

DOT Enforcement of its Prohibitions on Unfair and Deceptive Practices, 2018 (June 2019)

When the Civil Aeronautics Board (CAB) was abolished in 1985, a significant portion of its authority was transferred to the Department of Transportation (DOT). One of the most noteworthy powers now exercised by DOT is to prohibit any “unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation.”¹ Moreover, DOT’s authority over these matters is exclusive; states and municipalities are preempted from imposing their own requirements “related to a price, route, or service of an air carrier.”² For more than thirty years, DOT has exercised its authority under this statute and associated regulations to monitor and sanction practices by air carriers, ticket agents, and other entities involved in air transportation.

DOT Oversight of Air Carriers and Ticket Agents

DOT has several regulatory tools at its disposal for responding to allegedly unfair or deceptive practices, including a private warning or cease-and-desist letter; a public consent order (pursuant to which the air carrier, agent, or other entity usually agrees to pay a fine); or a formal enforcement action before a DOT Administrative Law Judge (ALJ). DOT also periodically issues public notices setting forth its policies for advertising and other practices, and can issue new regulations via rulemaking proceedings. Consent orders are by far the most commonly used tool in DOT’s arsenal. In 2018, DOT issued seventeen consent orders, nominally assessing more than \$ 1.8 million in civil penalties.³

In the past year, DOT’s Office of Aviation Enforcement and Proceedings continued to closely monitor and investigate practices by air carriers, ticket agents, and other entities involved in the sale of air transportation. Although one of DOT’s areas of greatest concern continues to be its “full fare rule” disclosure requirements for advertising by air carriers and ticket agents, DOT also has taken enforcement action regarding an array of other requirements, ranging from other consumer protection requirements, to DOT’s rules for passengers with disabilities, to carrier data reporting mandates.



The firm’s practice encompasses virtually every aspect of aviation law, including advising domestic and foreign airlines on compliance with the DOT’s rules on the advertising and sale of air transportation.

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This article briefly summarizes the consent orders and other public guidance that were issued by DOT in 2018, as well as related agency actions and court decisions, and certain actions by other federal government agencies that affect the disclosures made by and the practices of carriers and ticket agents.

FAA Reauthorization Act

Although primarily concerned with financial and technical matters, the FAA Reauthorization Act of 2018⁴ addressed certain consumer protection issues within DOT's jurisdiction, notably including:

- **Voice Calls Prohibition.** DOT has been instructed to issue regulations prohibiting passengers from making voice calls using mobile devices on flights within the U.S.⁵ DOT previously had proposed to allow voice calls, with limitations;⁶ however, that proposal was dependent on FCC technical approvals, which in 2017 the FCC informally stated would not be forthcoming.
- **Enhanced Notification of Insecticide Use.** Previously carriers were required to refer consumers to DOT's web page regarding the possible use of insecticides.⁷ Congress has directed that carriers provide disclosures on their own websites if a destination country may require an aircraft cabin to be treated with insecticide.⁸
- **Gate-Checking Strollers.** Congress has directed that passengers be allowed to check a stroller at the departure gate if the stroller is being used by a passenger to transport a child traveling on the same flight with the passenger. There is an exception where the size of the stroller poses a safety or security risk.⁹
- **Refunds for Ancillary Fees.** DOT has been instructed to issue regulations requiring carriers to refund "any ancillary fees paid for services related to air travel that the passenger does not receive, including on the passenger's scheduled flight, on a subsequent replacement itinerary if there has been a rescheduling, or for a flight not taken by the passenger."¹⁰
- **Consumer Protection Hotline.** DOT has been instructed to establish a toll-free consumer protection telephone hotline, and to require carriers to publicize the hotline.¹¹
- **"TICKETS Act" (Transparency Improvements and Compensation to Keep Every Ticketholder Safe).** Carriers are prohibited from denying boarding to or removing a passenger if the passenger (i) has checked in for the flight prior to the check-in deadline and (ii) has had their ticket or boarding pass collected or electronically scanned and accepted by the gate agent.¹²
- **Large Ticket Agent Consumer Protections.** DOT has been instructed to issue regulations setting customer service standards for large ticket agents, aligned with the standards previously adopted by DOT for carriers. For the purposes of this requirement, intermediaries are considered to be agents, and the "large" threshold is \$100 million in annual revenue.¹³
- **Passenger Rights Documentation.** DOT has been instructed to collect a one-page statement from carriers describing the rights of passengers for certain matters that are subject to little or no DOT regulation, including compensation for flight delays and cancellations, compensation for mishandled baggage, and compensation for voluntary relinquishment of a ticketed seat.¹⁴
- **Service Animal Standards.** DOT has been instructed to issue regulations updating its service animal requirements. Although Congress has not mandated a specific outcome, it has stated that DOT should consider harmonizing its standards with those of the Americans with Disabilities Act, as well as if identification, documentation, and training should be required for service animals.¹⁵

