

**FOLLOW-UP REVIEW: PERFORMANCE OF  
U.S. AIRLINES IN IMPLEMENTING SELECTED  
PROVISIONS OF THE AIRLINE CUSTOMER  
SERVICE COMMITMENT**

*Department of Transportation*

*Report Number AV-2007-012  
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**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

The Inspector General

Office of Inspector General

Washington, DC 20590

November 21, 2006

The Honorable John L. Mica  
Chairman  
Committee on Transportation and Infrastructure  
Subcommittee on Aviation  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Mica:

Per your request, we are enclosing our “Follow-Up Review: Performance of U.S. Airlines in Implementing Selected Provisions of the Airline Customer Service Commitment.” In your request, you asked that we follow up on the performance of U.S. airlines in implementing provisions of the Airline Customer Service Commitment.

This report provides our analysis of the performance of 13 Air Transport Association (ATA) member airlines, along with two non-ATA airlines, in implementing selected provisions of the Commitment that have an immediate impact on passengers and the issues that derive from those provisions.

Provisions selected for this review include notification of delays and cancellations, overbooking and denied boardings, frequent flyer programs, and accommodation for passengers with disabilities and special needs. We also reviewed how the Department of Transportation has used the additional resources Congress appropriated to oversee and enforce air travel consumer protection requirements.

Based on the results of our review, we are making a series of recommendations to the Department of Transportation to strengthen its oversight and enforcement of air traveler consumer protection rules.

We want to express our appreciation to members of ATA, the two non-ATA airlines, and the Department for their cooperation.

If I can answer any questions or be of further service, please feel free to call me on (202) 366-1959 or Todd J. Zinser, Deputy Inspector General, at (202) 366-6767.

Sincerely,

A handwritten signature in black ink that reads "C. L. Scovel III". The signature is written in a cursive style with a horizontal line underlining the name.

Calvin L. Scovel III  
Inspector General

Enclosure (Report No. AV-2007-012)

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## INTRODUCTION

Airline customer service issues took center stage in 1999, as aviation delays and cancellations began to escalate rapidly. Following congressional hearings on these service issues, member airlines of the Air Transport Association (ATA)<sup>1</sup> agreed to voluntarily execute the Airline Customer Service Commitment (see Table 1 and Exhibit A).<sup>2</sup> Aviation delays and cancellations continued to worsen, eventually reaching their peak during the summer of 2000. In that summer,<sup>3</sup> more than one in four flights (28.3 percent) was delayed, with an average delay of 54 minutes.

### **Table 1. Provisions of the Airlines Customer Service Commitment**

- Offer the lowest fare available
- Notify customers of known delays, cancellations, and diversions
- Deliver baggage on time
- Support an increase in the baggage liability limit
- Allow reservations to be held or canceled
- Provide prompt ticket refunds
- Properly accommodate disabled and special needs passengers
- Meet customers' essential needs during long on-aircraft delays
- Handle "bumped" passengers with fairness and consistency
- Disclose travel itinerary, cancellation policies, frequent flyer rules, and aircraft configuration
- Ensure good customer service from code-share partners
- Be more responsive to customer complaints

The Department of Transportation's Office of Inspector General was directed by Congress to evaluate the effectiveness of the Commitment and the customer service plans of individual ATA airlines. We issued our final report<sup>4</sup> in February 2001. Overall, we found the ATA airlines were making progress toward meeting the Commitment, which has benefited air travelers in a number of important areas.

Since we issued our 2001 report, there has been a profound change in the air carrier industry because of severe challenges to profitability and even viability. During the past 5 years, the air carrier industry has faced a series of major challenges, including a weakened economy; the terrorist attacks of September 11, 2001; the Severe Acute Respiratory Syndrome epidemic; the war in Iraq; soaring fuel prices; and continued fear of terrorism in the air. The air carriers made unprecedented changes to their operations to regain profitability. Several air carriers have gone into bankruptcy and others have liquidated. The remaining air carriers have struggled to keep afloat as demand has softened, primarily in the high-fare business travel market. Nevertheless, the air carriers have improved their financial condition during 2006 by taking advantage of strong passenger demand competing for fewer available seats, which enabled them to increase fares.

<sup>1</sup> The Air Transport Association is the trade association for the United States' leading air carriers. Its members transport over 95 percent of all the passenger and cargo traffic in the United States.

<sup>2</sup> ATA signed the Commitment on behalf of 14 member airlines as of June 1999.

<sup>3</sup> June 1, 2000, through August 31, 2000.

<sup>4</sup> OIG Report No. AV-2001-020, "Final Report on Airline Customer Service Commitment," February 12, 2001. See OIG reports on this website: [www.oig.dot.gov](http://www.oig.dot.gov).

In June 2005, Representative Mica, Chairman of the House Subcommittee on Aviation, requested that we follow up on the performance of U.S. air carriers in implementing provisions of the Commitment since the issuance of our 2001 report.

Unlike our prior work, which reviewed each provision, this review focuses on the following Commitment provisions:<sup>5</sup>

- notification of delays and cancellations,
- accommodating passengers with disabilities and special needs,
- frequent flyer program issues, and
- overbooking and denied boardings.

The review also followed up a promise made by the ATA member airlines to establish quality assurance and performance measurement systems to measure compliance with the Commitment provisions and conduct internal audits. We also reviewed how the Department of Transportation (DOT) has used the additional resources Congress appropriated to oversee and enforce air travel consumer protection requirements. Our objectives, scope and methodology, and prior audit coverage are presented in Exhibit B.

During the review, we visited and tested implementation of the selected Commitment provisions by the 14 ATA member airlines: Alaska Airlines, Aloha Airlines, American Airlines, ATA Airlines (formerly American Trans Air), America West Airlines, Continental Airlines, Delta Air Lines, Hawaiian Airlines, JetBlue Airways,<sup>6</sup> Midwest Airlines, Northwest Airlines, Southwest Airlines, United Airlines, and US Airways. Although they are not signatories to the Commitment, we also visited and tested implementation of the selected Commitment provisions by three airlines that are not ATA members: AirTran Airways, Frontier Airlines, and Independence Air.

During our review, US Airways merged with America West Airlines (retaining the US Airways name). The results of our review of US Airways and America West Airlines are combined in most cases. Also, Independence Air was dropped from our review after it went out of business. Therefore, we are reporting the results of our review for 15 airlines (13 ATA airlines and 2 non-ATA airlines), except where noted. In this report we will refer to the 15 airlines under review as the airlines.

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<sup>5</sup> Our review did not include the Commitment provision regarding on-time checked baggage delivery, which was subject to a hearing before the House Subcommittee on Aviation in May 2006.

<sup>6</sup> JetBlue Airways, which began operations in February 2000 and became an ATA member in 2001, was not a signatory to the June 1999 Commitment and does not consider itself bound by Commitment provisions.

Subsets will be noted as ATA airlines and non-ATA airlines; other airlines or the industry in general will be called air carriers.

It should be noted that the ATA, the Regional Airline Association, the Air Carrier Association of America, the airlines, and select airports served by these airlines cooperated fully with us during this review.

## RESULTS IN BRIEF

Overall, we found that the ATA airlines' customer service plans are still in place to carry out the provisions of the Commitment and that the Commitment provisions are still incorporated in their contracts of carriage,<sup>7</sup> as we recommended in our prior review. This is important because unlike DOT regulations, which are enforced by the Department and may result in administrative or civil penalties against an air carrier, contracts of carriage are enforceable by the customer in court actions against the air carriers. Thus, when an air carrier incorporates the Commitment into its contract of carriage, the Commitment becomes legally enforceable by the customer against the air carrier.

