



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

Issued by the Department of Transportation  
On the Twenty-Third day of June, 2010

**Cayman Airways Limited**

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

**Docket OST-2010-0005**

**Served: June 23, 2010**

**CONSENT ORDER**

This order concerns violations by Cayman Airways Limited (Cayman Airways) of the requirements of 14 CFR Part 382 (Part 382), with respect to filing annual reports detailing disability-related complaints that the foreign air carrier received from passengers in calendar year 2009, and violations of a previous consent cease and desist order against Cayman Airways regarding reporting of disability-related complaints.<sup>1</sup> Part 382 implements the Air Carrier Access Act (ACAA), 49 U.S.C. § 41705, and violations of that part also violate the ACAA. This order directs Cayman Airways to cease and desist from future similar violations of Part 382 and the ACAA and assesses the carrier \$50,000 in civil penalties.

Under section 382.157 [formerly section 382.70<sup>2</sup>], covered foreign carriers (i.e. foreign air carriers operating passenger service to and from the United States with at least one aircraft having a design capacity of more than 60 passenger seats) must, among other things, submit an annual report to the U.S. Department of Transportation (Department) summarizing the disability-related complaints that they received the prior calendar year.<sup>3</sup> Foreign air carriers are required to submit information only with respect to disability-related complaints associated with any flight segment originating or terminating in the United States. The annual report to the Department is

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<sup>1</sup> Cayman Airways committed similar violations in 2004, 2005, and 2006, that resulted in the issuance of a consent order directing Cayman Airways to cease and desist from further violations of section 382.70 (now section 382.157). See Cayman Airways, Violations of 49 U.S.C. §41705 and 14 CFR Part 382, Order 2007-10-19 (October 16, 2007).

<sup>2</sup> On May 13, 2009, 14 CFR 382.70 changed to 14 CFR 382.157; however, its substance, as is pertinent here, remains the same.

<sup>3</sup> In addition, the rule requires a carrier to record complaints that it receives alleging discrimination or inadequate accessibility on the basis of a disability. The complaints are to be categorized according to the passenger's type of disability and nature of complaint. The rule also requires that covered carriers retain a copy of each disability-related complaint that the carrier receives and a record of the action taken on the complaint for three years.

due each year on the last Monday in January. The annual report covering calendar year 2009 was due to the Department on January 25, 2010.

To comply with 49 U.S.C. § 41705 which requires, among other things, that the Secretary of Transportation “regularly review all complaints received by air carriers alleging discrimination on the basis of disability . . . and report annually to Congress on the results of such review,” and to ensure that consumers can compare the overall disability complaints filed against particular carriers, the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) is committed to ensuring carriers file disability-related reports as required. To this end, the Enforcement Office has made efforts to ensure compliance with section 382.157, including providing carriers and carrier associations information about the disability reporting requirements and posting a copy of the disability reporting rule on its Aviation Consumer Protection Division’s website.

Cayman Airways, based in the Cayman Islands, operates scheduled service to and from the United States with an average of five daily flights utilizing five Boeing 737-300 aircraft. The carrier offers service to a number of U.S. cities, including Miami and New York. According to the Department’s records, the carrier did not submit an annual report for calendar year 2009 until April 19, 2010, despite repeated inquiries from the Aviation Consumer Protection Division. Therefore, Cayman Airways violated section 382.157 and the ACAA when it did not submit reports in a timely manner that detailed the disability-related complaints that it received in calendar years 2009 regarding flights originating or terminating in the United States. In mitigation, Cayman Airways notes that it did not have any disability related complaints in 2009.

We view seriously Cayman Airways’ continued failure to submit the reports on time as required by section 382.157. Accordingly, after carefully considering all the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. By this order, the Department finds that Cayman Airways failed to timely submit reports detailing the disability-related complaints that it received in calendar year 2009 in violation of Order 2007-10-19, 14 CFR Part 382 and 49 U.S.C. § 41705.

In order to avoid litigation, Cayman Airways has agreed to settle these matters with the Enforcement Office and enter into this consent order directing Cayman Airways to cease and desist from future similar violations of Part 382 and 49 U.S.C. § 41705, and assessing \$50,000 in compromise of potential civil penalties otherwise due and payable. We believe that this assessment is appropriate and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's reporting requirements by Cayman Airways, as well as by other domestic and foreign air carriers.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

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 Cayman Airways Limited violated 14 CFR 382.157 by failing to submit a timely annual report for calendar year 2009 to the Department of Transportation summarizing the disability-related complaints that it received in 2009;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above, Cayman Airways Limited violated 49 U.S.C. § 41705;
4. We find that by engaging in the conduct described in paragraphs 2 and 3 above, Cayman Airways Limited violated Department Order 2007-10-19;
5. Cayman Airways Limited and all other entities owned or controlled by Cayman Airways Limited its successors and assignees are ordered to cease and desist from further violations of 14 CFR 382.157 and 49 U.S.C. § 41705;
6. Cayman Airways Limited is assessed \$50,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2, 3, and 4, above. Of this total penalty amount, \$30,000 shall be due and payable within 15 days from the date of issuance of this order. The remaining \$20,000 shall become due and payable if Cayman Airways Limited violates this order's cease and desist or payment provisions within one year following the date of issuance of this order, in which case the entire unpaid portion of the civil penalty shall become due and payable immediately, and Cayman Airways Limited may be subject to additional enforcement action for failure to comply with this order. Failure to pay the penalty as ordered shall also subject Cayman Airways Limited to the assessment of interest, penalty, and collection charges under the Debt Collection Act; and
7. Payment shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," to the account of the U.S. Treasury in accordance with the attached instructions

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:**

ROSALIND A. KNAPP  
Deputy General Counsel

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