Tarmac Delay Plans

DOT requires air carriers to adopt tarmac delay plans that, among other mandatory terms and conditions, prohibit aircraft from remaining on the tarmac for more than four hours (in the case of international flights)

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or three hours (in the case of domestic flights) without allowing passengers to deplane; require food and water to be distributed to passengers within two hours after the start of the delay; and require that passengers be notified every 30 minutes of the status of the delay and if they have an opportunity to deplane.¹⁶

In 2018, five carriers were fined for violations of one or more of these requirements. DOT fined two carriers for failing to adhere to the requirement to provide passengers on international flights an opportunity to deplane by the four-hour mark.¹⁷ Two carriers were fined for failing to provide food and/or access to operable lavatories.¹⁸ Additionally, DOT fined a carrier for failing to provide food and water, failing to make required announcements, and/or failing to maintain comfortable cabin temperatures on multiple flights.¹⁹

Additionally, on January 19, 2018 the Port Authority of New York and New Jersey retained former U.S. Secretary of Transportation Ray LaHood to conduct an investigation into the operational difficulties – including tarmac delays – experienced at JFK Airport during and following a winter storm on January 4, 2018. On May 31, 2018, LaHood issued his report, detailing various breakdowns in the airport's operations and setting out fifty recommendations on how to better prepare for and manage future winter weather events as well as other irregular circumstances. Among other recommendations, the report includes proposals to reduce tarmac delays, including a specific recommendation that airlines “should review and enhance tarmac delay protocols.”²⁰

Customer Service Plans

In addition to tarmac delay plans, DOT also requires that air carriers adopt customer service plans, addressing twelve specific subject areas – some of which cross-reference other DOT regulations.²¹ In 2018, DOT fined two carriers for violating their customer service plans.

DOT fined one carrier for failing to respond to consumer complaints in a timely manner. Specifically, DOT found that the carrier failed to provide substantive responses within 30 days of receipt to over 20% of the consumer complaints reviewed by DOT, and failed to provide a substantive response within 60 days of receipt to over 40% of these complaints.²² Another carrier was fined for failing to provide adequate assistance to passengers with disabilities and failing to provide timely acknowledgments and substantive responses to complaints.²³

DOT also found that another carrier had failed to respond to complaints in a timely manner, but in that case DOT decided not to take enforcement action, because there was no indication of a pattern or practice of non-responsiveness to consumer complaints.²⁴ Likewise, DOT dismissed a formal passenger complaint against another carrier, finding that the carrier had not violated its customer service plan.²⁵

Carrier and Agent Advertising

DOT's “full fare rule” long has required that advertising by air carriers and by ticket agents state “the entire price to be paid by the customer to the carrier, or agent, for such air transportation, tour, or tour component.”²⁶ In 2018, DOT imposed fines on three carriers for violations of the rule. DOT fined one carrier for routinely charging consumers a total price that was higher than the first quoted price displayed on its website,²⁷ and fined another for advertising, on its U.S.-facing website, base fares that did not include taxes and fees, as well as for identifying a carrier-imposed surcharge under the label of “taxes.”²⁸