We found that the airlines need to (1) resume efforts to self-audit their customer service plans; (2) emphasize to their customer service employees the importance of providing timely and adequate flight information; (3) focus on the training for personnel who assist passengers with disabilities; (4) provide straightforward, comprehensive reporting on frequent flyer award redemptions; and (5) improve the handling of bumped passengers.

We also found that DOT is using its additional resources to oversee and enforce air travel consumer protection requirements with a focus on investigations and enforcement of civil rights issues, including complaints from passengers with disabilities. But when DOT discovers violations and assesses penalties, it almost always forgives the penalty if the air carrier agrees to mitigate the conditions for which the penalty was assessed. DOT's follow-up monitoring of compliance with these conditions was limited, and in some cases there was no follow-up monitoring by DOT.

**Airlines Need To Resume Efforts To Self-Audit Their Customer Service Plans.** In our 2001 report, we recommended that the ATA airlines establish quality assurance and performance measurement systems and conduct internal audits to measure compliance with the Commitment provisions and customer service plans. Our opinion was then, as it is now, that if properly executed, the

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<sup>7</sup> A contract of carriage is the document air carriers use to specify legal obligations to passengers. Each air carrier must provide a copy of its contract of carriage free of charge upon request. The contract of carriage is also available for public inspection at airports and ticket offices.

ATA airlines' quality assurance and performance measurement systems should be effective in monitoring compliance and measuring performance with the Commitment and associated customer service plans.

In June 2001, we confirmed that 12 of the 14 ATA airlines who were signatories to the Commitment had established and implemented their quality assurance and performance measurement systems. During this review, however, we found that the quality assurance and performance measurement systems are being implemented at just 5 of the ATA airlines. The other ATA airlines had either discontinued their systems after September 11, 2001, or combined them with operations or financial performance reviews where the Commitment provisions are overshadowed by operational or financial issues. We also found that the non-ATA airlines do not have comprehensive quality assurance and performance measurement systems or conduct internal audits to measure compliance with their customer service plans.

Those airlines which have not already done so need to implement quality assurance and performance measurement systems and conduct internal audits to ensure compliance with their customer service plans.

**Airlines Still Need To Emphasize the Importance of Providing Timely and Adequate Flight Information.** The ATA airlines committed to notify customers at the airport and on board an affected aircraft in a timely manner of the best available information regarding delays, cancellations, and diversions.

However, just as we found in our prior review, the information being provided about delays and cancellations in boarding areas was not timely or adequate during our tests. Based on our observations of 13 of the 15 airlines at 17 airports nationwide (Exhibit C has a list of the airports visited), airline gate agents did not make timely announcements (defined as approximately every 20 minutes) during 42 percent of the observations, and the information provided by the airline gate agents was not adequate (little, if any, reason provided for the cause of the delay) during 45 percent of the observations. For example, during a 2½-hour delay on a flight from Dallas-Fort Worth to Philadelphia, no announcements were made regarding the delay and no reason was provided. The airlines need to conduct periodic observations in the gate areas during known delays and cancellations to ensure that their customer service employees are providing timely and adequate flight information.

On-time flight performance data should also be made readily available to passengers at the time of booking. We recommended in our 2001 report that the ATA airlines disclose to customers at the time of booking and without being asked the prior month's on-time performance rate for those flights that have been delayed (i.e., 30 minutes or greater) or canceled 40 percent or more of the time.



The ATA airlines disagreed with this recommendation and as an alternative agreed to make on-time performance data accessible to customers on the airlines' Internet sites, on a link to the Department's Bureau of Transportation Statistics (BTS) Internet site, or through toll-free telephone reservation systems.

For 2005, we identified 15,640 unique flight numbers (215,016 individual flights) that were chronically<sup>8</sup> delayed or canceled, affecting an estimated 16 million passengers. However, only 5 of the 16 airlines we reviewed make on-time performance data available on their Internet sites. While on-time performance data are available on the BTS Internet site, they are difficult to find. Given the ease of availability of this information to the airlines, we continue to recommend that the airlines post on-time flight performance information on their Internet sites and make it available through their telephone reservation systems and without prompting. The Department should revisit its current position on chronic delays and cancellations and take enforcement actions against air carriers that consistently advertise flight schedules that are unrealistic, regardless of the reason.

**Airlines' Need To Focus on Promptly Training Personnel Who Assist Passengers With Disabilities.** The ATA airlines committed to disclose their policies and procedures for assisting special-needs passengers, such as unaccompanied minors, and for accommodating the disabled in an appropriate manner. Federal requirements for accommodating persons with disabilities have been in existence since the Air Carrier Access Act was enacted in 1986 and its implementing rules were promulgated in Part 382 of Title 14 of the Code of Federal Regulations, "Nondiscrimination on the Basis of Disability in Air Travel," in 1990. Part 382 prohibits discrimination against passengers with disabilities by air carriers providing air transportation services.

In our prior review, the airlines performed well with respect to this provision. However, in our current review, we found that 12 of the 15 airlines and their contractor personnel who interact with passengers with disabilities were not complying with the training requirements of Part 382 or with their own policies. For example, we reviewed training records for 1,073 airline employees and found that 166 employees (15 percent) were either not trained, not promptly trained (within 60 days of being hired), did not have records to support completion of training, or were not current with annual refresher training.

These deficiencies resulted from the airlines' lack of oversight of compliance with the requirements of Part 382 and their own policies. Although 14 of the 15 airlines use contractors to assist passengers with disabilities, their oversight of contractor compliance with Part 382 varies from no oversight, to informal

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<sup>8</sup> We define chronically delayed flights as those flights canceled or delayed 30 minutes or more at least 40 percent of the time during a single month.

observations and reviews, to reliance on customer service complaints, to having established performance tracking systems.

The airlines need to focus their efforts on monitoring both their own compliance and their contractors' compliance with Part 382 and ensure that all personnel who interact with passengers with disabilities receive the required training promptly.

**Straightforward, Comprehensive Reporting Is Needed on Frequent Flyer Award Redemptions.** The ATA airlines committed to disclose to the customer rules, restrictions, and an annual report on frequent flyer program redemptions. Just as in our prior review, we found that the information provided on frequent flyer mileage redemptions has marginal value to the consumer for purposes of determining which frequent flyer program best meets their needs.

Specifically, the airlines' information on redemptions is difficult to find; in some cases the information was in an airline's annual report or on the airline's Internet site but without a clear indication of where to find the information. For example, 10 airlines report redemption information in their annual submissions to the Securities and Exchange Commission (10K report), but only 3 report this disclosure on their Internet sites. We found that the redemption information in the airlines' 10K reports was not easy to find, and the locations of that information on the Internet are not readily apparent.

Also, information disclosed on frequent flyer redemptions is not comparable across airlines. For example, for 11 of the 15 airlines that report redemptions, 8 report annual redemptions as a percentage of total revenue passenger miles, 2 report redemptions as a percentage of passengers boarded, and the remaining airline reports only the total number of redemptions. This inconsistency in reporting makes it difficult, if not impossible, for consumers to compare frequent flyer programs in a meaningful way.

The current market of reduced seat capacity along with deeply discounted fares translates into higher load factors and fewer seats available for redeeming frequent flyer awards. So it was not surprising to find that a common and growing cause of frequent flyer complaints is the inability to book tickets using the standard level of award. Generally, airlines have two levels of awards: a standard award (restricted) requiring the least number of points for a ticket and a premium award (unrestricted) requiring up to twice the number of points for a ticket. Based on a sample of 598 frequent flyer complaints received by 10 of the 15 airlines between January and December 2005, we found that 137 complaints (23 percent) were attributed to the customer's inability to obtain a standard award.

