigation, Air France states that it takes seriously its responsibilities and obligations to comply with the Department's air travel consumer protection and civil rights requirements on flights to and from the United States. Air France states that it has been fully cooperative and responsive to all requests from the Department during the course of the Department's audit, which began in July 2014 and involved a review of several hundred Air France files, a multi-day visit to the customer care office in Montreal, Canada and a subsequent multi-day visit and investigation of Air France's operations at Charles de Gaulle Airport.

Air France reaffirms its commitment to compliance with the ACAA and the relevant provisions of 14 CFR Part 382. Furthermore, Air France reminds the Department that it was an industry leader in Europe when it created the SAPHIR program, a program dedicated to accommodating passengers with disabilities in air travel and reducing barriers to accessibility on Air France flights. Air France states that it continues to be wholly committed to providing best-in-class service to its passengers with disabilities and notes that the number of disability complaints it receives is extremely low when compared with the total number of passengers with disabilities the carrier transports annually.

With respect to the Department's findings that Air France failed to provide dispositive responses to a number of passengers who filed disability-related complaints in 2013, Air France explains that the deficiencies in its responses were due, in part, to the closure of its United States customer care office in 2012 and the redistribution of its complaint files to customer care centers in other countries. Air France states that the increased volume of work associated with the closure created unintended consequences, such as deficient responses to passengers who filed disability-related complaints. Air France states that as a result of the Department's audit, Air France has dedicated additional resources, invested in improved systems and trainings, and has redistributed work flows to specialized teams in order to ensure that responses to disability complaints are compliant with the requirements of Part 382. Air France states that it does not admit to any violations of the Department's rules and is agreeing to this order in the interest of settlement.

Decision

The Enforcement Office has carefully considered the information provided by Air France, but continues to believe that enforcement action is warranted. The Enforcement Office and Air France have reached a settlement of this matter in order to avoid litigation. Air France consents to the issuance of this order to cease and desist from future similar violations of 14 CFR 382.155, 49 U.S.C. §§ 41705 and 41712, and to the assessment of \$200,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

This compromise assessment is appropriate considering the nature and extent of the violations described herein and the size and sophistication of the carrier, and serves the public interest. It represents a strong deterrent to future similar unlawful practices by Air France and other carriers.

This order is issued under the authority contained in 49 CFR Part 1.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Société Air France violated 14 CFR 382.155 by failing to provide dispositive written responses to written complaints involving passengers with disabilities;
3. We find that Société Air France violated 49 U.S.C. § 41705 by engaging in the conduct described in paragraph 2;
4. We find that by engaging in the conduct described in paragraphs 2 and 3, above, Société Air France engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
5. We order Société Air France, its successors, and all other entities owned by or controlled by Société Air France, to cease and desist from violations of 14 CFR 382.155, 49 U.S.C. §§ 41705 and 41712 by engaging in the conduct described in paragraphs 2 through 4 above;
6. We assess Société Air France, \$200,000 in compromise of civil penalties that might otherwise be assessed for the violations described in paragraphs 2 through 4, above:
 - a. \$40,000 of the assessed penalty shall be due and payable within thirty (30) days of the service date of this order;
 - b. \$100,000 of the assessed penalty shall be paid in 4 equal installments of \$25,000 on the following dates: June 1, 2016, September 1, 2016, December 1, 2016, and April 1, 2017;
 - c. \$55,000 of the assessed penalty shall be credited to Société Air France for compensation provided to consumers who filed a disability-related complaint with Société Air France in 2013;¹ and
 - d. \$5,000 of the assessed penalty shall be credited to Société Air France for funds expended within six months after the service date of this order toward the development and distribution of a customer service survey to passengers with disabilities immediately following their travel asking them to rate the carrier on the accommodation services provided and soliciting specific feedback on how the carrier can improve;

¹ The credits are based on less than 80% of voucher value and two cents per frequent flyer mile provided to consumers who filed a disability-related complaint with Société Air France in 2013.

7. By October 1, 2016, Société Air France shall provide the Department with supporting documentation containing a description of the expenditures associated with the \$5,000 offset listed in subparagraph 6(d). The documentation must be accompanied by a sworn statement by a senior carrier official attesting that the description, documentation, and accounting are true and complete to the best of that official's knowledge and that official has made a reasonable inquiry to establish the accuracy of the statement;
8. To the extent that Société Air France fails to provide adequate documentation and accounting verifying the appropriate expenditures of the \$5,000 offset listed in subparagraph 6(d) above, the amount shall become due and payable within thirty (30) days of the due date, i.e., no later than October 2, 2016;² and
9. We order Société Air France to pay the penalty as ordered in paragraph 6 through Pay.gov to the account of the U.S. Treasury. Payments shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Société Air France to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

BLANE A. WORKIE
Assistant General Counsel for
Aviation Enforcement and Proceedings

An electronic version of this document is available at
www.regulations.gov

² Anticipated cost information provided by Société Air France to the Department of the offset described in subparagraph 6(d) showed that the cost to the carrier of this offset would be significantly greater than the credit provided by the Department.