Additionally, consumers must be provided a prominent warning if a price increase is possible prior to full payment, and written consent be obtained from consumers about the potential increase; moreover, even if a warning is provided and consent obtained, the only circumstance under which a price increase is permissible after full payment has been made is if it is due to an increase in a government-imposed tax or fee. In 2018, DOT fined a carrier because it imposed a post-purchase price increase due to an increase in a government-imposed tax without providing appropriate notice to consumers of, and without obtaining their written consent to, the potential for such an increase.²⁹

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DOT also requires carriers and ticket agents to provide information about the baggage fees and rules applicable to displayed itineraries.³⁰ In 2018, DOT found that a carrier failed to provide information about a passenger's free baggage allowance and/or the applicable fee for bags, following a passenger-requested change to a reservation, but nevertheless determined that civil penalties were not warranted.³¹

Passengers with Disabilities

DOT's regulations³² implementing the Air Carrier Access Act (ACAA)³³ prohibit discrimination by air carriers against passengers on the basis of disability. In addition to the extensive requirements for accessibility in the booking process, at the terminal, and in flight, larger U.S. and foreign carriers are required to file annual reports with DOT regarding disability-related complaints that they have received.

In 2018, DOT fined three carriers for violating various regulatory requirements. DOT fined one carrier for systematically failing to provide timely dispositive responses to complaints regarding lost, damaged, or delayed assistive devices, and for failing to properly categorize and report its disability-related complaints.³⁴ One carrier was fined for failing to provide adequate assistance to passengers with a disability in moving within the terminal, and also by failing to provide dispositive written responses to complaints concerning passengers with disabilities.³⁵ DOT fined a third carrier for violating DOT's website accessibility requirements, because it created a separate website for individuals with disabilities instead of ensuring that its primary website satisfied the legal requirements.³⁶ Finally, another carrier entered into an agreement with DOT in which, to compensate for website accessibility issues, it voluntarily agreed to make its mobile site accessible.³⁷

DOT also issued an advance notice of proposed rulemaking concerning air travel with service animals.³⁸ DOT solicited comments on ways to ensure that individuals with disabilities can continue using their service animals, while also deterring the fraudulent use of other animals not qualified as service animals and ensuring that animals that are not trained to behave properly in the public are not accepted for transport. At the same time, DOT issued an interim statement of enforcement priorities to apprise the public of its intended enforcement emphasis with respect to the existing ruled for the transportation of service animals in the cabin of aircraft.³⁹ Because the rules are subject to revision, DOT indicated that it would focus its enforcement efforts on clear violations of the current rules that have the potential to adversely impact the largest number of persons, and provided further practical guidance.

Public Charters

DOT imposes various requirements on the sale and operation of public charter flights, above and beyond those applicable to scheduled flights, primarily intended to protect payments made by consumers.⁴⁰

In 2018, DOT issued guidance for consumers traveling to sporting events – often arranged in conjunction with a charter flight.⁴¹ Notably, DOT advised that if a tour is described as including a game ticket, and a ticket is not provided, the consumer is entitled to a full refund of the entire package price even if they already traveled to the city where the game will take place.

DOT also issued a new rule governing "air charter brokers."⁴² First, the rule allows brokers acting as principals or as bona fide agents to provide single entity charter air transportation of passengers. Second, it requires brokers to automatically provide certain disclosures, and to make other disclosures upon request. Third, it enumerates certain practices by air charter brokers that are deemed to be prohibited unfair or deceptive practices or unfair methods of competition. Fourth, the rule requires air taxis and commuter air carriers that sell charter air transportation to automatically provide certain disclosures, and to make other disclosures upon request. Finally, it enumerates certain practices by an air taxi or commuter air carrier that are deemed to be prohibited unfair or deceptive practices.

Additionally, on March 29, 2018, DOJ announced that a federal jury in New Jersey had found the former chief executive officer and the former vice president of a now-bankrupt public air charter operator guilty for their roles in a scheme to steal millions of dollars in passenger money for future travel from an escrow

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account. Each defendant was convicted on one count of conspiracy to commit wire fraud affecting financial institutions and to commit bank fraud, four substantive counts of wire fraud affecting financial institutions, and three substantive counts of bank fraud, following a seven-day trial. On November 28, 2018, the former vice president was sentenced to 94 months in prison for her role in the scheme.⁴³

Air Carrier Reporting

DOT issued guidance regarding the obligations of large U.S. carriers to report mishandled baggage, wheelchairs, and scooters data following the enactment of the FAA Reauthorization Act of 2018.⁴⁴ In particular, DOT advised that reporting airlines must submit mishandled baggage data to DOT using a new methodology and must separately report statistics for mishandled wheelchairs and scooters for domestic scheduled flights they operate. If a reporting carrier is unable to report accurate data on the total number of mishandled bags and enplaned bags for the reportable period, DOT will exercise its enforcement discretion as appropriate.