Given the need for straightforward, comprehensive reporting on frequent flyer award redemptions, the Department should use rulemaking proceedings to

examine the need to standardize the reporting of airline data on frequent flyer redemptions so that customers can make a more meaningful comparison of the benefits of each airline's frequent flyer program. This information should include the ratio of seats flown by passengers traveling on frequent flyer rewards to overall seats available and the total number and percentage of redemptions at both standard and premium levels.

**Improvements Are Needed in Handling Bumped Passengers.** The ATA airlines committed to handle bumped passengers with fairness and consistency. This implies that for every flight oversold, passengers denied boarding will be treated fairly and consistently when compensation is offered.

In the air carrier industry, many customers make reservations and then fail to travel without notifying the air carrier. Consequently, air carriers overbook their scheduled flights, which mean they take more reservations for a flight than there are seats. When more confirmed passengers than expected actually show up for a flight, it is "oversold," and, by Federal regulation, the air carrier must seek out passengers who are willing to give up their seats for compensation before denying boarding to anyone.

In our prior review, we found two ATA airlines that inconsistently compensated passengers who volunteered to relinquish their seats. In this review, while it was not a systemic problem, we found nine airlines were not adhering to their own policies for compensating passengers who voluntarily gave up their seats. In addition, two airlines are not fully disclosing their boarding priority rules. These are similar to conditions we found in our prior review.

The airlines need to conduct periodic reviews of oversales documentation to ensure that their customer service employees are following their respective airline's policy to compensate equally all volunteers on the same flight who give up their seats. Airlines also need to fully disclose their boarding priority rules.

**The Department Needs To Improve Its Oversight of Air Traveler Consumer Protection Requirements.** The Department's Office of Aviation Enforcement and Proceedings (OAEP) is the division within the Office of the General Counsel that enforces the Department's air travel consumer protection rules. These rules encompass many areas, including unfair and deceptive practices and unfair methods of competition by air carriers and travel agents, such as deceptive advertising. When violations occur, OAEP pursues enforcement action, which may range from warning letters to litigation in U.S. District Courts.

We found that OAEP enforces air travel consumer protection rules, but its monitoring of compliance has been sporadic. Since 1996, the first year for which

electronic dockets exist, OAEP has negotiated 233 consent orders<sup>9</sup> with air carriers and other providers of air services, with penalties totaling \$21.8 million. Many contain provisions that allow a portion of the penalty to be forgiven if the violator complies with certain conditions or offsets if the violator improves service to consumers above and beyond what is required by existing rules or its contract of carriage.

We analyzed 121 of the consent orders, with penalties totaling nearly \$15 million, and found that OAEP collected, after offsets, about \$2 million. However, we found the OAEP's compliance monitoring was limited and in some cases non-existent even when the penalties were forgiven. For example, a \$90,000 penalty was forgiven for one consent order 1 year after the order was negotiated (August 2003), although there was no indication that the airline had fully complied with the offsetting provisions. Although the penalty was forgiven in August 2004, no monitoring occurred between January 2004 and February 2006, when OAEP asked the airline, via e-mail, whether the conditions had been met. Although the airline responded with an e-mail stating that it had met the conditions, OAEP did not verify this assertion. Without continued monitoring, OAEP has no assurance that violators have fully met the conditions of the orders.

The Department needs to develop mechanisms to strengthen enforcement monitoring, despite budgetary constraints. Between 2003 and 2005, funding for compliance and enforcement travel declined from \$51,000 to \$3,500, virtually eliminating on-site visits. In the absence of physical verification of compliance, OAEP must rely on self-certification by the air carriers and other providers of air services. Certifications may be appropriate in some cases, but they should not supplant physical verification, especially in cases resulting from severe consumer harm (e.g., a pattern of civil rights violations). To the extent possible, the Department should make enforcement a priority and direct sufficient resources for staff to conduct on-site compliance verification.

OAEP has operated a toll-free hotline for airline passengers with disabilities to resolve time-sensitive disability-related disputes.<sup>10</sup> Since the toll-free hotline started operations in August 2002, the contractor-operated hotline has received about 17 calls per week at an average cost per call of about \$1,200.<sup>11</sup> Since October 1, 2006, the Department has operated the hotline in-house, a move that OAEP estimates will save approximately \$400,000 in budgeted fiscal year

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<sup>9</sup> In DOT aviation economic enforcement proceedings, a consent order reflects a settlement between OAEP and an entity that has violated DOT aviation economic requirements. It is signed by the Deputy General Counsel or, if a hearing has been instituted, by an administrative law judge. Typically such an order includes a finding of violations, a cease-and-desist provision, and an assessment of civil penalties.

<sup>10</sup> The Conference Report accompanying the 2002 Appropriations Act required DOT to establish a toll-free hotline to be staffed from 7:00 a.m. to 11:00 p.m., 7 days a week.

<sup>11</sup> Through September 2006.

(FY) 2007 funds and bring the cost per call down to less than \$25. Bringing the hotline operations in-house frees up funds that can potentially be used to support OAEP's oversight and enforcement of air carriers' compliance with air traveler consumer protection rules.

Additionally, OAEP's increased responsibilities—especially as they relate to civil rights violations—have diverted resources away from OAEP's other consumer protection activities such as investigating the availability of seats at advertised fares and consumers' ability to redeem frequent flyer awards. Since 1996, OAEP has taken action in only two instances of insufficient capacity at the lowest advertised fare. While civil rights violations clearly have an impact on the traveling public, OAEP cannot forget its other responsibilities related to protecting consumers from economic harm.

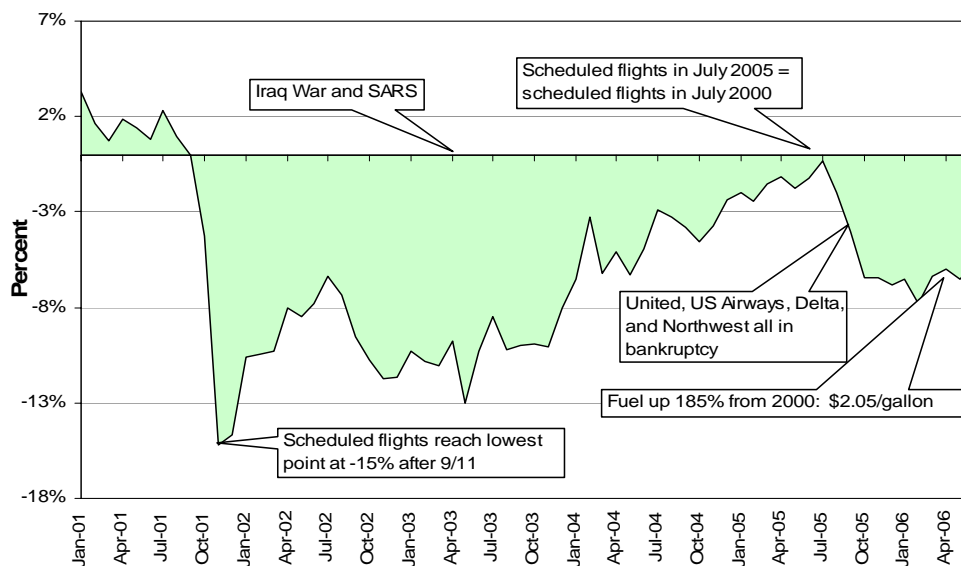
**Recommendations.** We are making a series of recommendations to the Department to strengthen its oversight and enforcement of air traveler consumer protection rules. These recommendations begin on page 38. One such recommendation is that DOT develop strategies to more effectively monitor air carrier compliance with Federal requirements governing air travel consumer protection rules and to verify air carrier compliance with the terms and conditions of consent orders.

