4910-9X

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT-OST-2014-0002]

RIN 2105-AE30

Use of Mobile Wireless Devices for Voice Calls on Aircraft

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Department of Transportation (DOT or the Department) is proposing to protect airline passengers from being unwillingly exposed to voice calls within the confines of an aircraft. Specifically, the Department proposes to require sellers of air transportation to provide adequate advance notice to passengers if the carrier operating the flight allows passengers to make voice calls using mobile wireless devices. The Department also seeks comment on whether to prohibit airlines from allowing voice calls via passenger mobile wireless devices on domestic and/or international flights.

DATES: Comments should be filed by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT-OST-2014-0002 by any of the following methods:

- *Federal eRulemaking Portal*: Go to http://www.regulations.gov and follow the online instructions for submitting comments.

- *Mail*: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier*: West Building Ground Floor, Room W12-140, 1200 New Jersey Ave., SE., between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax*: 202-493-2251

Instructions: You must include the agency name and docket number DOT-OST-2014-0002 or the Regulation Identifier Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to http://www.regulations.gov, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the *Federal Register* published on April 11, 2000 (65 FR 19477-78), or you may visit https://www.transportation.gov/dot-website-privacy-policy.

Docket: For access to the docket to read background documents and comments received, go to http://www.regulations.gov or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Robert Gorman, Senior Trial Attorney, or Blane A. Workie, Assistant General Counsel, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey

Ave., SE, Washington, DC, 20590, 202-366-9342, 202-366-7152 (fax), robert.gorman@dot.gov or blane.workie@dot.gov (e-mail).

SUPPLEMENTAL INFORMATION:

Executive Summary

1. **Purpose of the Regulatory Action**

The purpose of this action is to propose a method for regulating voice calls on passengers' mobile wireless devices on flights to, from, and within the United States. Permitting passengers to make voice calls onboard aircraft may create an environment that is unfair and deceptive to those passengers. While the Federal Communications Commission (FCC) currently prohibits the use of certain commercial mobile bands onboard aircraft, that ban does not cover Wi-Fi and other means by which it is possible to make voice calls. Moreover, in 2013, the FCC proposed lifting its existing ban, so long as certain conditions are met, as described in detail below. As technologies advance, the cost of making voice calls may decrease and the quality of voice call service may increase, leading to a higher prevalence of voice calls and greater risk of passenger harm.

For these reasons, the Department proposes to require sellers of air transportation to provide adequate advance notice to passengers if the carrier operating the flight allows passengers to make voice calls using mobile wireless devices. Under this proposed rule, carriers would be free to set their own voice call policies, to the extent otherwise permitted by law, so long as carriers provide adequate advance notice when voice calls will be allowed. The requirement for airlines to provide advance notice when voice calls are allowed would not apply to small airlines (i.e., U.S. and foreign air carriers that provide air transportation only with aircraft having a designed seating capacity of less

than 60 seats) or ticket agents that qualify as a small business. No advance notice is required if the carrier prohibits voice calls. The Department also seeks comment on whether to prohibit airlines from allowing voice calls via passenger mobile wireless devices on domestic and/or international flights.

The Department takes this action under its authority to prohibit unfair and deceptive practices in air transportation or the sale of air transportation, and under its authority to ensure adequate air transportation, as further described herein.

2. Summary of Costs and Benefits

The proposed rule would require airlines and ticket agents that are not small entities to disclose the airline's voice call policy if the airline chooses to permit voice calls. The Department's Preliminary Regulatory Impact Analysis (PRIA), found in the docket, examined the costs that ticket agents and airlines would incur to implement any disclosure requirements that would arise from allowing voice calls. For the period of 2017-2026, the PRIA estimated the cost to carriers to be $41 million and the cost to ticket agent costs to be $46 million. The PRIA found qualitative benefits to passengers in the form of improved information for those who wish to avoid (or make) voice calls. These costs and benefits are summarized in the chart below.

Summary of Benefits and Costs

Proposed Option	Nature of Benefits	Quantitative Measure	Nature of Costs	Quantitative Measure
Require disclosure of possible voice call exposure prior to ticket purchase	Improved information for those who wish to avoid (or make) voice calls	Tickets purchased for 10.2 billion enplanements, 2017-2026	Web site programming and call center labor hours for large carriers, ticket agents	Carrier costs of $41 million and ticket agent costs of $46 million, 2017-2026

Background

On February 24, 2014, the Department issued an Advance Notice of Proposed Rulemaking (ANPRM) in Docket DOT-OST-2014-0002 titled "Use of Mobile Wireless Devices for Voice Calls on Aircraft." The ANPRM was published in the Federal Register on February 24, 2014.[1] We announced in the ANPRM our intent to gather information on whether to propose a rule to ban voice calls on passengers' mobile wireless devices on commercial aircraft. We sought comment on the effects and implications of such a proposed rule. The ANPRM was issued in light of the FCC's proposed rule, published on December 13, 2013, that if adopted would make it possible for aircraft operators to permit passengers to make or receive calls onboard aircraft using commercial mobile spectrum bands.[2]

Currently, FCC rules restrict airborne use of mobile devices that can operate on certain commercial mobile frequencies.[3] As a result, U.S. airlines require that passengers disable their mobile devices or use "airplane mode"[4] while an aircraft is airborne. The FCC's ban was adopted in 1991 based on the threat of widespread interference with terrestrial networks from airborne use of cell phones. With advances in technology and increasing public interest in using mobile communications services on airborne aircraft, the FCC issued its 2013 NPRM proposing to revise what it described as outdated rules. The FCC proposes a regulatory framework that

[1] Department of Transportation, Office of the Secretary, 14 CFR Part 251 [Docket No. DOT-OST-2014-0002], RIN 2105-AE30, 79 FR 10049 (Feb. 24, 2014) (*DOT ANPRM*).

[2] Expanding Access to Mobile Wireless Services Onboard Aircraft, *Notice of Proposed Rulemaking*, WT Docket No. 13-301, FCC 13-157 (Dec. 13, 2013) (*FCC Mobile Wireless NPRM*); 79 FR 2615 (January 15, 2014). *See* http://www.fcc.gov/document/review-rules-wireless-services-onboard-aircraft-nprm.