On October 31, 2018, DOT issued a further notice to advise the public of the manner in which it intends to enforce the requirement for U.S. carriers to report mishandled baggage data to DOT for flights on or after January 2019.⁴⁵ The Bureau of Transportation Statistics, issued and later amended a Technical Reporting Directive to update the list of reporting air carriers and to provide instructions for carriers on how to report mishandled baggage and wheelchairs and scooters data for air transportation performed in 2019.⁴⁶

Baggage Liability

The current minimum liability limit for the loss or damage of baggage entrusted to air carriers on flights within the U.S. is \$3,500 per passenger.⁴⁷ In 2018, DOT fined two carriers for baggage liability-related transgressions. One carrier was fined because they provided notices along with tickets or displayed signage which purported to limit the carrier's domestic baggage liability to amounts less than \$3,500; in certain cases, DOT found the displayed liability amounts were more than seven years out-of-date.⁴⁸ The other carrier was fined for displaying signage at ticket counters and/or boarding gates, which incorrectly stated both the domestic limit and the international baggage liability limit (1,131 Special Drawing Rights), as set forth in the Montreal Convention.⁴⁹

Denied Boarding Compensation

In the event a flight is oversold, passengers involuntarily denied boarding are entitled to compensation of up to \$1,350, depending on the circumstances, and DOT also imposes disclosure requirements related to denied boarding compensation on air carriers.⁵⁰ In 2018, DOT fined two carriers for failing to comply with the denied boarding rules. DOT found that one carrier violated the regulation by failing to pay eligible passengers the correct amount of denied boarding compensation.⁵¹ The other carrier was fined for failing to produce copies of its written denied boarding statement at gate locations and ticket counters and, in other circumstances, produced outdated copies.⁵² Separately, DOT dismissed three third party complaints alleging oversales violations, finding insufficient evidence to determine that the carriers denied boarding or that the complainants were entitled to denied boarding compensation.⁵³

Air Carrier Authority

Air carriers are required to obtain appropriate authority from DOT before they can engage directly or indirectly in the transportation of passengers or property for compensation to, from, or within the United States.⁵⁴ In 2018, in a proceeding allocating rights to U.S. carriers for services in the U.S.-Cuba market, DOT stated that an allegation that a carrier had operated unauthorized flights was best addressed by the Enforcement Office, and referred the matter to that office.⁵⁵

Foreign air carriers generally are prohibited from taking on, for compensation, at a place in the U.S., passengers or cargo destined for another place in the U.S., a practice known as "cabotage."⁵⁶ In 2018, DOT fined a carrier for violating the cabotage prohibition, because it effectively held out and transported passengers for compensation or hire between two points – i.e., JFK and LAX – within the U.S.⁵⁷

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Code-Sharing Disclosures

DOT requires air carriers and ticket agents to disclose to consumers that a flight involves a code-share arrangement at the start of the booking process.⁵⁸ On January 12, 2018, an Administrative Law Judge (ALJ) granted an air carrier's motion to dismiss an enforcement complaint, which alleged violations of a prior version of the code-share disclosure rules.⁵⁹ The complaint failed to state a plausible claim, the ALJ concluded, because it did not allege a booking actually occurred or that a ticket had been purchased as part of the test communications between DOT analysts and the carrier's reservation agents.