## BACKGROUND: SINCE 2001, THERE HAS BEEN A PROFOUND CHANGE IN THE AIR CARRIER INDUSTRY

During the past 5 years, the air carrier industry has faced a series of major challenges, including a weakened economy; the terrorist attacks of September 11, 2001; the Severe Acute Respiratory Syndrome epidemic; the war in Iraq; soaring fuel prices; and continued terrorist threats against air carriers. After September 11, 2001, Congress provided a total of \$5 billion in compensation to air carriers for direct losses as a result of the 4-day shutdown of the air traffic control system and for incremental losses incurred between September 11, 2001, and December 31, 2001, as a direct result of the terrorists' attacks. However, the air carriers have still experienced record financial losses in the past 5 years.

The air carriers have made unprecedented changes to their operations to regain profitability. Several air carriers have gone into bankruptcy and others have liquidated. The remaining air carriers have struggled to keep afloat as demand has softened, primarily in the high-fare business travel market. Between the first quarter of 2001 and the fourth quarter of 2005, the network air carriers<sup>12</sup> generated \$58 billion in net losses. As Figure 1 illustrates, the events of the last 5 years have had a significant impact on the decline and recovery of air service.

**Figure 1. Percentage Change in Scheduled Domestic Flights January 2001 through June 2006 (Base Year 2000)**



<sup>12</sup> Network carriers are those air carriers that operate in a hub-and-spoke system.

Nevertheless, two network carriers have emerged from bankruptcy and many of the airlines have improved their financial condition by taking advantage of strong passenger demand competing for fewer available seats, which has enabled them to increase fares. Nine of the 16 air carriers posted profits in the first quarter of 2006.

The following statistics and analysis compare the most recent air carrier environment to the environment in 2000.

### **Traffic and Capacity**

- The number of scheduled flights declined from 8 million in 2000 to 7.8 million in 2005, a drop of 2.5 percent. Scheduled seats declined 7 percent between 2000 and 2005, from 876 million to 815 million.
- In the first 6 months of 2006, the six largest network carriers combined scheduled 10 percent fewer flights and 17 percent fewer seats than in the first 6 months of 2000. US Airways and Delta eliminated the most capacity; both reduced scheduled seats by 27 percent.
- Even as the number of flights and scheduled seats declined, enplanements were up 3 percent from 665 million passengers in 2000 to 685 million passengers in 2005.
- Reduced capacity and increased demand means fuller flights. For the first quarter of 2006, load factors averaged 77 percent for the six largest ATA airlines, compared to 68 percent average load factors for the same period in 2000.
- Reduced capacity and higher load factors could also mean increased passenger inconvenience and dissatisfaction with customer service. With more seats filled, air carriers will have fewer options to accommodate passengers from canceled flights.

### **Delays and Cancellations**

- The number of delayed or canceled flights has declined from 2.5 million in 2000 to 2.2 million flights in 2005, a decrease of 12 percent.
- The percentage of delayed or canceled flights has also declined from 27.1 percent in 2000 to 22.7 percent in 2005.
- The average flight delay length is about the same. In 2000, the average delay length was 51 minutes; in 2005, it was 53 minutes.

- While flight delays have declined nationwide since 2000—, there are some individual airports that experienced significant reductions in service and a subsequent reduction in delays. However, traffic and delays continued to increase at other airports.

For example, from January through May 2006 at George Bush Intercontinental/Houston Airport, flight arrivals increased by 30 percent and delays increased by 56 percent when compared to the same period in 2000. This increase is important to note because Houston added a new runway in 2003 at a cost of \$267 million that was suppose to alleviate delays. The growth at Houston resulted from Continental Airline’s increased use of regional jets, which account for 52 percent of Continental’s service out of Houston.

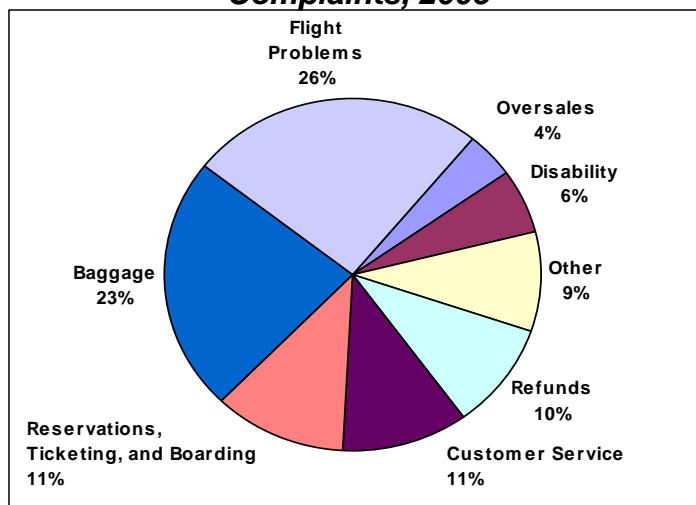
### Workforce Reductions

- Between 2000 and 2005, the size of the workforce at the six largest network airlines decreased by 27 percent.<sup>13</sup> The largest reduction was at United Airlines, where the workforce decreased by 41 percent.

### Complaints

- Consumer complaints followed traffic levels and are starting to increase as traffic returns from its low in 2003. As we found in 2000 and in every year since, the largest complaint category is flight problems, which includes delays, cancellations, and misconnections. In 2000, flight problems accounted for nearly 40 percent of the complaints. As depicted in Figure 2, flight problems accounted for more than one-quarter of all complaints the Department received in 2005.

**Figure 2. Air Travel Consumer Complaints, 2005**



Source: DOT's Air Travel Consumer Reports for 2005

- The next largest category of complaints was mishandled baggage. In May 2006, Chairman Mica of the House Subcommittee on Aviation held a hearing

<sup>13</sup> The US Airways employee count does not include America West in 2000 because the two ATA airlines had not then merged. They are combined in the 2005 data despite maintaining separate operations for most of the calendar year.



on the growing problem of airline passenger baggage that is delayed, damaged, lost, or stolen. In 2005, there were 6.04 mishandled baggage reports per 1,000 passengers, which exceeds the 2000 rate of 5.29 reports per 1,000 passengers. For several months in 2005, mishandled baggage was the number one complaint as reported by DOT. For the first 6 months of 2006, there were 5.86 mishandled baggage reports per 1,000 passengers, which is down from the rate of 6.20 mishandled baggage reports per 1,000 passengers for the same period in 2005.

However, the rate of mishandled baggage reports per 1,000 passengers has increased beginning in August 2006<sup>14</sup> as the number of checked bags has increased, and will likely continue because of the Transportation Security Administration's restrictions on liquids, gels, and lotions in carry-on baggage. This is a precautionary measure following the overseas arrests of a number of extremists plotting to destroy multiple passenger aircraft flying from the United Kingdom to the United States.

## FINDINGS

### **Airlines Still Need To Emphasize the Importance of Providing Timely and Adequate Flight Information and Establish Targets for Reducing Delays**

The ATA airlines committed to notify customers at the airport or on-board an affected aircraft of the best available information regarding known delays, cancellations, and diversions *in a timely manner*.

Since our 2001 report, the airlines have invested in a variety of technology upgrades to their information and communication systems that automatically notify air travelers at home, at work, or elsewhere regarding the status of their flight, including information about delays or cancellations. Travelers can establish a notification profile on the airlines' Internet sites and provide contact points (e.g., home phone, work phone, cell phone, or personal digital assistant) for the airlines to use in notifying them in case of a problem with their flight. All the airlines we reviewed make up-to-date information available about their flights' status via their Internet sites or toll-free telephone reservation systems.

However, we still find that the information about delays and cancellations provided by the airline agents in the boarding areas and on-time flight

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<sup>14</sup> In August 2006, there were 8.08 mishandled baggage reports per 1,000 passengers, which exceeds the July 2006 rate (6.50 reports per 1,000 passengers) by 24 percent. In September 2006, there were 8.25 mishandled baggage reports per 1,000 passengers.

performance information provided by agents in the airlines' telephone reservation systems is not always accurate, timely, or adequate.

