

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

**NOTICE OF CLOSURE OF AIRLINE PRIVACY REVIEW AND REMINDER OF
CONSUMER PRIVACY COMPLIANCE RESPONSIBILITIES**

The U.S. Department of Transportation (DOT or Department), which holds exclusive authority over airline consumer protection including data privacy practices, is issuing this notice through its Office of Aviation Consumer Protection (OACP) to announce the closure of its industry-wide privacy review of U.S. airlines. Based on its review, OACP has not identified any violation of applicable laws or departmental policies and is concluding its review with no further action. This notice also serves to remind airlines of their ongoing responsibilities to safeguard passenger data, adhere to published privacy policies, and prevent unlawful discrimination in dynamic pricing practices.

BACKGROUND AND SCOPE OF PRIVACY REVIEW

In March 2024, the Department announced an industry-wide Privacy Review examining the privacy policies, practices, and procedures of the Nation's 10 largest airlines.¹ The review focused on how carriers collected, handled, maintained, used, sold, disclosed, and protected passengers' personal information between January 1, 2022 and March 20, 2024, with specific emphasis on policies and procedures for training employees and contractors on privacy, and protecting passengers' personal information from data breaches.

Throughout 2024, OACP analyzed carrier privacy policies, practices, and procedures, and conducted meetings with airline officials. The review reflected an effort by the Department to ensure that carriers adequately protect consumers' personal information and follow consumer protection laws.

APPLICABLE LAW

The Department is the sole regulator of unfair or deceptive privacy practices by airlines.² The Department regulates airline privacy pursuant to its authority in 49 U.S.C. § 41712, which prohibits airlines and ticket agents from engaging in unfair or deceptive practices in air transportation or the sale of air transportation. A practice is "unfair" to consumers if it causes or is likely to cause substantial injury, which is not reasonably avoidable, and the harm is not outweighed by benefits to consumers or competition.³ A practice is "deceptive" to consumers if it is likely to mislead a consumer, acting reasonably under the circumstances, with respect to a material matter. A matter is material if it is likely

¹ At the time of the Privacy Review, those airlines were Alaska Airlines, American Airlines, Allegiant Air, Delta Air Lines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways Corp., Southwest Airlines, Spirit Airlines, and United Airlines.

² 49 U.S.C. § 41713(b)(1); 15 U.S.C. § 45(a)(2).

³ 14 CFR 399.79(b)(1).

to have affected the consumer's conduct or decision with respect to a product or service.⁴ The Department considers an airline's failure to adhere to its stated privacy policy, failure to safeguard sensitive consumer data properly, or deceptive representation of data practices to be an unfair and deceptive practice in violation of Section 41712.

RESULTS OF REVIEW AND CLOSURE

Through this process, OACP learned that all carriers subject to the review maintain privacy training programs for personnel who handle passenger data. The carriers also have readily available privacy policies, and have systems in place to safeguard consumer data.

Following its comprehensive evaluation, OACP identified no violations of applicable laws or departmental policies by any carrier subject to the review. Consequently, the Department has closed the 2024 Privacy Review and will take no enforcement action regarding the matters reviewed.

REMINDER OF ONGOING CARRIER RESPONSIBILITIES AND EMERGING CONCERNS

Although this review is closed, OACP reminds airlines of their responsibility to protect consumer privacy, specifically highlighting the following four key areas:

- **Data Collection & Sharing:** Carriers should maintain transparency regarding the scope of passenger data collected, and if and how it is shared.
- **Data Security & Breach Protection:** Carriers should maintain reasonable, up-to-date data protection standards.
- **Dynamic Pricing & Anti-Discrimination:** Carriers should avoid determining pricing based on individual-specific data (*i.e.*, who the customer is), and should not engage in discriminatory dynamic pricing practices.⁵
- **Adherence to Published Policies:** Airlines should adhere to their stated privacy policies regarding the collection, storage, and sharing of consumer information.

The Department will continue to monitor airline privacy practices and will take appropriate action if OACP uncovers violations of Federal consumer privacy statutes.

CONTACT

Questions regarding this notice may be addressed to the Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

By:

⁴ 14 CFR 399.79(b)(2).

⁵ Federal law prohibits carriers from subjecting any individual in air transportation to discrimination based on race, color, national origin, religion, sex, or disability. See 49 U.S.C. §§ 40127(a), 41310(a), and 41705. See also Order to Show Cause 2014-5-7 at 13, available at https://www.transportation.gov/sites/dot.gov/files/docs/IATA_Res_787_showcause.pdf.

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