Consumer Refunds

The so-called "Regulation Z"⁶⁰ and Part 374 of DOT's regulations establish that, with respect to refund requests involving tickets purchased with a credit card, an air carrier must transmit a credit statement for a passenger refund to the credit card issuer within seven business days of receiving full documentation for the refund request and forgiving the debt. In 2018, DOT fined a carrier because it failed to provide refunds in compliance with these requirements.⁶¹ DOT also dismissed a third party complaint against a foreign carrier, finding that the carrier did not violate the refund requirements.⁶²

Tariff Requirements

In 2018, DOT dismissed three complaints filed by passengers against air carriers, which alleged violations of various tariff requirements (i.e., concerning the consequences of late check-in; the rebooking of passengers in the event of a delay; and the charges for ticket changes). DOT generally held that the complainants misread the requirements of the tariffs and that the carriers had applied them correctly, as well as that the tariffs did not conflict with any DOT consumer protection requirements.⁶³

Essential Air Service

In 2018, DOT fined a carrier because it failed to comply with the requirement that it continue to provide air transportation services to small communities, pursuant to the terms of the federal program which subsidized the services, until a replacement had been selected.⁶⁴

Discrimination

DOT dismissed four complaints filed by passengers against foreign carriers, which alleged discrimination based on race, religion, nationality, or sexual orientation; DOT found that the assertions of unlawful discrimination relied on assumptions and unsupported conclusions.⁶⁵

Inflation Adjustments

In 2018, DOT issued a final rule adjusting for inflation the civil penalties that may be imposed for violations of certain DOT regulations.⁶⁶ DOT emphasized that this rule adjusts penalties prospectively, and thus, the new figures will apply only to violations that occur after the rule became effective.

Additionally, the FAA Reauthorization Act of 2018 authorized DOT to impose triple the maximum penalty for disabilities-related violations that involve damage to a passenger's wheelchair or other mobility aid, or which involve injury to the passenger.⁶⁷

Seating Requirements

In 2016, FAA denied a petition for rulemaking, which requested that the agency regulate the size of passenger seats and cabin configurations of passenger-carrying aircraft, concluding that the issue raised by the petition did not meet the criteria to pursue rulemaking. Subsequently, a federal court remanded the petition to FAA for further review. In 2018, FAA issued a letter in response to the remand, again disposing of the petition's safety concerns and determining that the request did not merit rulemaking.⁶⁸ The FAA decision was appealed to the U.S. Court of Appeals for the D.C. Circuit, but the appeal was dismissed on procedural grounds.⁶⁹

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Advisory Committee

An aviation consumer advisory committee was established at the direction of Congress in 2012, and issued a final report in 2015. On November 23, 2018, DOT issued a notice indicating that it has reestablished the Aviation Consumer Protection Advisory Committee (“ACPAC”) and that it has established a National In-Flight Sexual Misconduct Task Force (“Task Force”) as an ACPAC Subcommittee.⁷⁰ The Task Force will develop recommendations for the ACPAC’s consideration on best practices and protocols for air carriers relating to training, reporting, and data collection of sexual assault onboard commercial aircraft.

GAO Recommendations

In November 2018, the Government Accountability Office (“GAO”) issued a report regarding “Airline Consumer Protections.”⁷¹ The report examined, among other issues, 1) trends in DOT’s data on airline service; 2) the effectiveness of DOT’s compliance efforts; and 3) the extent to which DOT’s passenger education efforts align with key practices for consumer outreach. GAO’s report made six recommendations, including that DOT: develop performance measures for compliance activities, improve its procedures for coding airline passengers’ complaints, and improve passenger education.

Conclusion

DOT’s authority to regulate the practices of air carriers, ticket agents, and other entities involved in the aviation industry is wide-ranging. Although DOT’s historic focus has been on advertising, the agency monitors other areas of industry activity, and in recent years has begun to emphasize consumer-oriented “passenger rights” issues – both by continuing to enforce newly-enacted rules and proposing further regulations. As set forth above, DOT’s regulations and enforcement policies are extensive and complex. Those who provide, sell, or otherwise arrange air transportation should take care to familiarize themselves with DOT’s regulations and interpretations; to review their practices in light of DOT’s guidance; and to keep abreast of new developments, such as those reviewed above.