Also, the number of delayed and canceled flights has been manageable since 2001 but is on the rise at certain hub airports. DOT and airlines should continue to look for ways to reduce the level of occurrence of both delays and cancellations. DOT recently announced it would focus significant attention and resources to cut traffic jams, relieve freight bottlenecks, and reduce flight delays. This attention is necessary because airlines have not set targets to reduce delays and cancellations as they promised in June 2001 congressional testimony,<sup>15</sup> and consumers lose \$9.4 billion a year from airline delays alone.

### *Information Provided at the Boarding Gates About Delays and Cancellations Was Frequently Untimely or Inadequate*

While improvements to electronic information display systems have been made to keep passengers informed, we found that verbal information being provided about known delays and cancellations in the boarding areas was frequently untimely and inadequate. During our observations at 17 airports nationwide for this review, we found that airports and airlines are providing timely electronic information to customers about flight delays on the Flight Information Display Systems monitors located throughout the airports and on the Gate Information Display Systems monitors located in the boarding areas.<sup>16</sup> Several airlines have invested in a new Gate Information Display System that provides information about the flight assigned to the gate, including flight time, departure time, and onboard services offered. The system is equipped to list the specific reason a flight is delayed, when necessary.

However, the airlines' policies call for their customer service gate agents to make timely verbal announcements about delays and cancellations (defined as generally every 20 minutes). Based on 120 observations at 17 airports, 50 times the airlines' gate agents did not make timely announcements and 54 times the information provided by the agents was not adequate. The flights we observed were delayed at least 20 minutes.<sup>17</sup>

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<sup>15</sup> ATA's testimony before the House Transportation and Infrastructure Committee, June 20, 2001.

<sup>16</sup> In February 2006, DOT issued a notice of proposed rulemaking proposing to adopt a performance standard requiring air carriers to promptly provide the same information to deaf, hard of hearing, and deaf-blind individuals in airport terminals that they provide to other members of the public.

<sup>17</sup> Airlines that account for at least 1 percent of total domestic scheduled passenger revenues submit monthly reports to BTS, which are used, among other things, to determine the percentage of flights departing and arriving on time by airport. The Department counts a flight as on time if it arrived (its aircraft parking brake set) within 15 minutes of the scheduled gate arrival time.

For example:

- During a 1½-hour delay on a flight from Atlanta to Houston, one announcement was made regarding the delay and no reason was provided. Two agents were assigned to the gate and were simultaneously working other flights. During the observation, this flight's information disappeared from the gate information display monitor. The flight had been canceled, but this was not announced until passengers began questioning the agent (who was busy with the boarding process of another flight) about why the Houston flight had disappeared from the display.
- During a 2½-hour delay on a flight from Dallas-Fort Worth to Philadelphia, no announcements were made at the boarding gate regarding the delay, and only the airport's flight information display monitor showed the flight as being delayed. Not until we inquired did we find out that weather was the cause of the delay.

While the number of tests was limited, we found a wide disparity among the airlines in the timeliness and adequacy of flight delay and cancellation announcements, ranging from total failure to complete success. We gave the airlines the results of our observations so they could take the necessary action to comply with the Commitment provision and their customer service plans.

Based on our observations, the airlines need to conduct periodic observations in the gate areas during known delays and cancellations to ensure that their customer service employees are providing timely and adequate flight information. Periodic observations could be included as part of the airlines' self-audits of their customer service plans.

### *On-Time Flight Performance Data Needs To Be Made Readily Available*

In our last report, we recommended that the ATA airlines disclose to customers at the time of booking and without being asked the prior month's on-time performance rate for those flights that have been delayed (i.e., for 30 minutes or greater) or canceled 40 percent or more of the time. The ATA airlines disagreed with this recommendation and as an alternative agreed to make on-time performance data accessible to customers on the airlines' Internet sites, on a link to the Department's BTS Internet site, or through toll-free telephone reservation systems.

Only 5 of the 16 airlines<sup>18</sup> we reviewed make on-time performance data available on their Internet sites. While on-time performance data are available on the BTS

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<sup>18</sup> During our tests, America West Airlines and US Airways had not combined their reservation system operations, so the results from the two are not combined.

Internet site, it is difficult to find. The home page does not clearly indicate where to find the data and a user would have to use the link called “searchable data and statistics” to actually get the on-time flight performance information.

Federal regulation requires air carriers to provide on-time performance data upon request when customers call the airlines’ telephone reservation systems.<sup>19</sup> However, the information being provided by the agents in the airlines’ telephone reservation systems about on-time flight performance is not always accurate or adequate. For example, we placed 160 calls (10 calls to 16 airlines’ telephone reservation systems) requesting on-time performance for specific flights and were successful only 59 percent of the time in getting the data for the preceding month. For 29 percent of the calls, we were told that the information was not available. For the remainder of the calls, agents either guessed what they thought the on-time performance was or gave the data for only the previous day. In addition, the wait time to speak to an agent was more than 10 minutes for 8 percent of the calls, with one call’s wait exceeding 50 minutes.

We note that two of the three largest independent online travel agencies provide on-time percentages for flights that are being booked, even for airlines that do not report that information on their own Internet sites. Given the ease of availability of this information to the airlines, we continue to recommend that the airlines post on-time flight performance information on their Internet sites and make it available through their telephone reservation systems and to do so without prompting. BTS should also establish a direct link on its home page to on-time performance statistics by flight number.

*The Department Should Continue To Implement Actions To Curb Congestion and Delays Because Airlines Have Not Set Targets To Reduce Delays and Cancellations as They Promised*

In its June 2001 testimony, the ATA, on behalf of member airlines, stated that specific targets would be established for reducing chronically delayed or canceled flights.<sup>20</sup> However, this statement was followed closely by the events of September 11th. With the reduction of service that followed, delays and cancellations dropped markedly and the airlines never established targets for reducing chronically delayed or canceled flights.

During our current review, we found that the 15 airlines, in collaboration with FAA, are managing delays and cancellations on a day-to-day basis but have not

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<sup>19</sup> Air carriers with less than 1 percent of total domestic scheduled passenger revenues are not required by Federal regulation to submit monthly reports to BTS and are therefore exempt from Federal regulations governing the reporting of on-time performance information, unless they choose to do so voluntarily. Midwest Express is exempt but has a policy to do so under its customer service plan.

<sup>20</sup> We define chronically delayed flights as those flights canceled or delayed 30 minutes or more at least 40 percent of the time during a single month.

established targets for reducing the number of chronically delayed or canceled flights. However, now that traffic has returned to pre-September 11th levels, flight delays and cancellations are starting to rise. While overall there were still fewer delays in 2005 and 2006 as compared to 2000, there are certain airports where delays exceeded 2000 levels. For example:

- Houston's George Bush Intercontinental Airport's traffic from January through May 2006 increased 30 percent over 2000 levels for the same 5 months, and delays increased 56 percent. During this period in 2000, the delay rate was 19 percent; in the same 5 months of 2006, it was 23 percent.
- Memphis Airport also has growing delay problems. Although traffic increased by only 12 percent over the level of January through May 2000, delays increased by 59 percent for the same 5 months in 2006. In 2000, the delay rate was 17 percent; in the same 5 months of 2006, it was 24 percent.

As delays and cancellations return, FAA and some airports are considering a variety of administrative and market-based solutions that would allow variable pricing of access to control congestion and delays. For example, in 2004 and 2005, FAA used administrative actions to reduce delays at Chicago O'Hare International Airport by first negotiating with and later imposing schedule reductions on the air carriers serving O'Hare. In August 2006, FAA extended the administrative controls at O'Hare through October 2008, when the first phase of O'Hare's expansion and modernization program is scheduled to be complete and additional capacity will relieve some of the congestion.

