



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

**Issued by the Department of Transportation
on the 25th day of July, 2014**

**Turkish Airlines
(Türk Hava Yolları, A.O.)**

**Violations of 14 CFR 259.5, 14 CFR 259.7,
14 CFR 382.155, and 49 U.S.C. §§ 41705 and
41712**

Docket OST 2014-0001

Served July 25, 2014

CONSENT ORDER

This consent order concerns violations by Turkish Airlines (Türk Hava Yolları, A.O.) (THY) of 14 CFR 259.5 and 259.7 requiring carriers to provide timely substantive written responses to written consumer complaints and 14 CFR 382.155 requiring carriers to provide timely dispositive written responses to written disability-related air travel complaints alleging a violation of 14 CFR Part 382. A violation of 14 CFR Part 259 is also a violation of 49 U.S.C. § 41712, which prohibits carriers from engaging in unfair and deceptive practices and unfair methods of competition. A violation of 14 CFR Part 382 constitutes a violation of 49 U.S.C. § 41705 and 49 U.S.C. § 41712. This order directs THY to cease and desist from future similar violations and assesses a compromise civil penalty of \$300,000.

Applicable Law

14 CFR Part 259 provides for enhanced protections for airline passengers. Pursuant to 14 CFR 259.7(c), covered carriers¹ must acknowledge receipt of written complaints regarding scheduled service within 30 days of receipt of the complaint. Within 60 days of receipt of the complaint, the carrier must provide a substantive written response to the complaint.² Further, pursuant to 14 CFR 259.5(b)(11), a covered carrier must adhere to a

¹ For the purposes of 14 CFR Part 259, covered carriers are certificated, commuter, or foreign air carriers operating to, from, or within the United States, conducting scheduled passenger service or public charter service with at least one aircraft having a designed seating capacity of 30 or more seats.

² The Office of Aviation Enforcement and Proceedings policy permits carriers to respond to consumer complaints under 14 CFR 259.7(c) through a telephone call provided that the carrier maintains a record of the conversation(s), including the name of the carrier employee, the name of the individual with whom the

customer service plan which includes a commitment that ensures responsiveness to consumer problems. Failure to provide a written acknowledgment within 30 days and a written substantive response within 60 days violates sections 259.5 and 259.7 and constitutes an unfair and deceptive practice in violation of 49 U.S.C. § 41712.

14 CFR 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 the ACAA and Part 382 are unfair and deceptive practices in violation of 49 U.S.C. § 41712. Pursuant to 14 CFR 382.155(d), covered carriers³ 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.

Facts and Conclusions

THY is a foreign air carrier based in Istanbul, Turkey, that operates scheduled passenger service to and from the United States using at least one aircraft having a design seating capacity of more than 60 passenger seats. Therefore, THY is subject to the response requirements of 14 CFR Parts 259 and 382. The Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) found that since August 23, 2011, the effective date of 14 CFR Part 259 to foreign carriers, THY failed to provide timely responses to a large number of consumer complaints and several disability-related complaints that the Department's Aviation Consumer Protection Division (ACPD) received directly from consumers and forwarded to the carrier. THY also did not assure the Department that it provided substantive responses to the larger amount of complaints that it received directly from consumers, although such complaints were timely acknowledged. The carrier acknowledged that since rapidly expanding its U.S. presence, it had fallen behind in adequately staffing its customer service department. After being contacted by the Enforcement Office, THY provided responses to the overdue consumer- and disability-related complaints that the ACPD had forwarded to the carrier and made significant changes to its procedures for handling consumer complaints, and committed additional resources to ensure future compliance with sections 14 CFR 259.5(b)(11), 14 CFR 259.7(c), and 14 CFR 382.155(d).

employee spoke, the date and time of the call, and a summary of the substance of the conversation sufficient to permit a reviewer to determine whether the principal issue in the complaint were addressed. See *Answers to Frequently Asked Questions Concerning the Enforcement of the Second Final Rule on Enhancing Airline Passenger Protections (EAPP #2)*, Section VII, Question #7, Revised on June 15, 2012, available at www.dot.gov/airconsumer.

³ For the purposes of section 382.155, covered carriers are U.S. and foreign air carriers operating passenger service to, from, or within the United States with at least one aircraft having a design seating capacity of more than 19 seats.

Mitigation

In mitigation, THY states that it is fully committed to observing the Department's consumer protection requirements and to providing outstanding customer service. THY points out that it has fully cooperated with the Department during its investigation. THY also states that it has substantially expanded its U.S. services in recent years, thus creating an increased workload on its customer service department. According to the carrier, on its own initiative, it provided vouchers to complainants who may not have received a timely complaint response, regardless of the merits of the complaint. THY states that in order to ensure prompt responses and improved customer service, THY has centralized and prioritized its complaint response coordination; quadrupled the number of customer service agents in the United States; implemented new complaint management software; retrained its customer service employees; and has adopted, or is experimenting with, a number of other customer service-related improvements.

THY also states that it has made significant system-wide investments in baggage tracking and reconciliation systems, including systems for managing passenger claims and replacing damaged passenger luggage from a stock maintained by THY, all of which are part of THY's ongoing efforts to enhance and improve customer service.

Decision

The Enforcement Office has carefully considered the information provided by THY but continues to believe that enforcement action is warranted. The Enforcement Office and THY have reached a settlement of this matter in order to avoid litigation. THY consents to the issuance of this order to cease and desist from future similar violations of 14 CFR Parts 259 and 382, and 49 U.S.C. §§ 41705 and 41712, and to the assessment of \$300,000 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 provides a strong incentive for THY and other carriers to provide substantive and dispositive responses to complaints in a timely manner, as required.

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 Turkish Airlines violated 14 CFR 259.5(b)(11) and 259.7(c) by failing to provide timely substantive responses to complaints involving scheduled service;

3. We find that Turkish Airlines violated 14 CFR 382.155(d) by failing to provide timely dispositive written responses to written complaints alleging a violation of Part 382;
4. We find that Turkish Airlines in the instance described in ordering paragraph 3, above, violated 49 U.S.C. § 41705;
5. We find that by engaging in the conduct described in paragraphs 2 through 4, above, Turkish Airlines engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
6. We order Turkish Airlines its successors, its affiliates, and all other entities owned by, controlled by, or under common ownership and control with Turkish Airlines its successors, its affiliates, and its assigns to cease and desist from further violations of 49 U.S.C. §§ 41705 and 41712 and 14 CFR Parts 259 and 382;
7. We assess Turkish Airlines a compromise civil penalty of \$300,000 in lieu of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 through 5, above;
 - a. \$280,000 of the assessed civil penalty shall be due and payable within 60 days of the service date of this order; and
 - b. \$20,000 of the assessed penalty shall be credited to Turkish Airlines for vouchers that were provided to affected consumers;⁴ and
8. We order Turkish Airlines to pay the penalty as ordered in paragraph 7 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 Turkish Airlines 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 WORKIE
Acting Assistant General Counsel for
Aviation Enforcement and Proceedings**

*An electronic version of this document is available at
www.regulations.gov*

⁴ This credit is based on 80 percent of the value of the vouchers provided to affected consumers.