



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

Issued by the Department of Transportation
on the 1st day of June 2018

**Icelandair Group, a/k/a Flugleidir, h.f., d/b/a
Icelandair**

**Violations of 14 CFR Part 259 and
49 U.S.C. § 41712**

Docket OST-2018-0001

Served June 1, 2018

CONSENT ORDER

This consent order concerns violations by Icelandair Group, a/k/a Flugleidir, h.f., d/b/a Icelandair (Icelandair) of 14 CFR Part 259 and 49 U.S.C. § 41712. Specifically, Icelandair failed to adhere to the assurance in its contingency plan for lengthy tarmac delays to provide adequate food on a departing flight no later than two hours after the aircraft leaves the gate. This order directs Icelandair to cease and desist from future similar violations of 14 CFR Part 259 and 49 U.S.C. § 41712, and assesses the carrier \$40,000 in civil penalties.

Applicable Law

Pursuant to section 259.4 of the Department's rules (14 CFR 259.4), covered carriers, which include any foreign air carrier conducting scheduled passenger service or public charter service with at least one aircraft having a designed seating capacity of 30 or more seats, are required to adopt, implement, and adhere to contingency plans for lengthy tarmac delays at each large hub, medium hub, small hub, and non-hub airport. Section 259.4(b)(2) requires that for international flights operated by a covered carrier that depart from or arrive at a U.S. airport, the carrier will not permit an aircraft to remain on the tarmac at a U.S. airport for more than four hours before allowing passengers to deplane, unless the pilot-in-command determines there is a safety-related or security-

related reason why the aircraft cannot leave its position on the tarmac to deplane passengers, or unless air traffic control advises the pilot-in-command that returning to the gate or another disembarkation point elsewhere in order to deplane passengers would significantly disrupt airport operations.

Pursuant to section 259.4(b)(3), covered carriers are required to provide adequate food and water no later than two hours after the aircraft leaves the gate (in the case of departure) or touches down (in the case of arrival) if the aircraft remains on the tarmac, unless the pilot-in-command determines that safety or security considerations preclude such service. Further, section 259.4(b)(7) of the rule requires each covered carrier to have sufficient resources to implement its contingency plan. A covered carrier's failure to comply with the assurances required by section 259.4 and as contained in the carrier's contingency plan for lengthy tarmac delays constitutes an unfair and deceptive practice within the meaning of 49 U.S.C. § 41712.

Facts and Conclusions

Icelandair is a foreign air carrier as defined by 49 U.S.C. § 40102(a)(21)¹ that operates scheduled passenger service at Washington Dulles International Airport (IAD), a large hub airport, and uses at least one aircraft having a design capacity of more than 30 passenger seats. Icelandair has adopted a contingency plan for lengthy tarmac delays covering its operations at all U.S. airports, including diversion airports.

An investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) revealed that on May 20, 2017, Icelandair Flight 646, from IAD to Keflavik International Airport, experienced a tarmac delay of three hours and 26 minutes at IAD. The aircraft pushed back from the gate and parked at a remote stand to address maintenance issues. At no time between the aircraft leaving the gate at 2:42 p.m. and takeoff at 6:01 p.m. did Icelandair offer food to the passengers onboard. Icelandair's failure to provide adequate food no later than two hours after the aircraft left the gate, without any justification based on safety or security considerations, violated 14 CFR 259.4(b)(3), 14 CFR 259.4(b)(7), and 49 U.S.C. § 41712.

Response

Following this event, Icelandair has reviewed its procedures concerning service onboard during ground delays. According to Icelandair, this review has resulted in emphasizing timely offer of water and food to passengers even during delays which are expected to be short. Icelandair states that the training for both flight crew and senior cabin includes the need to assess the possibility of an unforeseen extension of what initially is deemed to be a short delay for instance due to, as in this case, a mechanical malfunction. Icelandair expects that the amendment to these procedures will prevent an event of this nature to reoccur.

Decision

¹ 49 U.S.C. § 40102(a)(2) defines a foreign air carrier as "a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation."

The Enforcement Office views seriously Icelandair's violations of 14 CFR Part 259 and 49 U.S.C. § 41712. 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 Icelandair failed to adhere to the assurance in its contingency plan for lengthy tarmac delays to provide adequate food to passengers no later than two hours after an aircraft leaves the gate (in the case of a departure).

In order to avoid litigation, Icelandair has agreed to settle this matter with the Enforcement Office and enter into this consent order directing the carrier to cease and desist from future similar violations of 14 CFR Part 259 and 49 U.S.C. § 41712, and assessing \$40,000 in compromise of potential civil penalties otherwise due and payable. 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 to future similar unlawful practices by Icelandair and other carriers.

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 Icelandair Group, a/k/a Flugleidir, h.f., d/b/a Icelandair violated 14 CFR 259.4(b)(3), and 14 CFR 259.4(b)(7) by failing to adhere to the assurance in its contingency plan for lengthy tarmac delays that it will provide passengers adequate food no later than two hours after an aircraft touches down (in the case of a departure);
3. We find that by engaging in the conduct described in ordering paragraph 2 above, Icelandair Group, a/k/a Flugleidir, h.f., d/b/a Icelandair engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order Icelandair Group and its successors and assigns to cease and desist from further violations of 14 CFR Part 259 and 49 U.S.C. § 41712;
5. We assess Icelandair Group \$40,000 in civil penalties in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 above. Of this total amount, \$20,000 shall be due and payable on June 30, 2018. The remaining \$20,000 shall become due and payable if, within one year of the service date of this order, Icelandair Group violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately and Icelandair Group may be subject to additional enforcement action for failure to comply with this order.
6. We order Icelandair Group to pay within 30 days of the issuance of this order the penalty assessed in ordering paragraph 5 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 Icelandair Group 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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