[3] *See* 47 CFR §§ 22.925, 90.423. The FCC prohibits use of the 800 MHz Cellular Radiotelephone band while aircraft is in flight at any altitude. The FCC also prohibits the use of 800 and 900 MHz Specialized Mobile Radio frequencies on aircraft that typically fly at altitudes over one mile. There are no current restrictions on airborne use of the other bands used to provide typical mobile voice and data service, although the FCC's NPRM seeks comment on whether to extend restrictions to other frequencies. *FCC Mobile Wireless NPRM* at ¶ 5.

[4] This requirement does not apply to Wi-Fi use.

would allow airlines, subject to application of DOT regulations (of both the Office of the Secretary of Transportation (OST) and the Federal Aviation Administration (FAA)), the ability to allow passengers to use commercial mobile spectrum bands on their mobile wireless devices while in flight.[5] The FCC's proposal would not require airlines to permit any new airborne mobile services; rather, it would provide a regulatory pathway for airlines to enable such services using an Airborne Access System (AAS).[6] An AAS likely would consist of a base station (typically a picocell) and a network control unit. The system would receive low-powered signals from passengers' mobile wireless devices and transmit those signals through an onboard antenna either to a satellite or to dedicated terrestrial receivers. In either case, the system would be designed to minimize the potential for interference with terrestrial networks that prompted the FCC's original ban.[7] The FCC's proposal notes that more than 40 jurisdictions throughout the world, including the European Union (EU), Australia, and jurisdictions in Asia, have authorized the use of mobile communication services on aircraft without any known interference issues.[8]

The FCC's proposal is technology-neutral, in that it does not intend to limit the use of mobile communications to non-voice applications. The FCC states that any modifications to the AAS would be at the discretion of individual airlines, in addition to any rules or guidelines adopted by the DOT.[9] The FCC explains that Airborne Access Systems will provide airlines

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[5] *FCC Mobile Wireless NPRM* at 2-4.

[6] *Id.* at 2 ¶ 1.

[7] On May 9, 2013, the FCC issued an NPRM proposing to create new air-to-ground mobile broadband service in the 14 GHz band in the contiguous United States that would provide significantly greater data transmission capacity than exists in current services. Expanding Access to Broadband and Encouraging Innovation Through Establishment of an Air-Ground Mobile Broadband Secondary Service for Passengers Aboard Aircraft in the 14.0–14.5 GHz Band, *Notice of Proposed Rulemaking*, FCC 13-66, GN Docket 13-114, published at 78 FR 41343 (July 10, 2013).

[8] *FCC Mobile Wireless NPRM* at 2 ¶ 3.

[9] *Id.* at 4 ¶ 4.

with the flexibility to deploy or not deploy various mobile communications services.[10] For instance, an airline could program the new equipment to block voice calls while permitting data and text services.[11]

In the Department's ANPRM, we explained that DOT and the FCC have distinct areas of responsibilities with respect to the use of cell phones or other mobile devices for voice calls on aircraft. The FCC has authority over various technical issues (as described above); the FAA, a component of DOT, has authority over safety issues; and DOT's OST has authority over aviation consumer protection issues.

The FAA, pursuant to its aviation safety oversight authority in 49 U.S.C. §§ 106(f) and 44701(a), has authority to determine whether portable electronic devices (PEDs)[12] can be safely used on aircraft. In October 2013, the FAA provided information to airlines on expanding passenger use of PEDs during all phases of flight without compromising the continued safe operation of the aircraft.[13] However, the FAA guidance did not explicitly address the use of cell phones for voice calls, in light of the FCC's continued ban on such calls.[14] Cell phones differ from most PEDs in that they are designed to send out signals strong enough to be received at great distances. Nevertheless, the FAA's safety authority over cell phones is similar to its

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[10] *Id.* at 17-18 ¶ 41.

[11] *Id.*

[12] A portable electronic device is "any piece of lightweight, electrically-powered equipment. These devices are typically consumer electronic devices capable of communications, data processing and/or utility. Examples range from handheld, lightweight electronic devices such as tablets, e-readers and smartphones to small devices such as MP3 players and electronic toys." See FAA Fact Sheet – Portable Electronic Devices Aviation Rulemaking Committee Report (October 8, 2013).

[13] "Expanding the Use of Passenger Portable Electronic Devices (PED)," available at http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/media/2013/InFO13010.pdf ("InFO 13010").

[14] Nevertheless, we do not anticipate that the FAA will determine that the use of cell phones for voice calls would interfere with avionics systems.

authority over other PEDs and includes technical elements (e.g., whether cell phones would interfere with avionics systems), operational elements (e.g., whether the use of cell phones would interfere with effective flight safety instructions), and security elements (e.g., whether the use of cell phones creates a security threat that in turn impacts aviation safety). Pursuant to FAA regulations, before allowing passengers to use PEDs, aircraft operators must first determine that those devices will not interfere with the aircraft's navigation or communication systems. This determination includes assessing the risks of potential cellular-induced avionics problems.[15] According to FAA policy and guidance, expanding passenger PED use requires an aircraft operator to revise applicable policies, procedures, and programs, and to institute mitigation strategies for passenger disruptions to crewmember safety briefings and announcements and potential passenger conflicts. Therefore, even if the FCC revises its ban, any installed equipment such as an AAS would be subject to FAA certification, just like other hardware.

Many U.S. airlines currently offer Wi-Fi connectivity to passengers' mobile devices using FAA-approved in-flight connectivity systems. Like Airborne Access Systems, airborne Wi-Fi systems receive signals from passengers' mobile devices and relay those signals to satellites or dedicated ground towers. Wi-Fi spectrum is capable of transmitting voice calls as well as other types of data, such as video and text messages. The FCC does not prohibit voice calls over Wi-Fi; the FCC's current ban relates to the use of certain commercial mobile spectrum bands. Thus, many U.S. carriers currently have the capability of allowing their passengers to make and receive voice calls in-flight over Wi-Fi. It should be noted that the Department is unaware of any U.S. carrier that currently permits voice calls; airlines and their Wi-Fi providers typically do not offer voice service.

