



November 19, 1996

**THIS LETTER WAS SENT TO THE U.S. AND FOREIGN
AIR CARRIERS LISTED AT THE END OF THE LETTER.**

This letter concerns the "Report of Passengers Denied Confirmed Space" (Form 251, copy enclosed), sometimes referred to as the "Bumping Report." The submission of this form is required of certain U.S. and foreign airlines in order to provide the Department of Transportation (DOT) with information on airline oversales. This information is then compiled and published in our monthly *Air Travel Consumer Report* to assist the public. We are sending you and the other reporting airlines this letter to advise you of several incorrect practices we have noted in reviewing air carrier submissions, and to seek your help in eliminating them.

The first area of concern involves the practice of reporting passengers as voluntary denied boardings when, in fact, they were denied boarding involuntarily. Such circumstances can arise when persons, with tickets and confirmed reservations, arrive late for check-in for flights which are oversold, are otherwise full, or have been closed out for departure but are still given denied boarding compensation or other forms of monetary or non-monetary compensation. Some airlines incorrectly interpret this procedure as tantamount to voluntary denied boarding, either because the oversales rule provides that airlines are not required to pay compensation in the event the traveler fails to meet the check-in deadline, or because the passenger has "voluntarily" accepted a voucher or other form of compensation. Airlines have used this incorrect interpretation to explain to us those cases where their Form 251 reports show that there were no denied boardings due to late check-in.

As paragraph (d) of the instructions to the Form 251 clearly explains,

A passenger who "volunteers" is a person who responds to the carrier's request for volunteers pursuant to section 250.2(b) of DOT regulations and willingly consents to exchange his or her confirmed reserved space for a payment of the carrier's choosing. Any passenger selected by the carrier for denied boarding in accordance with any boarding priority other than a request for volunteers is considered to have been denied boarding "involuntarily," whether or not the passenger accepts denied boarding compensation.

To be reported as a volunteer on Form 251, the passenger must be given the option to board the flight. When people are bumped involuntarily, offering compensation does not qualify them to be classified as volunteers on Form 251, even if they were ineligible for denied boarding compensation. In other words, any late check-ins who hold confirmed reservations and who are not permitted to board the plane should be reported as denied boarding involuntarily, whether or not they receive compensation.

A second problem we wish to bring to your attention also concerns passengers who are denied boarding for reasons which would not result in their being eligible for or being paid denied boarding compensation under Part 250, the oversales rule. These include (1) persons accommodated on an alternate flight which is planned to arrive within one hour of the arrival time of the original flight, and (2) situations involving the substitution of smaller-capacity aircraft.

In both of these instances passengers holding confirmed reservations have been denied boarding involuntarily, whether or not they receive compensation. The fact that no compensation is required does not relieve a carrier of its obligation to report the involuntary denied boarding to DOT, nor does an airline's decision, as a matter of policy, to pay compensation to passengers in aircraft substitution situations. I wish to reemphasize that, for accounting purposes, such persons must be treated as involuntary denied boardings.

We believe that the problems noted above can be corrected through voluntary compliance by the industry without the need for further action by us. However, you should note that the misreportings we have described in this letter result in inaccurate information being provided to the traveling public and amount to violations of the reporting requirements of 14 CFR Part 250 and 49 U.S.C. 41708, as well as potential criminal violations of 49 U.S.C. 46310 and 46316. With your cooperation, we believe that enforcement action can be avoided.

We would appreciate your disseminating the information in this letter to the appropriate officials in your company. In

addition, we request that they conduct a review of your company's data collection and reporting procedures to ensure that the practices noted above do not exist in your company. Please ensure that the individuals who have direct responsibility for completing Form 251 reports have copies which include the instructions on its reverse side (see enclosed sample), and that any internal forms used at your field offices to collect oversales data are consistent with the data elements of Form 251. If you have any questions, please call Hoyte Decker, Assistant Director for Aviation Consumer Protection, at (202) 366-5957 or Dayton Lehman, my deputy, at (202) 366-9342.

Sincerely,

Samuel Podberesky

Assistant General Counsel for Aviation Enforcement and Proceedings

Enclosure

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