



**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**

British Airways Plc

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

Docket OST 2016-0002

Served April 14, 2016

CONSENT ORDER

This consent order concerns violations by British Airways Plc (“British Airways”) of 14 CFR Part 382 (Part 382) with respect to providing timely 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 that part also violate the ACAA. Violations of 14 CFR Part 382 as well as 49 U.S.C. § 41705 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 British Airways’ US headquarters in New York. This order directs British Airways to cease and desist from future similar violations and assesses a compromise civil penalty of \$150,000.¹

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 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 refer the matter to the Department for an investigation.

¹ This order is a global settlement through the issuance date of this order by British Airways of all ACAA and Part 382 violations (including violations of 49 U.S.C. §§ 41705 and 41712) related to providing dispositive written responses to a written disability complaint.

Facts and Conclusions

The Enforcement Office found that in 2012 British Airways failed to respond to disability-related complaints in accordance with 14 CFR 382.155(d). In a number of complaint files it received in 2012, British Airways' responses failed to specifically admit or deny that a violation of the substantive portions of Part 382 that were at issue in the complaints occurred. In some of those files, British Airways failed to include a summary of the facts and simply states that the responsibility of providing disability assistance is on the airport authority and British Airways has forwarded the complaints to the airport authority for response. British Airways also failed to inform complainants of their right to pursue enforcement action with the Department in many of its responses. Similar violations of section 382.155(d) were also found in a number of complaint files received in the first six month of 2013 and in complaints received between April 2014 and March 2015.

Mitigation

In mitigation, British Airways states that it makes every effort to accommodate all of its passengers, including passengers identifying themselves as having disabilities. British Airways asserts that it also makes every effort to provide complete responses to all passenger complaints, and to comply with the dispositive response requirements specified in 14 CFR §382.155(d). However, British Airways states that it frequently must depend on outside vendors not subject to its direct control when assisting passengers having disabilities to navigate through airport terminals. British Airways notes that when responding to complaints filed by passengers assisted by these vendors, it relies on those vendors to explain the factual circumstances surrounding passenger complaints in order to provide timely dispositive responses. Moreover, British Airways notes that it is a global carrier that serves over 200 destinations throughout the world, and many of the personnel who respond to complaints submitted by U.S. passengers are based in the United Kingdom or in other countries outside of the United States. British Airways explains that those personnel routinely respond to complaints which are not subject to §382.155 and occasionally may not recall the need to apply the specific response requirements only applicable to U.S.-related complaints. In response to the concerns raised by the Department, British Airways states that it is increasing the training of its non-U.S. based customer relations personnel to enhance their understanding of the Department's dispositive response requirements and it is also attempting to have more of the complaints related to services provided to and from the United States answered by U.S. based customer relations personnel.

Decision

The Enforcement Office has carefully considered the information provided by British Airways, but continues to believe that enforcement action is warranted. The Enforcement Office and British Airways have reached a settlement of this matter in order to avoid litigation. Without admitting the violations found in this order, British Airways consents to the issuance of this order to cease and desist from future similar violations of 14 CFR Part 382 and 49 U.S.C. §§ 41705 and 41712, and to the assessment of \$150,000 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 British Airways 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 British Airways Plc violated 14 CFR 382.155 by failing to provide dispositive written responses to written complaints involving travelers with disabilities;
3. We find that British Airways Plc in the instances described in ordering paragraph 2, above, violated 49 U.S.C. § 41705;
4. We find that by engaging in the conduct described in paragraphs 2 and 3, above, British Airways Plc engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712.
5. We order British Airways Plc and its successors and assignees to cease and desist from violations of 14 CFR Part 382 and 49 U.S.C. §§ 41705 and 41712 by engaging in the conduct described in paragraphs 2 through 4 above;
6. We assess British Airways Plc a compromise civil penalty of \$150,000 in lieu of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 through 4; of that amount, \$75,000 shall be due and payable within 30 days after the service date of this order. The remaining amount, \$75,000, shall become due and payable immediately if, within one year of the date of issuance of this order, British Airways Plc, its successors or assignees, violates this order's cease and desist provisions or fails to comply with this order's payment provision, in which case British Airways Plc may be subject to further enforcement action for violation of this order; and
7. We order British Airways Plc 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 British Airways Plc 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

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