[15] *See* 14 CFR §§ 91.21, 121.306, 125.204.

To summarize, the current proposed rulemaking would regulate voice calls onboard aircraft as a matter of consumer protection, rather than as a matter of ensuring aviation safety or preventing cellular interference with ground networks. Moreover, it would apply to voice calls on passenger-supplied cellular telephones and other passenger-supplied mobile wireless devices, regardless of whether the call is made on a commercial mobile frequency, Wi-Fi, or other means. Under this proposal, the Department would not prohibit voice calls (although we seek further comment on that issue), but airlines would remain subject to any technical, safety, or security rules that do prohibit or restrict voice calls. Airlines would be required to disclose their voice call policies to the extent that they permit voice calls; those policies, in turn, will be based both on the airline's own choices and on any existing rules affecting such calls.

The OST's 2014 ANPRM

The DOT sought comment in the February 2014 ANPRM on whether permitting voice calls on aircraft constitutes an unfair practice to consumers pursuant to 49 U.S.C. § 41712, and/or is inconsistent with adequate air transportation pursuant to 49 U.S.C. § 41702, and if so, whether such calls should be banned. More specifically, it solicited comment on a number of questions, including, but not limited to: (1) whether the Department should refrain from rulemaking and allow the airlines to develop their own policies; (2) whether a voice call ban should apply to all mobile wireless devices; (3) whether any proposed ban on voice calls should be extended to foreign air carriers; and (4) whether exceptions should apply for emergencies, certain areas of the aircraft, certain types of flights, or certain individuals (such as flight attendants and air marshals). It did not seek comment on the technical or safety aspects of voice calls, because those fall under the regulatory authority of the FCC and the FAA, respectively.

Comments on the ANPRM

The comment period was open from February 24, 2014, to March 26, 2014. During that time, the Department received over 1,700 comments from individuals. The vast majority of commenters, 96%, favored a ban on voice calls. An additional 2% favored bans on voice calls, but indicated that they would be open to exceptions, such as for (unspecified) "emergencies." Most commenters used strong language to express the view that voice calls in the presence of others are disturbing in general, and even more so in a confined space. Individuals also commented that voice calls would create "air rage" incidents by disgruntled passengers, place additional strains on flight attendants, and intrude upon privacy and opportunities to sleep. Only 2% of individuals opposed a voice call ban. These commenters generally took the position that airlines should be able to set their own policies.

Consumer advocacy organizations (Consumers Union and the Global Business Travel Association) stated that they favored a ban on voice calls, for the same reasons identified by the majority of individuals. Global Business Travel Association favored a ban on voice calls and stated that "quiet sections" are not feasible on aircraft.

Unions (the Air Line Pilots Association (ALPA), the Association of Professional Flight Attendants (APFA), the Association of Flight Attendants – CWA (AFA-CWA), the Teamsters, and the Transportation Trades Department) expressed safety concerns arising from permitting voice calls on aircraft, including an increased number of "air rage" incidents and a decrease in the ability to hear crewmember instructions. These organizations also cited security concerns, such as the possibility that voice call capability could be exploited by terrorists.

In contrast, the major airline organizations, Airlines for America (A4A) and the International Air Transport Association (IATA), expressed the view that airlines should be

permitted to develop their own policies on voice calls. They recognized that their member airlines may take differing positions on whether they would allow voice calls on their flights. A4A and IATA stressed, however, that each airline should be free to respond to its own consumers' demand. They also argued that the Department lacks the statutory authority under 49 U.S.C. § 41702 or § 41712 to ban voice calls. Finally, these organizations contended that a voice call ban would stifle innovation in this area.

One U.S. airline, Spirit Airlines, Inc., echoed IATA's free-market position, but added that the Department would have the authority to require airlines to disclose their voice call policies.

Certain foreign airlines (Emirates and Virgin Atlantic), along with suppliers of onboard voice call equipment (Panasonic, OnAir Switzerland, and the Telecommunications Industry Association/Information Technology Industry Council), commented that foreign airlines increasingly permit voice calls, with few reports of consumer complaints. They stated that voice calls are rarely placed, and are of short duration because they are quite expensive (several dollars per minute, akin to "roaming" charges). They also note that voice calls may be easily disabled at any time during flight by one of the pilots. Finally, they report that crewmembers are adequately trained to handle any incidents that may arise as a result of voice calls.

One commenter, the Business Travel Coalition, suggested that the Department should permit voice calls in an "inbound, listen-only" mode for participating passively in conference calls. Another commenter, GoGo, Inc., suggested that any ban on voice calls should apply to regularly-scheduled commercial flights, and not to private aircraft or charter flights.

Response to ANPRM comments

First, we recognize the safety and security concerns expressed by pilots' and flight attendants' unions. Without discounting those concerns in any way, we note that the proposed rule is not based on considerations of safety or security. Nevertheless the Department is actively coordinating this proposed rulemaking with all relevant Federal authorities that have jurisdiction over aviation safety and security.[16]

Next, we understand the significant concerns expressed by individual commenters about the degree of hardship that may arise from an enclosed airline cabin environment in which voice calls are unrestricted. Under the proposed rule, airlines remain free to respond to those concerns by banning voice calls as a matter of policy, allowing voice calls only on certain flights (such as those frequently used by business travelers) or only during certain portions of flights (such as non-sleeping hours), creating "voice call free zones" where voice calls are not permitted, or through other means. As we explain further below, permitting carriers to allow voice calls onboard aircraft may create an environment that is both unfair and deceptive to consumers, and inconsistent with adequate air transportation. The Department has the statutory authority to prohibit unfair and deceptive practices in air transportation, and to ensure adequate air transportation. As such, the Department disagrees with the airline organizations, which contend that the Department lacks statutory authority to ban voice calls under sections 41702 and 41712. The Department also disagrees with the individual commenters and airline organizations who contend that voice calls should be entirely unregulated.

