



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

Issued by the Department of Transportation  
on the 8<sup>th</sup> day of May, 2026

**Complaint of**

**David Payne**

**v.**

**Air New Zealand Limited**

**Docket DOT-OST-2020-0044**

**Served May 8, 2026**

**ORDER OF DISMISSAL**

On April 16, 2020, Mr. David Payne filed a formal complaint with the U.S. Department of Transportation (Department or DOT) against Air New Zealand Limited (ANZ) alleging that the carrier violated 49 U.S.C. § 41712 (Section 41712), the statutory prohibition against unfair and deceptive practices, by failing to provide a refund for cancelled flights. Pursuant to 14 CFR 302.406(a)(2), we dismiss the complaint based on the totality of the circumstances, including that the passenger has been refunded in full.

**Complaint and Answer**

Mr. Payne states that, in August 2019, he purchased tickets on the following flights from ANZ: a flight from Wellington International Airport (WLG) to Hartsfield–Jackson Atlanta International Airport (ATL) departing on May 15, 2020; a flight from Washington Dulles International Airport (IAD) to George Bush Intercontinental Airport (IAH) departing on May 24, 2020; and a flight from IAH to Sydney Kingsford Smith Airport (SYD) departing on May 24, 2020. He states that ANZ cancelled his flights and, despite his request for a refund, only offered future travel credits. He argues that ANZ’s practice of failing to provide a refund for flights that the carrier cancels is unfair under Section 41712.

ANZ filed its answer on June 9, 2020, stating that it reached a settlement with Mr. Payne before the 15-day response period specified in 14 CFR 302.405 and that Mr. Payne requested to withdraw his complaint. ANZ requests that the Department issue an order dismissing the matter pursuant to 14 CFR 302.406 based on Mr. Payne’s withdrawal of the complaint.

## Applicable Law

Under 49 U.S.C. § 41712, it is an unfair practice when a carrier refuses to provide refunds to passengers holding non-refundable tickets after the carrier cancels or significantly changes a flight. This is supported by Department precedent in various cases.<sup>1</sup>

In addition, under 14 CFR 259.5 as it existed on the date of this incident,<sup>2</sup> U.S. and foreign air carriers operating at least one aircraft having a designed seating capacity of 30 or more seats were required to provide prompt refunds for cancelled flights as required by 14 CFR 374.3 and Regulation Z (12 CFR Part 1026) for credit card purchases, regardless of the reason for the cancellation.<sup>3</sup> For credit card purchases, Regulation Z requires that refunds must be provided within seven business days of receipt of a written request from the consumer. Under 14 CFR 374.3(b), a violation of the refund timelines constitutes a violation of 49 U.S.C. Subtitle VII.<sup>4</sup>

## DOT Findings and Conclusions

After carefully reviewing the information presented in the Complaint, the Answer, and the supplemental communication, we have determined that enforcement action is not warranted. This decision is based on the circumstances presented, including Mr. Payne's receipt of a full refund and the significant amount of time that has passed since the incidents occurred.<sup>5</sup>

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<sup>1</sup> See, e.g., *Deutsche Lufthansa AG*, Order 2024-5-26 (June 3, 2024); *Scandinavian Airlines System*, Order 2023-7-8 (July 13, 2023); and *Air India*, Order 2022-11-9 (November 14, 2022).

<sup>2</sup> The language in this order reflects Section 259.5(b)(5) as it existed at the time of the incident at issue. On April 26, 2024 and August 12, 2024, the Department published two final rules modifying U.S. and foreign air carriers' commitments in Customer Service Plans related to refunds for cancelled or significantly delayed or changed flights. See 89 FR 32832 and 89 FR 65534.

<sup>3</sup> Section 503 of the FAA Reauthorization Act of 2024 (2024 FAA Act) modified U.S. and foreign air carriers' obligations with respect to refunds for cancelled or significantly delayed or changed flights. On August 12, 2024, the Department published a final rule to amend the Department's refund regulations to be consistent with the 2024 FAA Act. See 89 FR 65534 (Aug. 12, 2024).

<sup>4</sup> In enforcement orders, DOT has clarified that violations of section 259.5 are violations of Section 41712 specifically, not just 49 U.S.C. Subtitle VII generally. See, e.g., *American Airlines*, DOT Order 2017-7-9.

<sup>5</sup> A passenger's private settlement with a carrier, including the withdrawal of a complaint, does not render a complaint "moot" or negate OACP's independent authority to examine the facts and the law to determine whether enforcement action is appropriate with respect to the passenger's complaint or the issue more generally. See, e.g., *Jackson/Prince v. American Airlines*, DOT Order 2018-10-16 (October 24, 2018) ("The Enforcement Office's review of all of the available facts, including the parties' filings, information provided by the airline, and any other available information, is wholly independent of any private resolution by the parties. Accordingly, our determination is based on the facts before us and applicable law and is unrelated to any settlement reached by the parties."); see also *Libersohn v. Avianca*, DOT Order 2022-11-19 (November 14, 2022); *Gutnicki/Reiners v. United Airlines*, DOT Order 2021-1-6 (January 19, 2021).

ACCORDINGLY, I dismiss the complaint filed in Docket DOT-OST-2020-0044 under the authority in 14 CFR 302.406(a)(2) delegated to me by the Assistant General Counsel of DOT's Office of Aviation Consumer Protection. Pursuant to 14 CFR 302.406(b), the order becomes effective as the Department's final action 30 days after service.

**BY:**

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**for the Office of Aviation Consumer Protection**

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