¹ 49 U.S.C. § 41712 (formerly § 411 of the Federal Aviation Act of 1958). See, e.g., Bailey v. Rocky Mountain Holdings, LLC, 889 F.3d 1259, 1269 (11th Cir. 2018) (“[a]fter determining a practice to be ‘unfair or deceptive,’ the Secretary may order an air carrier to cease and desist from a practice following ‘notice and an opportunity for a hearing’”).

² 49 U.S.C. § 41713. See, e.g., Cox v. Spirit Airlines, Inc., 340 F.Supp.3d 154, 157 (E.D.N.Y. 2018) (“Congress enacted the ADA to ‘ensure that the States would not undo federal deregulation’ of the airline industry”).

³ However, DOT often waives 50% of the penalties if the subject of a consent order complies with its terms and conditions during the subsequent year, and also sometimes waives a portion of the penalties that is commensurate with mitigation expenses; the specific penalties and waivers assessed in 2018 are noted throughout this article.

⁴ Pub. L. 115-254 (October 5, 2018)

⁵ Id., § 403.

⁶ Use of Mobile Wireless Devices for Voice Calls on Aircraft, 81 Fed. Reg. 90258 (December 14, 2016).

⁷ 49 U.S.C. § 42303; see also Aircraft Disinsection Requirements, <https://www.transportation.gov/airconsumer/spray>.

⁸ Pub. L. 115-254, § 404.

⁹ Id., § 412.

¹⁰ Id., § 421.

¹¹ Id., § 423.

¹² Id., § 425.

¹³ Id., § 427.

¹⁴ Id., § 429.

¹⁵ Id., § 437.

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¹⁶ 14 C.F.R. § 259.4.

¹⁷ In re All Nippon Airways Co., Ltd., Consent Order, Order 2018-3-21 (March 26, 2018) (assessing a penalty of \$90,000, but with half suspended on condition of compliance during the subsequent year); In re British Airways PLC, Consent Order, Order 2018-5-28 (May 22, 2018) (assessing a penalty of \$225,000, but with half suspended on condition of compliance during the subsequent year).

¹⁸ In re Icelandair Group, a/k/a Flugleidir, h.f., d/b/a Icelandair, Consent Order, Order 2018-5-42 (June 1, 2018) (assessing \$40,000 in civil penalties, but with half suspended on condition of compliance during subsequent year); In re Compania Panamena de Aviacion, S.A., Consent Order, Order 2018-3-20 (March 23, 2018) (assessing \$25,000 in civil penalties).

¹⁹ In re Allegiant Air, LLC, Consent Order, Order 2018-10-7 (October 5, 2018) (assessing \$225,000 in civil penalties).

²⁰ Ray LaHood, *John F. Kennedy International Airport Operations During Winter Storm Grayson: Findings and Recommendations*, THE PORT AUTHORITY OF NEW YORK & NEW JERSEY (May 31, 2018), <https://www.panynj.gov/press-room/pdf/winter-storm-grayson-findings-recommendations.pdf>.

²¹ 14 C.F.R. § 259.5.

²² In re Flugleidir, h.f., d/b/a Icelandair, Consent Order, Order 2018-4-11 (April 16, 2018) (assessing \$100,000 in civil penalties, but with half suspended on condition of compliance during the subsequent year).

²³ In re Allegiant Air, LLC, Consent Order, Order 2018-4-8 (April 13, 2018) (assessing \$250,000 in civil penalties).

²⁴ Third Party Complaint of Benjamin Edelman v. American Airlines, Order of Dismissal, Order 2018-5-30 (May 22, 2018).

²⁵ Third Party Complaint of Mike Borsetti v. British Airways Plc, Order of Dismissal, Order 2018-5-17 (May 18, 2018).

²⁶ 14 C.F.R. § 399.84. Additionally, an overlapping prohibition for public charter operators appears at 14 C.F.R. § 380.27, and an overlapping prohibition for ticket agents appears at 14 C.F.R. § 399.80(f).

²⁷ In re TAME Linea Aerea del Ecuador, Consent Order, Order 2018-5-26 (May 22, 2018) (assessing \$130,000 in civil penalties, but with half suspended on condition of compliance during the subsequent year).