[16] In January 2016, the DOT and FCC entered into an agreement to establish a Federal Interagency Working Group to more effectively collaborate and coordinate with other relevant agencies on issues that intersect their respective domains, including the safe and secure use of consumer communications onboard domestic commercial aviation. This agreement builds on the interagency coordination efforts in recent years as aviation communications safety and security concerns have emerged. The FAA and the FCC co-chair the Working Group, with the Public Safety and Homeland Security Bureau coordinating efforts within the FCC. See http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0129/DA-16-110A1.pdf.

We recognize that certain foreign airlines permit voice calls when outside U.S. airspace, and that these airlines have reported few consumer complaints. This experience of foreign airlines suggests that voice calls do not, at present, create a significant degree of consumer harm. Our review of the individual comments to the ANPRM suggests, however, that U.S. consumers have come to expect a voice-call-free cabin environment and that they may generally hold a different view from foreign consumers on the issue of voice calls. Moreover, as we note in the regulatory evaluation to the proposed rule, the Department anticipates that airlines' technical capacity to allow voice calls will increase significantly in the near future, with corresponding potential reductions in the price of individual voice calls. These factors could result in an environment in which voice calls increase in both number and length, raising passenger discomfort to a degree that passengers on foreign airlines do not currently experience. As such, this proposal would require sellers of air transportation that are not small entities to provide adequate notice to passengers if voice calls are permitted on a "flight within, to, or from the United States." We recognize that a "flight to or from the United States" may be a continuous journey including one flight segment beginning or ending in the United States (e.g., New York to Frankfurt), and a second segment between two foreign points (e.g., Frankfurt to Prague). We solicit comment on whether the disclosure requirements for "flights to or from the United States" should be limited to flight segments to or from the United States, or should apply to the entire continuous journey, in the same aircraft or using the same flight number, that begins or ends in the United States.

The Department appreciates the comments we received from business travelers, some of whom have advocated for the ability to participate in "listen-only" calls, such as lengthy conference calls, on airplanes. This NPRM does not propose a ban on voice calls on aircraft,

although we seek further comment on that issue. As a result, airlines would be free, under this proposal, to develop policies to prohibit, restrict or allow voice calls, and airlines would have the flexibility to provide these types of "listen-only" or other exceptions if they so choose. With that being said, DOT continues to seek comment on whether a ban on voice calls would be the more appropriate regulatory approach and whether any exceptions, such as a "listen-only" exception, should apply.

With respect to GoGo's comment that any ban on voice calls should apply to regularly-scheduled commercial flights, and not to private aircraft or charter flights, we again note that we are not proposing to ban voice calls at this time.

Finally, we agree with Spirit Airlines' comment that the Department has the authority to require carriers to disclose their voice-call policies, if the airline does allow them. While the major airline organizations did not comment on the disclosure approach, we believe that it is a well-established means of regulation that falls squarely within the Department's authority under 49 U.S.C. §41712. At this point in time, the Department is proposing this method of regulation, which is structured similarly to the Department's existing code-share disclosure rule. This proposed rule would require airlines that permit voice calls to provide early notice to consumers so that they may know prior to purchasing a ticket that a particular flight permits voice calls. This proposal provides a means of regulating voice calls without banning them outright.

Advisory Committee on Aviation Consumer Protection

On October 29, 2014, the sixth meeting of the Secretary's Advisory Committee on Aviation Consumer Protection (ACACP) convened to discuss a number of issues, including

regulation of voice calls on aircraft.[17] At the meeting, representatives of DOT and FCC discussed the history and current status of voice call regulation. A representative from AeroMobile Communications, Inc., a company that installs communication systems onboard aircraft, noted that a number of foreign airlines offer voice call service, and asserted that passengers have experienced no adverse impacts from the service. A representative of the Association of Professional Flight Attendants expressed strong opposition to allowing voice calls, citing, among other concerns, safety, security, and adverse impacts on flight attendants who would have to intervene in passenger conflicts arising from voice calls. A representative of FlyersRights, a group representing airline passengers, expressed opposition to allowing voice calls, citing similar concerns and potential impacts on the passenger in-flight experience. An ACACP member representing consumer interests indicated that he was undecided on the issue and stated that there may be room for compromise. On September 1, 2015, the ACACP recommended that the Department allow airlines to decide whether to permit passengers to use mobile devices for voice calls, if such use is safe and secure. In a related recommendation, the ACACP urged the Department to continue to participate in the interagency task force relating to the safety and security of mobile wireless devices onboard aircraft. Our proposed rule, which would permit the sale of air transportation where voice calls are allowed so long as the airline's voice call policy is properly disclosed, is consistent with the ACACP's recommendation.

This NPRM

Legal Analysis

After reviewing the comments, the Department finds that allowing the use of mobile wireless devices for voice calls without providing adequate notice to all passengers is an "unfair"

[17] DOT-OST-2012-0087-0257.

and "deceptive" practice in air transportation under 49 U.S.C. § 41712. A practice is unfair if it causes or is likely to cause substantial injury to consumers which cannot be reasonably avoided and which is not outweighed by countervailing benefits to consumers or competition that the practice produces. The Department relied upon 49 U.S.C. § 41712 when promulgating the "Tarmac Delay Rule" (14 CFR 259.4), in which the Department addressed the harm to consumers when aircraft sit for hours on the airport tarmac without an opportunity for passengers to deplane.[18] In doing so, the Department considered the degree of hardship and inconvenience to consumers, along with the fact that the harm was unavoidable because the passengers could not deplane. Similar to a tarmac delay without an opportunity for passengers to deplane, permitting voice calls on aircraft without adequate notice would harm consumers because of the confined environment and the inability of passengers to avoid the hardship and disruption created by voice calls. The vast majority of individual commenters believe that permitting voice calls would create unavoidable harm. Most individuals spoke of the significant discomfort, invasion of privacy, lack of sleep, and other harmful effects that would arise from being placed for hours in an enclosed environment with other passengers speaking loudly on their mobile devices. Some commenters remarked that individuals speaking on mobile devices tend to be louder than individuals engaging in a live conversation. We are also aware of a 2012 survey indicating that 51% of respondents expressed negative feelings about cell phone use during flight, while 47% expressed generally positive feelings; in a separate survey question, 61% of respondents expressed support for restricting cell phone calls during flight.[19] In light of the

[18] *See* 74 FR 68983 (Dec. 30, 2009) and 76 FR 23110 (April 25, 2011).