At New York's LaGuardia Airport, another airport where scheduled operations are anticipated to exceed capacity when administrative actions expire in 2007, new construction is not a viable option. Some demand-management tool, whether market-based or administrative, will likely be needed to prevent what could be crippling delay conditions. In fact, in August 2006, FAA issued its long-awaited proposed rule on demand management at LaGuardia.

Demand management approaches involve significant policy considerations, such as the market impact of limiting flights at certain times of the day, how general aviation is treated, and how access to small communities will be ensured. These critical issues require serious consideration before any demand management technique is imposed given the severe market consequences a poorly designed technique could cause.

Another option to curbing congestions is for OAEP to investigate unrealistic scheduling of flights by any air carrier. In 1984, the Office of the Secretary adopted a Civil Aeronautics Board policy that determined "...unrealistic scheduling of flights by any air carrier...to be an unfair or deceptive practice and

an unfair method of competition....” OAEP has also acknowledged that the law “...prohibits unfair and deceptive practices, and regular flight delays and cancellations...are clearly examples of such prohibited practices.” These flights are referred to as “chronically delayed.” For 2005, we identified 15,640 unique flight numbers (215,016 individual flights) that were chronically delayed or canceled, affecting an estimated 16 million passengers.

OAEP’s current position is that the flights that are chronically delayed are mostly due to reasons beyond the air carriers’ control: mostly weather but also congestion. As a result, in OAEP’s view, a successful enforcement action for unrealistic scheduling would be difficult at best. We believe OAEP should revisit the legislative and policy precedents that address unrealistic scheduling. If OAEP does believe, as it has stated, that unrealistic scheduling is “clearly” an example of unfair and deceptive practices, then it should pursue enforcement action against carriers that consistently advertise flight schedules that they cannot meet, regardless of the causes of the delay.

### **Improvements Are Needed in Handling Bumped Passengers**

In our review of the 15 airlines’ policies and procedures for handling bumped passengers, we found 9 airlines were not adhering to their own policies for compensating passengers who voluntarily give up their seats, and 2 airlines were not properly disclosing their boarding priority rules. We also found compensation amounts that have not changed since 1978. These are similar to conditions we found in our prior review.

#### *The Majority of Airlines Were Not Adhering to Compensation Policies for Passengers Who Voluntarily Give Up Their Seats*

The ATA airlines committed to handle bumped passengers with fairness and consistency. This implies that for every flight oversold, passengers denied boarding will be treated fairly and consistently when compensation is offered. Nine of the 13 ATA airlines and the 2 non-ATA airlines have policies that all volunteers on the same flight who give up their seats will be compensated equally.

Many customers make reservations and subsequently fail to travel, without notifying the air carrier. Consequently, air carriers overbook their scheduled flights, which means they take more reservations than there are seats. When more confirmed passengers than expected actually show up for a flight, it is oversold, and, by Federal regulation, the air carrier must seek out passengers who are willing to give up their seats for compensation before bumping anyone involuntarily. Only if there are not enough volunteers can the air carrier bump passengers from the flight. Bumped passengers are entitled to compensation, except when the passenger has not met air carrier check-in rules or the air carrier

arranges for the passenger to get to his or her destination within 1 hour of the passenger's original flight.

In our prior review, all but two airlines were providing equal amounts of compensation to passengers who volunteered to relinquish their seats. During this review, we identified 35 flights from 9 airlines where unequal compensation was given to passengers who volunteered to relinquish their seats.<sup>21</sup> For example, on 14 of 132 sampled oversold flights for 1 airline, passengers who voluntarily relinquished their seats received different compensation. On one of those flights, four volunteers each received a \$400 travel voucher while five other volunteers each received a \$200 travel voucher.

While we did not find this to be a systemic problem, the airlines need to conduct periodic reviews of oversales documentation as part of their self-audits of their customer service plans. This will ensure that the airlines' customer service employees are following their respective airline policy to compensate equally all volunteers on the same flight who give up their seats.

### *Two Airlines Are Not Fully Disclosing Their Boarding Priority Rules*

According to Part 250 of Title 14 of the Code of Federal Regulations, "Oversales," every air carrier will establish priority rules and criteria that will apply when passengers are involuntarily bumped from an oversold flights. These criteria take effect only after the air carriers have requested volunteers to relinquish their seats. Part 250 also requires the air carrier to give all passengers who are involuntarily denied boarding a written statement explaining the terms, conditions, and limitations of denied boarding compensation and describing the air carrier's boarding priority rules and criteria.

Boarding priority rules for 9 of the 15 airlines we reviewed are based on reverse order of check-in (i.e., last to check in is first to be bumped). The other 6 airlines have boarding priority criteria for bumping passengers based on fare paid or frequent flyer status. However, of the six airlines, two either did not disclose this information to passengers in their denied-boarding literature, as is legally required, or the information in the denied-boarding literature was not their stated policy or practice. We provided this information to officials in OAEP to determine whether enforcement actions are warranted. OAEP informed us that it will fully investigate this matter and take enforcement action, if appropriate.

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<sup>21</sup> We sampled 1,404 flights out of a universe of 31,439 from 15 airlines on which passengers voluntarily relinquished their seats on oversold flight for the months of December 2004 and June 2005.

### *Compensation to Involuntarily Denied Passengers Has Not Been Raised Since 1978*

Under Part 250, if a passenger is involuntarily bumped and delayed less than an hour, the passenger is not entitled to any compensation. If the passenger is delayed between 1 and 2 hours, the passenger can receive 100 percent of the cost of the remaining ticket to the destination but not more than \$200. If the delay is more than 2 hours, the passenger can receive 200 percent of the cost of the remaining ticket but not more than \$400. *This limit has not been changed since 1978.* In each case, the air carrier arranges to get the passenger to his or her destination.

Also, instead of cash, the air carrier can offer the passenger free or reduced air transportation of equal or greater value than the amount of the cash compensation. The carrier must also inform the passenger of the amount of cash compensation that would otherwise be due and that the passenger may decline the transportation benefit and receive the cash payment.

In our prior review, we recommended the airlines petition DOT to increase the monetary compensation payable to involuntarily bumped passengers. On April 3, 2001, ATA petitioned DOT for a rulemaking to increase the involuntarily denied boarding compensation. ATA also proposed to broaden the applicability of denied boarding compensation. Currently, aircraft with 60 seats or fewer are exempt from denied boarding compensation requirement. ATA proposed broadening this requirement to include aircraft with more than 30 seats. After September 11, 2001, however, the priorities changed and nothing came of this.

The DOT General Counsel's office has stated it intends to review the compensation amounts in the next few months and decide whether or how to proceed. The Department needs to take action on this petition to determine whether the maximum compensation amount needs increasing.

Given the significant growth of regional aircraft, the Department should also consider broadening the applicability of denied boarding compensation by changing the exemption for small aircraft to aircraft with 30 seats or fewer. The number of operations with aircraft of 31 to 60 seats has increased from 2.4 million flights to 3.4 million flights over the past 4 years. Altering the 60-seat exemption to a 30-seat exemption would affect approximately 26 carriers which, in 2005, had the seating capacity to transport over 160 million passengers on regional jets with 31 to 60 seats.



## **Straightforward, Comprehensive Reporting Is Needed on Frequent Flyer Award Redemptions**

The ATA airlines each committed to disclose to the customer rules, restrictions and an annual report on frequent flyer program redemptions. Frequent flyer programs have existed for at least 25 years. In addition to earning awards by flying, passengers can earn awards for free travel with purchases from dozens of participating companies, such as rental car agencies and hotel chains. Historically, the disclosure of frequent flyer rules and restrictions was part of each airline's operating policy. The Commitment provision to publish an annual report on frequent flyer program redemptions was new, but it was not specific about the amount or type of redemption information airlines should report.

