



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

Issued by the Department of Transportation  
on the 1<sup>st</sup> day of September, 2017

**United Airlines, Inc.**

**Violations of 49 U.S.C. § 41721 and  
14 CFR Part 235**

**Docket DOT-OST-2017-0001**

**Served September 1, 2017**

**CONSENT ORDER**

This consent order concerns violations of 49 U.S.C. § 41721 and the reporting requirements specified in 14 CFR Part 235 for reporting inaccuracies by United Airlines, Inc., (“United”). This order directs United to cease and desist from future similar violations of 49 U.S.C. § 41721 and 14 CFR Part 235, and assesses United a compromise civil penalty of \$80,000.

**Applicable Law**

Pursuant to 14 CFR Part 235, U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats must submit to the United States Department of Transportation’s (“Department”) Aviation Consumer Protection Division (“ACPD”) monthly reports on any incidents involving the loss, injury, or death of an animal<sup>1</sup> during air transport.<sup>2</sup> Additionally, section 235.3(b) states that within 15 days after the end of December of each year, each covered carrier shall also submit to the ACPD the total number of reportable incidents for the entire calendar year and the total number of animals transported in the calendar year (hereinafter “annual animal report”).<sup>3</sup> This report

<sup>1</sup> An “animal” is defined as “any warm- or cold-blooded animal which, at the time of transportation, is being kept as a pet in a family household in the United States and any dog or cat which, at the time of transportation, is shipped as part of a commercial shipment on a scheduled passenger flight.” 14 CFR 235.1.

<sup>2</sup> The monthly reports must be submitted within 15 days after the end of the month to which the information applies. 14 CFR 235.3(a).

<sup>3</sup> The annual report covering calendar year 2015 was due by January 15, 2016.

must be accompanied by a certification of its accuracy. The data are then published and made available to the public in a useable format in the Department's monthly *Air Travel Consumer Report* ("ATCR"). ATCR data are used by the traveling public to choose among transportation options and to obtain information on the quality of services provided by the airlines. Additionally, carriers use ATCR data as a basis for making advertising claims regarding the quality of their service compared to other carriers. Therefore, it is imperative that ATCR data be accurate. Failure to submit accurate animal incident reports in a timely manner violates Part 235 and 49 U.S.C. § 41721.

### **Facts and Conclusions**

On January 15, 2016, United submitted to the ACPD its certified annual animal report for calendar year 2015, in which United reported that it transported a total of 196,920 animals under the applicable definitions in Part 235.

On December 20, 2016, United disclosed to the Office of Aviation Enforcement and Proceedings ("Enforcement Office") that the total number of animals transported in calendar year 2015 that it originally reported was inaccurate. United reported that it in fact had carried 97,156 animals during calendar year 2015. United explained that it discovered during a self-audit that its system erroneously counted animals other than the types of animals required in Part 235. As a result of United's misreporting, United's "incidents per 10,000 animals transported rating" increased from 1.17 to 2.37, and United's connection carriers were forced to amend their number as they had relied on the accuracy of United's submissions.

### **Response**

In mitigation, United notes that the total number of animals transported at issue in this order was a new requirement in 2015 and resulted in confusion among some carriers in implementation. United highlights that it only amended its numbers once, not multiple times; the inaccurate data was never published in the ATCR; and that it voluntarily disclosed the error following a self-audit. United also notes that since uncovering the reporting issue, and to prevent similar errors in the future, United has updated its internal procedures to ensure clarity in documenting whether the animal meets the definition in Part 235. United believes these initiatives will facilitate accuracy in tracking and reporting these numbers in the future.

United states that it is committed to ensuring compliance with government regulations and to promoting the highest level of service to its customers. United notes that it has worked collaboratively with the Department to resolve this issue in good faith and in the spirit of cooperation and transparency. While United believes this particular unintentional reporting inaccuracy does not merit enforcement action, United has agreed to this consent order in the interest of resolving this matter without further litigation.

### **Decision**

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The Enforcement Office views seriously United's violations of 49 U.S.C. § 41721 and 14 CFR Part 235. Accordingly, after carefully considering all the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. In order to avoid litigation, and without admitting or denying the violations described above, United consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41721 and 14 CFR Part 235 and to the assessment of \$80,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301. The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent against future similar unlawful practices by United and other carriers.

This order is issued under the authority contained in 14 CFR Part 1.

**ACCORDINGLY,**

1. Based on the above information, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that United Airlines, Inc., violated 49 U.S.C. § 41721 and 14 CFR Part 235 by failing to file accurate animal reporting statistics, as described above;
3. We order United Airlines, Inc., and its successors and assigns to cease and desist from further violations of 49 U.S.C. § 41721 and 14 CFR Part 235 as described above;
4. We assess United Airlines, Inc., \$80,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total amount, \$40,000 shall be due and payable within 30 days of the service date of this order. The remaining \$40,000 shall become due and payable if, within one year of the service date of this order, United Airlines, Inc., violates this order's cease and desist or payment provision, in which case the entire unpaid amount shall become due and payable immediately, and United Airlines, Inc., may be subject to additional enforcement action for failure to comply with this order; and
5. We order United Airlines, Inc., to pay within 30 days of the issuance of this order the penalty assessed in Ordering Paragraph 4, above, through Pay.gov to the account of the U.S. Treasury. Payment shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject United Airlines, Inc. 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 A. WORKIE**  
**Assistant General Counsel for**  
**Aviation Enforcement and Proceedings**

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