[19] These findings were part of a comprehensive survey to study airline passengers' usage of, and attitude toward, PEDs. The survey, conducted by the Airline Passenger Experience Association (APEX) and the Consumer Electronics Association (APEX), can be found at Appendix H to the September 30, 2013, final report of the Portable Electronic Devices Aviation Rulemaking Committee (PED ARC) to the Federal Aviation Administration. https://www.faa.gov/about/initiatives/ped/media/PED_ARC_FINAL_REPORT.pdf. The PED

support for a voice call ban expressed by members of the public in response to the ANPRM, the Department believes that these hardships, when encountered without adequate notice, are not outweighed by countervailing benefits to consumers or to competition and are an unfair practice.

We also believe that permitting voice calls on aircraft without adequate disclosure is a deceptive practice. A practice is deceptive if it misleads or is likely to mislead a consumer acting reasonably under the circumstances with respect to a material issue (i.e., one that is likely to affect the consumer's decision with regard to a product or service). As noted above, the Department is unaware of any U.S. carrier that permits voice calls on its flights; moreover, foreign carriers disable voice call capability within U.S. airspace. Thus, at present, consumers purchase tickets with the reasonable expectation that voice calls will not be permitted on flights within the United States. Given the overwhelmingly negative tenor of the public comments submitted to the docket, it is reasonable to conclude that consumers may choose a flight based at least in part on whether the carrier has taken the unusual step of permitting voice calls on that flight. Under these circumstances, we conclude that consumers would be unfairly surprised if they learned for the first time, after purchasing the ticket, that their chosen flight permits voice calls. The proposed requirements are designed to ensure that consumers are adequately informed, in advance, that voice calls will be permitted.

A number of individuals and organizations expressed significant concern over the many safety and security issues that arise from permitting voice calls on aircraft. Recognizing the multi-jurisdictional scope of the voice call issue, numerous members of Congress[20] have urged

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ARC reviewed, but did not commission, the survey. The PED ARC further found that 68% of commenters to its Federal Register notice "did not desire cell phone usage (interpreted by the ARC to mean cell phone voice calls)", while a different international survey found 68% acceptance of onboard phone service. Id. at 4. The PED ARC ultimately declined to make recommendations to the FAA regarding voice call use, because this issue was outside the scope of the PED ARC charter. Id.

[20] Ex Parte Correspondence to Members of Congress, available at DOT-OST-2014-0002-1792. *See also* Explanatory Statement Submitted by Mr. Rodgers of Kentucky, Chairman of the House Committee on

the DOT to coordinate its efforts with the Department of Justice, the Department of Homeland Security, and the FCC. The proposed rule necessarily falls within the scope of the Department's consumer protection authority, and does not extend to certain security and safety concerns over which OST lacks jurisdiction. Nevertheless, commenters should be assured that the Department is engaged in active coordination with those agencies on this issue.

Before discussing the proposed rule text, we note that we seek further comment on whether the Department should ban voice calls on domestic and/or international flights. We recognize that we have already received considerable feedback on this topic during the comment period to the ANPRM; individuals and organizations need not re-submit those same comments during the comment period to this NPRM. Here, we particularly solicit comment on whether there is any market failure or other reason to support a Federal ban on voice calls during flights, as well as the costs and benefits of any such ban. For example, is there evidence of a market failure or other problems based on the experience of countries that permit carriers to allow passengers to make voice calls during flights? What are the different types of policies and practices being used by carriers that permit some degree of voice calls? Will the price of voice calls go down as technology improves, and if so, will the volume of voice calls increase? What would be the costs and benefits of any such increase in voice call usage? What are the quantifiable benefits to consumers from being able to make a voice call onboard an aircraft? What are the quantifiable benefits of being able to listen to a conference call on a "listen-only" call? Would carriers and/or consumers benefit from airlines offering either "voice call zones" or "voice call free zones" onboard aircraft? Would carriers charge a specific fee for being able to

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Appropriations Regarding the House Amendment to the Senate Amendment on H.R. 3547, Consolidated Appropriations Act of 2014, 160 Cong. Rec. H475, H512-13, H906, H927 (daily ed. Jan. 15, 2014).

make voice calls, or would the fee for voice calls be bundled with the general charges for Wi-Fi, and/or in-flight entertainment? Would carriers have an economic incentive to provide electronic devices to passengers independent of the portable electronic devices that passengers themselves already bring onboard the aircraft? What are the quantifiable costs to consumers from being exposed to unwanted voice calls onboard aircraft? What is the proper method of measuring such costs? Is a voice call ban justified even if the Department requires disclosure of a carrier's voice call policy? Should any such ban apply to international as well as domestic flights? Should any such ban apply to small carriers, air taxis, or charter operations? In general, are market forces sufficient or insufficient to moderate voice call use without Departmental regulation? Are there alternative regulatory approaches, in addition to disclosure and bans, that the Department should consider?

Discussion of Proposed Rule Text

In the NPRM, we define "mobile wireless device" to mean any portable wireless telecommunications device not provided by the covered airline that is used for the transmission or reception of voice calls. The term includes, but is not limited to, passengers' cellular telephones, computers, tablets, and other portable electronic devices using radio frequency (RF) signals, including Voice over Internet Protocol (VoIP) via aircraft Wi-Fi. We define "voice call" to mean an oral communication made or received by a passenger using a mobile wireless device. The Department seeks comment on the proposed definitions of "mobile wireless device" and "voice call."