As in our prior review, we found that the information disclosed by the airlines on frequent flyer redemptions still is of marginal value to the consumer. Redemption information is often difficult to find and not comparable across airlines because it is reported in a variety of ways. As a result, it is difficult, if not impossible, for consumers to compare frequent flyer programs in a meaningful way.

Today's reduced seat capacity along with deeply discounted fares translates into higher load factors and fewer seats available for the redemption of frequent flyer awards. At the same time, the airlines offer many more ways to earn points, such as credit card purchases, that have significantly increased the number of points available for redemption. The convergence of reduced seat capacity and increased number of points available for redemption causes award programs to lose value and makes it even more important for the consumer to have readily available and comprehensive information about frequent flyer redemptions. The data on frequent flyer redemptions should be standardized so customers can make a more meaningful comparison of the benefits of each airline's frequent flyer program.

### *Frequent Flyer Information Is Not Easily Found or Consistently Reported*

The ATA airlines committed to disclose to the customer an annual report on frequent flyer redemptions, but the Commitment provision was not specific about *where* the information should be published. Because no clear method was provided for where the redemption information should be disclosed, the customer for the most part cannot easily locate the data, and airlines do not always tell customers where they can find the information.

In this review, we found:

- Two ATA airlines and two non-ATA airlines do not report redemption information to the public. The two ATA airlines report this information on Internet sites only available to members of their frequent flyer programs.

- The remaining 11 ATA airlines report redemption information to the public, but it is not readily available.
  - Three airlines report redemption information in both their annual submissions to the Securities and Exchange Commission (10K report) and on their Internet sites;
  - Seven airlines only report redemption information in their 10K reports; and
  - One airline reports redemption information only on its Internet site.
- Redemption information in the airlines' 10K reports was not easy to find, and the locations on the Internet were not readily apparent. For example, two airlines report the data under their customer service plans, a third embeds the data deep in its program literature, and the fourth reports its data under a link to its Frequent Flyer Terms and Conditions page.

Even if passengers find the data, information disclosed on frequent flyer redemptions is not comparable. Airlines report frequent flyer redemptions in a variety of ways that makes it difficult, if not impossible, for consumers to compare frequent flyer programs in a meaningful way.

As shown in Table 2, the time period reported by 11 of the 15 airlines that do provide data on redemptions varies: three airlines report redemptions for 1 year only; two airlines report redemptions for 2 years; and the remaining six airlines report redemptions for 3 years. Moreover, the 11 airlines use different criteria to report redemptions. Eight airlines report redemptions as a percentage of revenue passenger miles,<sup>22</sup> two airlines report redemptions as a percentage of revenue passenger enplanements,<sup>23</sup> and the remaining airline reports only the total number of redemptions.

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<sup>22</sup> A revenue passenger mile represents one fare-paying passenger transported 1 mile, the most common measure of demand for air travel.

<sup>23</sup> A revenue passenger enplanement represents one fare-paying passenger—originating or connecting—boarding an aircraft with a unique flight coupon.

**Table 2. Frequent Flyer Information Reported by 11 Airlines**

Airline	Redemption Activity Reported	Redemptions Reported as a Percentage of Revenue Passenger Miles	Redemptions Reported as a Percentage of Passenger Enplanements	No. of Consecutive Years Reported
Alaska	Yes	Yes	No	3
ATA	Yes	No	No	1
American	Yes	No	Yes	2
Continental	Yes	Yes	No	1
Delta	Yes	Yes	No	3
JetBlue	Yes	Yes	No	1
Midwest	Yes	Yes	No	2
Northwest	Yes	Yes	No	3
Southwest	Yes	No	Yes	3
United	Yes	Yes	No	3
US Airways	Yes	Yes	No	3

*Frequent Flyer Points Lose Value as Availability of Seats Declines and More Points Flood the Market*

While it is nearly impossible to obtain comparable data across the airlines to determine the relative value of the award points earned in each airline's frequent flyer program, there are basic conditions and calculations that indicate that value of frequent flyer points is dropping.

**Seat Capacity and Frequent Flyer Redemptions for Free Tickets Have Been on the Decline.** The combination of six airlines with the largest frequent flyer programs have on average reduced capacity by about 11 percent in 2005 as compared to 2000 (see Table 3). This, along with deeply discounted fares, has raised load factors, resulting in fewer seats available for redeeming frequent flyer awards.

**Table 3. Change in Available Seats Between 2000 and 2005**

Airline	Seats, 2000	Seats, 2005	Change
American	126,168,624	128,715,885	2%
Continental	68,368,851	65,256,219	-5%
Delta	175,161,550	156,497,538	-11%
Northwest	86,302,504	84,873,060	-2%
United	135,970,429	106,095,667	-22%
US Airways	156,764,929	123,208,796	-21%
<b>Total</b>	<b>748,736,887</b>	<b>664,647,165</b>	<b>-11%</b>

As shown in Table 4, frequent flyer activity for the same six airlines has generally declined since 2002.

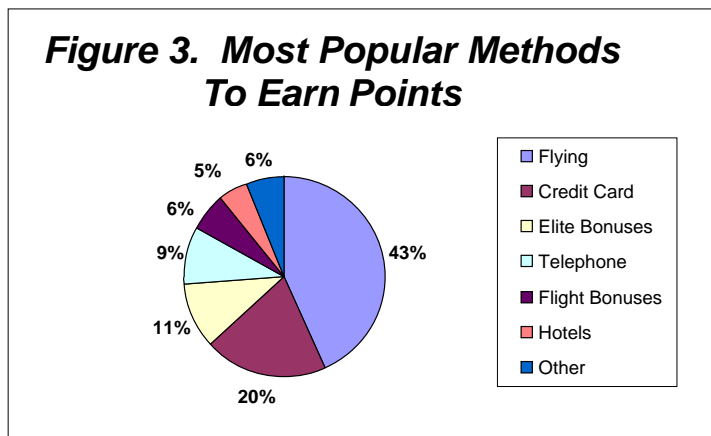
**Table 4. Rewards as a Percentage of Revenue Passenger Miles**

Airline	2002	2003	2004	2005
American*	8.1%	7.8%	7.5%	7.2%
Continental	8.1%	7.6%	5.6%	7.0%
Delta	9.0%	9.0%	8.0%	9.0%
Northwest	7.8%	7.5%	6.9%	7.3%
United	7.8%	9.0%	7.4%	6.6%
US Airways	6.0%	9.1%	9.1%	9.1%

\*Based on passenger enplanements.

### More Ways To Earn Points.

As shown in Figure 3, the most popular methods for earning points have expanded well beyond air travel. For example, you can earn 8 points for each dollar spent buying your pet's medicine online. You can earn 7 points for each dollar spent by having H&R Block prepare your taxes. You can even earn 3 points for each dollar spent by purchasing Tupperware products.



**Redemption Value of Points Declines.** Generally, the airlines have two levels of awards: a standard award requiring the least number of points to redeem a ticket and a premium award requiring up to twice the number of points for a ticket. As shown in Table 5, premium awards value the frequent flyer points less than standard award levels since it takes more frequent flyer points for a premium award ticket than a standard award ticket.

**Table 5. Redemption Value of Points  
Standard Award vs. Premium Award**

Standard Award	Mileage Points	Lowest Fare*	Value-Dollar
Washington, DC, to Seattle (Aug 16-23)	25,000	\$462.70	.0185
Chicago to West Palm Beach (Sep 21-28)	25,000	\$267.10	.0107
Detroit to San Antonio (Aug 5-12)	25,000	\$442.20	.0177
Cincinnati to Phoenix (Sep 21-28)	25,000	\$419.60	.0168
Premium Award			
Washington, DC, to Seattle (Aug 16-23)	45,000	\$462.70	.0103
Chicago to West Palm Beach (Sep 21-28)	45,000	\$267.10	.0059
Detroit to San Antonio (Aug 5-12)	45,000	\$442.20	.0098
Cincinnati to Phoenix (Sep 21-28)	45,000	\$419.60	.0093

\* Even with a fare as high as \$1,000, redemption value at the standard award is still only 4 cents per mileage point and 2 cents per mileage point at the premium award level.