²⁸ In re Vietnam Airlines JSC, Consent Order, Order 2018-5-29 (May 22, 2018) (assessing \$65,000 in civil penalties, but with half suspended on the condition of compliance during the subsequent year).

²⁹ In re Norwegian Air Shuttle ASA, Consent Order, Order 2018-3-28 (March 29, 2018) (assessing \$100,000 in civil penalties, but with half suspended on condition of compliance during the subsequent year).

³⁰ 14 C.F.R. § 399.85.

³¹ Third Party Complaint of Benjamin Edelman v. American Airlines, Inc., Order of Dismissal, Order 2018-5-31 (May 22, 2018).

³² 14 C.F.R. Part 382.

³³ 49 U.S.C. § 41705. See, e.g., Stokes v. Southwest Airlines, 887 F.3d 199, 202 (5th Cir. 2018) (“the ACAA prohibits airlines from discriminating on the basis of disability”).

³⁴ In re Hawaiian Airlines, Inc., Consent Order, Order 2018-4-7, (April 13, 2018) (assessing \$125,000 in civil penalties).

³⁵ In re Allegiant Air, LLC, Order 2018-4-8.

³⁶ In re Scandinavian Airlines System, Consent Order, Order 2018-11-8 (November 16, 2018) (assessing \$200,000 in civil penalties, but with half suspended on condition of compliance during the subsequent year).

³⁷ Agreement by and between Compania Panamena De Aviacion, S.A. and Department of Transportation, Agreement, Order 2018-3-22 (March 27, 2018).

³⁸ Traveling by Air With Service Animals, 83 Fed. Reg. 23832 (May 23, 2018)

³⁹ Nondiscrimination on the Basis of Disability in Air Travel, 83 Fed. Reg. 23804 (May 23, 2018).

⁴⁰ 14 C.F.R. Part 212 and Part 380.

⁴¹ DOT Advises Air Travelers and Colleges About Tour Packages to College Bowl Games, DOT (December 14, 2018), <https://www.transportation.gov/briefing-room/dot7918>.

⁴² Increasing Charter Air Transportation Options, 83 Fed. Reg. 46867 (September 17, 2018).

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⁴³ *Two Former Airline Industry Executives Convicted of Orchestrating Multimillion Dollar Scheme to Steal Passenger Money from Escrow*, <https://www.justice.gov/opa/pr/two-former-airline-industry-executives-convicted-orchestrating-multimillion-dollar-scheme> (March 29, 2018) and *Former Charter Airline Executive Sentenced to Nearly Eight Years in Prison for Orchestrating Multimillion Dollar Scheme to Steal Passenger Money from Escrow*, <https://www.justice.gov/opa/pr/former-charter-airline-executive-sentenced-nearly-eight-years-prison-orchestrating> (November 28, 2018).

⁴⁴ *Airline Reporting of Data on Mishandled Baggage, Wheelchairs, and Scooters*, 83 Fed. Reg. 53991 (October 26, 2018).

⁴⁵ *Enforcement Policy Regarding Reporting of Mishandled Baggage and Wheelchair Data* (<https://www.transportation.gov/sites/dot.gov/files/docs/resources/individuals/aviation-consumer-protection/323451/mishandled-baggage-and-wheelchair-reporting-enforcement-policy.pdf>).

⁴⁶ Technical Reporting Directive no. 30: *Mishandled Baggage and Wheelchairs And Scooters* (October 31, 2018), <https://www.bts.gov/topics/airlines-and-airports/number-30-%E2%80%93-technical-directive-mishandled-baggage-effective-jan-1-2019>; Technical Reporting Directive no. 30A: *Mishandled Baggage and Wheelchairs and Scooters (Amended)* (December 21, 2018), <https://www.bts.gov/topics/airlines-and-airports/number-30a-technical-directive-mishandled-baggage-amended-effective-jan>.

⁴⁷ 14 C.F.R. § 254.4.

⁴⁸ *In re Southwest Airlines, Co.*, Consent Order, Order 2018-1-5 (January 9, 2018) (assessing \$50,000 in civil penalties).