The proposed rule applies to passenger flights in scheduled or charter air transportation by U.S. and foreign air carriers that are not small entities (i.e., U.S. and foreign air carriers that provide air transportation only with aircraft having a designed seating capacity of less than 60

seats). We solicit comment on whether and to what extent the proposed rule should or should not apply to small aircraft, commuter carrier flights, single-entity charter flights, air ambulances, and on-demand air taxi operations.

Under this proposed rule, if an airline permits voice calls on a specific flight that is offered to a prospective consumer, then the seller of the air transportation (e.g., an airline or ticket agent) would be required to disclose that fact contemporaneously with the offer. The purpose of such a disclosure requirement would be to give consumers the opportunity to learn in advance that they are considering a flight on which voice calls are permitted. This option would apply to schedule listings and oral communications with prospective consumers by U.S. and foreign air carriers except for those that provide air transportation only with aircraft having a designed seating capacity of less than 60 seats, and to ticket agents except for those that qualify as a small business pursuant to 13 CFR Part 121.[21] Bearing in mind the Department's responsibilities under the Regulatory Flexibility Act, the Department is of the tentative view that this exception is appropriate in order to avoid undue administrative burdens on small businesses and small carriers. We solicit comment on whether the requirement to provide advance notice that voice calls are permitted on flight should apply to all airlines and ticket agents regardless of size.[22]

The proposed rule is modeled on the code-share disclosure rule, 14 CFR 257.5. Code-sharing is an arrangement whereby a flight is operated by a carrier other than the airline whose designator code or identity is used in schedules and on tickets. Based on the statutory

[21] Currently, ticket agents qualify as a small business if they have $20.5 million or less in annual revenues. 13 CFR 121.201 (effective January 7, 2013).

[22] We note that the code-share disclosure rule, 14 CFR Part 257, on which this rule is based, contains no exceptions for small businesses and small carriers. Thus, carriers and ticket agents of any size that hold out or sell air transportation involving a code-sharing arrangement must provide adequate advance notice of the code-sharing arrangement.

prohibition against unfair and deceptive practices in the sale of air transportation, 49 U.S.C. § 41712, the purpose of the disclosure requirement in section 257.5 is to ensure that consumers are aware of the identity of the airline actually operating their flight in code-sharing and long-term wet lease arrangements in domestic and international air transportation. *See* 64 FR 12838 (March 15, 1999). Code-share disclosure is important because the identity of the operating carrier is a factor that affects many consumers' purchasing decisions.

Similarly, the Department believes that a carrier's voice call policy is an important factor that may affect consumers' purchasing decisions. Prospective consumers should be aware, from the beginning of a prospective purchase, whether a carrier permits voice calls on its flights. As noted above, the comments to the ANPRM reflected an overwhelmingly negative public reaction to the prospect of permitting voice calls on aircraft. Based on these comments, the Department believes that consumers should be informed, from the beginning of the process, whether a carrier permits voice calls. Similarly, the Department believes that consumers would be unfairly surprised and harmed if they learned only after the purchase of a ticket (or, worse, after boarding the aircraft) that the carrier permits voice calls on its flights. While some carriers or ticket agents may voluntarily or sporadically provide notice of a carrier's voice call policy in the absence of regulation, the Department believes that the systematic and comprehensive notice requirements of proposed Part 260 provide the most effective means of avoiding consumer harm.

The Department proposes that disclosure take place under Part 260 only if the carrier *permits* voice calls; if the carrier chooses to ban such calls, then no disclosure of that fact would be required. The Department reasons that at present, passengers are generally not permitted to make or receive voice calls (whether because of the FCC's rule or otherwise). In other words, the commonly understood status quo is that voice calls are not permitted onboard flights. The

Department does not believe it is necessary for carriers to notify the public if they will follow that status quo.

As proposed, the rule would exempt carriers that operate exclusively with aircraft having a designed seating capacity of less than 60 seats and ticket agents defined as "small businesses" (i.e., ticket agents with $20.5 million or less in annual revenues, or that qualify as a small business pursuant to 13 CFR Part 121). We note that large ticket agents and tour operators that account for a significant portion (more than 60%) of industry revenue would be covered, as would the vast majority of flights booked directly with airlines. The Department seeks comment on whether to apply a notice rule to small businesses, and particularly seeks comments on the costs and benefits of doing so.

The specific notice requirements are set forth in section 260.9. Section 260.9 requires disclosure in two areas: flight itinerary and schedule displays, and oral communications.[23] We will briefly address each subsection in turn.

(a) Flight itinerary and schedule displays.

Subsection (a) would require voice call disclosure on flight itinerary and schedule displays, including on the websites and mobile applications of both carriers and ticket agents with respect to flights in, to, or from the United States. The inclusion of ticket agents reflects the fact that, through the growth and development of the internet and related technologies, more and more ticket agents, especially online travel agencies (OTAs), are able to provide flight schedules and itinerary search functions to the public. Also, we view any ticket agent that markets and is compensated for the sale of air transportation to consumers in the United States, either from a

[23] The code-share disclosure rule also requires written disclosure to consumers at the time of the purchase, and disclosure in written advertisements distributed in or mailed to or from the United States (including those that appear on internet websites). This proposed voice-call disclosure rule contains no such requirements. We solicit comment as to whether these additional disclosures should be required, and the scope thereof.

brick-and-mortar office located in the United States or via an internet website that is marketed towards consumers in the United States, as "doing business in the United States." This interpretation would cover any travel agent or ticket agent that does not have a physical presence in the United States but has a website that is marketed to consumers in the United States for purchasing tickets for flights within, to, or from the United States. We also note that with the usage of mobile devices gaining popularity among consumers, our voice call disclosure requirement with respect to flight schedule and itinerary displays covers not only conventional internet websites under the control of carriers and ticket agents, but also those websites and applications specifically designed for mobile devices, such as mobile phones and tablets.