⁴⁹ *In re Allegiant Air, LLC*, Consent Order, Order 2018-1-6, (January 9, 2018) (assessing \$35,000 in civil penalties, but with half suspended on condition of compliance during the subsequent year).

⁵⁰ 14 C.F.R. Part 250.

⁵¹ *In re Hawaiian Airlines, Inc.*, Order 2018-4-7.

⁵² *In re Air Canada*, Consent Order, Order 2018-5-27 (May 22, 2018) (assessing \$35,000 in civil penalties).

⁵³ *Third Party Complaint of Miriam Edelman v. American Airlines, Inc.*, Order of Dismissal, Order 2018-2-7 (February 12, 2018); *Third Party Complaint of Mike Borsetti v. British Airways Plc*, Order of Dismissal, Order 2018-5-17 (May 18, 2018); *Third Party Complaints of Bryan and Renee Jackson and Bridgitte Prince v. American Airlines, Inc.*, Order of Dismissal, Order 2018-10-16 (October 24, 2018).

⁵⁴ 49 U.S.C. § 41101 and § 41301.

⁵⁵ *2017 U.S.-Cuba Frequency Allocation Proceeding*, Order to Show Cause, Order 2018-3-16 (March 30, 2018).

⁵⁶ 49 U.S.C. § 41703.

⁵⁷ *In re Qantas Airways Limited*, Consent Order, Order 2018-3-26 (March 28, 2018) (assessing \$125,000 in civil penalties, but with half suspended on condition of compliance during the subsequent year).

⁵⁸ 14 C.F.R. Part 257.

⁵⁹ *In re Delta Air Lines, Inc.*, Order Granting Respondent's Rule 12(b)(6) Motion to Dismiss, docket no. DOT-OST-2014-0229 (January 12, 2018).

⁶⁰ 12 C.F.R. Part 1026.

⁶¹ *In re Allegiant Air, LLC*, Order 2018-4-8.

⁶² *Third Party Complaint of Mike Borsetti v. British Airways Plc*, Order of Dismissal, Order 2018-5-17 (May 18, 2018).

⁶³ *Third Party Complaint of Kaushik Shridharani v. Alitalia Societa Aerea Italiana, SpA*, Order of Dismissal, Order 2018-2-18 (February 23, 2018); *Third Party Complaint of Mike Borsetti v. American Airlines, Inc.*, Order of Dismissal, Order 2018-5-22 (May 18, 2018); *Third Party Complaint of Benjamin Edelman v. American Airlines*, Order of Dismissal, Order 2018-5-30 (May 22, 2018).

⁶⁴ *In re Peninsula Airways, Inc.*, Consent Order, Order 2018-11-11 (November 30, 2018) (assessing \$20,000 in civil penalties).

⁶⁵ *Third Party Complaint of Christopher Nethery v. Saudi Arabian Airlines Corporation*, Order of Dismissal, Order 2018-2-19 (March 1, 2018); *Third Party Complaint of Jonathan Parker v. Saudi Arabian Airlines*, Order of Dismissal, Order 2018-2-20 (March 1, 2018); *Third Party Complaint of Tasha Grant v. Saudi Arabian Airlines Corporation*, Order of Dismissal, Order 2018-2-21 (March 1, 2018); *Third Party Complaints of Bryan and Renee Jackson and Bridgitte Prince v. American Airlines, Inc.*, Order 2018-10-16.

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⁶⁶ Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732 (November 27, 2018).

⁶⁷ Pub. L. 115-254, § 436.

⁶⁸ Letter from Dorenda D. Baker, Executive Director, Aircraft Certification Service, to Paul Hudson, President, FlyersRights, docket no. FAA-2015-4011-0160 (July 2, 2018).

⁶⁹ D.C. Circuit docket no. 18-1227.

⁷⁰ Advisory Committee on Aviation Consumer Protection Matters; Subcommittee on In-Flight Sexual Misconduct, 83 Fed. Reg. 59447 (November 26, 2018).

⁷¹ *Airline Consumer Protections, Additional Actions Could Enhance DOT's Compliance and Education Efforts*, GOVERNMENT ACCOUNTABILITY OFFICE, no. GAO-19-76 (November 2018).