Furthermore, the text of section 260.9(a) states that voice call policies (i.e., carrier policies where voice calls are permitted) must be disclosed in flight schedules provided to the public in the United States, which include electronic schedules on websites marketed to the public in the United States, by an asterisk or other easily identifiable mark. For schedules posted on a website in response to an itinerary search, disclosure through a rollover, pop-up window, or hyperlink is not sufficient. Moreover, as stated in the rationale behind our recently amended price advertising rule, 14 CFR 399.84, which ended the practice of permitting sellers of air transportation to disclose additional airfare taxes and mandatory fees through rollovers and pop-up windows, we believe that the extra step a consumer must take by clicking on a hyperlink or using a rollover to find out about voice call policies is cumbersome and may cause some consumers to miss this important disclosure.

Our proposal reflects the requirement of 49 U.S.C. 41712(c)(2) on internet offers, which requires that on a website fare/schedule search engine, code-share disclosure must appear on the first display following an itinerary search. Further, section 41712(c)(2) requires that the

disclosure on a website must be "in a format that is easily visible to a viewer." Similarly, we are proposing that the voice call policy disclosure must appear in text format immediately adjacent to each flight where voice calls are permitted, in response to an itinerary request by a consumer. We ask whether the proposed voice-call disclosure format would be clear and prominent to the passenger. As an alternative to the proposed standard, we ask whether a voice call disclosure appearing immediately adjacent to the entire itinerary as opposed to appearing immediately adjacent to each flight would be clear and prominent to the passenger. We also ask whether a symbol, such a picture of cell phone, would be sufficient, rather than disclosure in text format.

With regard to flight schedules provided to the public (whether the schedules are in paper or electronic format), we propose that the voice call disclosure be provided by an asterisk or other identifiable mark that clearly indicates the existence of a voice call policy and directs the reader's attention to another prominent location on the same page indicating in words that the carrier permits voice calls. We seek public comment on whether we should impose the same standard for flight schedules as for flight itineraries provided on the internet in response to an itinerary search, i.e., requiring that the disclosure be provided immediately adjacent to each applicable flight.

(b) Disclosure to prospective consumers in oral communications.

Proposed section 260.9(b) requires that in any direct oral communication in the United States with a prospective consumer, and in any telephone call placed from the United States by a prospective consumer, concerning a flight within, to, or from the United States where voice calls are permitted, a ticket agent doing business in the United States or a carrier shall inform the consumer, the first time that such a flight is offered to the consumer, that voice calls are permitted. This rule requires carriers and ticket agents to disclose the voice call policy the first

time the carrier or ticket agent offers a flight where voice calls are allowed, or, if no such offer was made, the first time a consumer inquires about such a flight. As with the remaining subsections of section 260.9, the purpose of this subsection is to ensure that a prospective consumer understands that voice calls would be permitted on a flight from the beginning of the decisionmaking process, and regardless of whether the consumer ultimately makes a reservation. Because carriers are already required to provide code-share disclosure, the Department believes that there is only a small additional burden to requiring disclosure of voice call policies as well. Subsection (b) requires disclosure only the first time that such a flight is offered to the consumer; the agent need not repeat the voice call policy at every mention of the flight, but should be prepared to repeat the voice call disclosure information upon request. The rule also requires disclosure if no such offer was made, the first time a consumer inquires about such a flight.

The phrase "ticket agent doing business in the United States" is used in the same manner as described in the discussion of that phrase in section 260.9(a) above. Consequently, a ticket agent that sells air transportation via a website marketed toward U.S. consumers (or that distributes other marketing material in the United States) is covered by section 260.9(b) even if the agent does not have a physical location in the United States, and such an agent must provide the disclosure required by section 260.9(b) during a telephone call placed from the United States even if the call is to the agent's foreign location.

While the Department has proposed a disclosure that is based on the code-share disclosure model, we seek comment on other approaches, including whether and to what extent it should require disclosure of voice call policies to consumers. For example, should the Department require airlines that permit voice calls on aircraft to disclose that fact on their general website, outside of the booking path? What information may need to be moved or

deleted to make room for this disclosure? Should ticket agents be required to identify airlines that permit voice calls and disclose that information on their website? If so, where on the website should such disclosure appear? Would a general link to a policy be sufficient, or should disclosure take place on the screen where passengers construct itineraries and/or purchase tickets? Should disclosure take place during telephone reservation and inquiry calls? At all points of sale? Should such disclosure be provided on itinerary or e-ticket documents? If a passenger wishes to learn the full extent of a carrier's voice call policy, beyond the mere disclosure that calls "are permitted," should carriers or ticket agents be required to provide that information on request? If so, how? The Department specifically seeks comments on the costs and benefits of all of these approaches.

Effective Date

The Department proposes that the rule becomes effective 30 days after publication in the Federal Register. We do not anticipate significant concerns with a 30-day effective date; this proposed rule does not require airlines to adopt or alter voice call policies within a specific time frame. Rather, airlines would be permitted to allow voice calls onboard aircraft[24] so long as the airline and its ticket agents properly disclose the airline's voice call policies. To the extent that airlines choose not to permit voice calls, they would not be affected by the 30-day effective date. We seek comment on the costs and benefits of a 30-day effective date.

Regulatory Analyses and Notices

[24] We again stress that DOT's qualified permission of voice calls under this proposed rule would not trump any bans on voice calls issued by other federal agencies. Thus, for example, if the FCC continues to prohibit the use of certain commercial mobile spectrum bands, that prohibition would apply even if the DOT adopts this proposed rule.

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This action has been determined to be significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. A copy of the Preliminary Regulatory Impact Analysis (PRIA) has been placed in the docket.

The PRIA found qualitative consumer benefits in the form of having readily-available flight-specific information regarding a carrier's voice call policy before making air travel purchase decisions. The PRIA did not quantify this benefit. The PRIA estimated aggregate costs for compliance with the proposed rule for 2017-2026 (including costs for revising web sites and for training personnel) to be $41 million for carriers and $46 million for ticket agents. A summary of these findings is set forth below.

Summary of Benefits and Costs

Proposed Option	Nature of Benefits	Quantitative Measure	Nature of Costs	Quantitative Measure
Require disclosure of possible voice call exposure prior to ticket purchase	Improved information for those who wish to avoid (or make) voice calls	Tickets purchased for 10.2 billion enplanements, 2017-2026	Web site programming and call center labor hours for large carriers, ticket agents	Carrier costs of $41 million and ticket agent costs of $46 million, 2017-2026

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. DOT defines small carriers based on the standard published in 14 CFR 399.73 as carriers that provide

air transportation exclusively with aircraft that seat no more than 60 passengers. Ticket agents qualify as a small business if they have $20.5 million or less in annual revenues. 13 CFR 121.201.

The Department does not expect this rule to have a significant economic impact on a substantial number of small entities. The proposed rule contains an exemption for small carriers and small ticket agents. On the basis of the analysis provided in the PRIA and IRFA, I hereby certify that this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13132 (Federalism)

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This rulemaking does not include any provision that: (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibility among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. States are already preempted from regulating in this area by the Airline Deregulation Act, 49 U.S.C. § 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13084

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this rulemaking does not significantly or uniquely affect the communities of the Indian Tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

E. Paperwork Reduction Act

The Department has determined that this proposed rule is subject to the requirements of the Paperwork Reduction Act (PRA) because it adopts new information gathering requirements on airlines and ticket agents. The Department will publish a separate 30 day and 60 day notice in the Federal Register inviting comment on the new information collection requirements contained in this document. As prescribed by the PRA, the requirements will not go into effect until the Office of Management and Budget (OMB) has approved them and the Department has published a notice announcing the effective date of the information collection requirements.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rule.

G. *National Environmental Policy Act*

The Department has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). *See* 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. Paragraph 3.c.6.i of DOT Order 5610.1C categorically excludes "[a]ctions relating to consumer protection, including regulations." As noted above, this rulemaking relates to consumer protection. The

Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Proposed Rule Text

For the reasons set forth in the preamble, the Department of Transportation proposes to add a new Part 260:

List of Subjects in 14 CFR Part 260

Air Carriers, Ticket Agents, Voice Calls, Mobile Wireless Devices, Consumer Protection.

Disclosure When Voice Calls are Permitted

Authority: 49 U.S.C. 41712.

Part 260 – Disclosure about Voice Calls Onboard Aircraft

§ 260.1 — Purpose.

The purpose of this part is to ensure that ticket agents doing business in the United States, air carriers, and foreign air carriers inform consumers clearly when the air transportation they are buying or considering buying permits passengers to use their mobile wireless devices for voice calls onboard the flight.

§ 260.3 — Applicability.

Except as noted in section 260.11, this part applies to the following:

U.S. and foreign air carriers marketing scheduled or charter air transportation where voice calls are permitted onboard flights; and

Ticket agents doing business in the United States that market scheduled or charter air transportation where voice calls are permitted onboard flights.

§ 260.5 — Definitions.

As used in this part:

Air transportation means foreign air transportation or intrastate or interstate air transportation.

Carrier means any air carrier or foreign air carrier as defined in 49 U.S.C. 40102(a)(2) or 49 U.S.C. 40102(a)(21), respectively, that is marketing scheduled or charter passenger air transportation.

Mobile wireless device means any portable wireless telecommunications device not provided by the covered carrier that is used for the transmission or reception of voice calls. The term includes, but is not limited to, passenger cellular telephones, computers, tablets, and other portable electronic devices using radio signals or Voice over Internet Protocol.

Ticket agent has the meaning ascribed to it in 49 U.S.C. 40102(a)(45), and DOT regulations.

Voice call means an oral communication made or received by a passenger using a mobile wireless device.

§ 260.7 — Unfair and deceptive practice.

The holding out or sale of scheduled or charter passenger air transportation is prohibited as unfair and deceptive in violation of 49 U.S.C. § 41712 unless, in conjunction with such holding out or sale, carriers and ticket agents follow the requirements of this part.

§ 260.9 — Notice requirement.

(a) *Notice in flight itineraries and schedules.* Each air carrier, foreign air carrier, or ticket agent providing flight itineraries and/or schedules for scheduled or charter passenger air transportation to the public in the United States shall ensure that each flight within, to, or from the United States on which voice calls are permitted is clearly and prominently identified and contains the following disclosures.

(1) In flight schedule information provided to U.S. consumers on desktop browser-based or mobile browser-based internet websites or applications in response to any requested itinerary search, for each flight on which voice calls are permitted, notice that voice calls are permitted must appear prominently in text format on the first display following the input of a search query, immediately adjacent to each flight in that search-results list. Roll-over, pop-up and linked disclosures do not comply with this paragraph.

(2) For static written schedules, each flight in passenger air transportation where voice calls are permitted shall be identified by an asterisk or other easily identifiable mark that leads to disclosure of notification that voice calls are permitted.

(b) *Notice in oral communications with prospective consumers.* In any direct oral communication in the United States with a prospective consumer, and in any telephone call placed from the United States by a prospective consumer, concerning a flight within, to, or from the United States where voice calls are permitted, a ticket agent doing business in the United States or a carrier shall inform the consumer, the first time that such a flight is offered to the

consumer, or, if no such offer was made, the first time a consumer inquires about such a flight, that voice calls are permitted.

(c) Each air carrier and foreign air carrier that permits voice calls via passenger devices shall provide notification to all ticket agents that receive and distribute the U.S. or foreign carrier's fare, schedule, and availability information of the fact that voice calls via passenger devices are permitted during the flight. This notification shall be useable, current, and accurate, and suitable for providing the notices to prospective air travelers required by paragraphs (a) and (b) of this section.

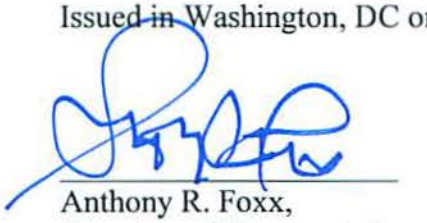
§ 260.11 — Exceptions.

This Part does not apply to:

Air carriers or foreign air carriers providing air transportation only with aircraft having a designed passenger capacity of less than 60 seats.

Ticket agents with $20.5 million or less in annual revenues, or that qualify as a small business pursuant to 13 CFR Part 121.

Issued in Washington, DC on _____:



Anthony R. Foxx,
Secretary of Transportation.