The non-air travel opportunities to use points are increasing as well. However, in some cases the value of the points is a fraction of what it would be worth if they were redeemed for air travel. For example, one airline allows a customer to use 96,500 mileage points to purchase a Sharper Image Portable GPS Range Finder for golf. The value of the item is \$349.95—making the value of the points about one-third of 1 cent.

### *Inability To Redeem Awards Is the Most Prevalent Complaint Among Frequent Flyer Members*

As frequent flyer redemptions have declined overall since 2002, a common and growing cause of complaints is the inability to book tickets using the standard award level.

Most airlines acknowledged the limitation of awards at the standard award level. Based on a sample of 598 frequent flyer complaints received by 10<sup>24</sup> airlines between January and December 2005, we found that 137 complaints (23 percent) were attributed to the customer's inability to obtain a standard award. While frequent flyer complaints represent only about 1 percent (or less) of all complaints received by DOT, the frequent flyer complaint subcategory "Not Able To Redeem Miles" grew from 17 percent in 2001 to 38 percent in 2004 but dropped to 26 percent in 2005.

<sup>24</sup> Three airlines (ATA, JetBlue, and Southwest) only have one level of award, and two airlines (Alaska and AirTran) did not maintain sufficient information to produce a reliable sample. This reduced the total to 10 airlines reviewed.

Even if there were reasonable capacity for redemptions at the standard level, the flights where seats exist may be ones that are less popular to most travelers. Examples include overnight flights, flights to Phoenix in August, or flights requiring multiple connections.

Seats might not be available at all at the standard level on more popular routes that have reduced capacity. For example, in the first 5 months of 2006, United's scheduled seats to Hawaii were down 17 percent over the same period in 2000. From the United States to London-Heathrow, the number of seats was down 11 percent in the first 5 months of 2006 over 2000 levels.

The prevalence of complaints to the airlines about the inability to redeem free tickets, especially at the standard awards level, leads us to conclude, just as we did in our February 2001 report, that consumers need more information about frequent flyer redemptions. None of the airlines in our review reports frequent flyer activity for the standard and premium awards levels.

#### *Data on Frequent Flyer Redemptions Should Be Standardized*

In our February 2001 report, we recommended that air carriers make available to the public a more comprehensive reporting of frequent flyer redemptions, such as percentage of successful redemptions and frequent flyer seats made available in the airline's top origin and destination markets. The ATA airlines opposed the recommendation, and we were unable to obtain this type of information during our recent review. We acknowledge that maintaining information on unsuccessful requests for frequent flyer awards could be burdensome, even impossible, because so many requests are made through the airlines' Internet sites and not tracked.

Nevertheless, the airlines should make available information that allows consumers to determine which frequent flyer program would provide the greatest benefit based on availability of awards at the standard level, awards requiring the least number of points, or seat availability to top markets. The Department should examine through rulemaking proceedings the need to standardize the reporting of airline data on frequent flyer redemptions so that customers can make a more meaningful comparison of the benefits of each airline's frequent flyer program. This information should include the ratio of the number of seats flown by passengers traveling on frequent flyer rewards to the overall number of seats available and the total number and percentage of redemptions at both standard and premium levels. This information should be readily and easily available to consumers.

## **Airlines' Need To Focus on Promptly Training Personnel Who Assist Passengers With Disabilities**

The ATA airlines committed to disclose their policies and procedures for assisting special-needs passengers, such as unaccompanied minors, and for accommodating passengers with disabilities in an appropriate manner.

Federal requirements for accommodating persons with disabilities have been in existence since the Air Carrier Access Act of 1986 and the promulgation of its implementing rules in Part 382 of Title 14 of the Code of Federal Regulations, "Nondiscrimination on the Basis of Disability in Air Travel" in 1990.

A 2005 market study of air travelers with disabilities conducted by a national polling firm<sup>25</sup> found that 84 percent of this group encountered obstacles at US air carriers and 82 percent reported accessibility problems at airports. These problems included airport personnel's lack of awareness regarding services provided for passengers with disabilities, delays or breakdowns in requested services, and personnel being insensitive or unwelcoming to people with disabilities. These problems point to the lack of proper training in assisting passengers with disabilities, including the proper and safe operation of any equipment used to accommodate them.

We found that some airline and their contractor personnel who interact with passengers with disabilities were either not being trained, were not promptly trained, or were not current with refresher training. We also found that not all airlines established focus groups to help better address the needs of air travelers with disabilities and special needs, as we recommended in our 2001 report.

These deficiencies resulted from poor oversight of compliance with the requirements of Part 382 by both the airlines and OAEP. Without ensuring compliance with Federal regulations, the airlines and the Department have no assurance that personnel interacting with the traveling public have the necessary level of training to assist persons with a disability appropriately. As discussed later in this report, the Department received additional resources to improve air transportation access for passengers with disabilities by ensuring compliance with Federal requirements.

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<sup>25</sup> The Open Doors Organization, a non-profit group, commissioned Harris Interactive to conduct a quantitative study among US adults with disabilities to identify the general travel habits and patterns of adults with disabilities. One of the objectives was to gauge experiences with airlines, airports, car rental agencies, hotels, and restaurants. Open Doors' web site is [www.opendoorsnfp.org](http://www.opendoorsnfp.org).

### *Airlines Need To Place Greater Emphasis on Part 382 Training*

Under Part 382, air carriers are required to ensure personnel who deal with the traveling public are trained to proficiency in assisting passengers with disabilities, as appropriate to their duties, such as the proper and safe operation of any equipment used to accommodate those passengers (e.g., wheelchairs). The air carrier must also train these employees about awareness and appropriate responses to persons with a disability. Training must be completed within 60 days of the employees assuming their duties.<sup>26</sup> Refresher training is left up to the discretion of the air carrier, so long as personnel maintain proficiency.

In our prior review, the airlines performed well with respect to this provision. In our current review, however, we found that some airline and contractor personnel who interact with passengers with disabilities were not trained, were not promptly trained, or were not current with refresher training. We tested the airlines' compliance with selected aspects of Part 382, including training of airline and contract personnel in assisting passengers with disabilities and timely responsiveness to complaints.

**Airline and Contractor Personnel Training.** We reviewed training records<sup>27</sup> for 1,073 airline employees<sup>28</sup> at 15 selected airports nationwide and found that 166 employees (over 15 percent) from 11 of the 15 airlines were deficient in some aspect of their training.

- At 6 airlines, 51 employees either failed to receive initial training or received initial training late or the airline was unable to provide records to support the completion of training.
- At 9 airlines, an additional 115 employees either failed to receive refresher training or received refresher training late or the airline failed to document completion of refresher training. Although Part 382 requires air carriers or their contractors to provide refresher training as needed to maintain proficiency, 13 of the 15 airlines we visited required annual refresher training for their employees.

We also reviewed the training records of 306 contractor personnel at 10 airports and found similar problems with 71 contractor employees (over 23 percent) for 5 airlines. We found that:

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<sup>26</sup> Under Part 382, crewmembers (i.e., pilots and flight attendants) are required to complete training before they assume their duties.

<sup>27</sup> There is *no* requirement under Part 382 for air carriers to maintain employee training records.

<sup>28</sup> Our review of employee training records focused on airline and sub-contractor customer service employees.

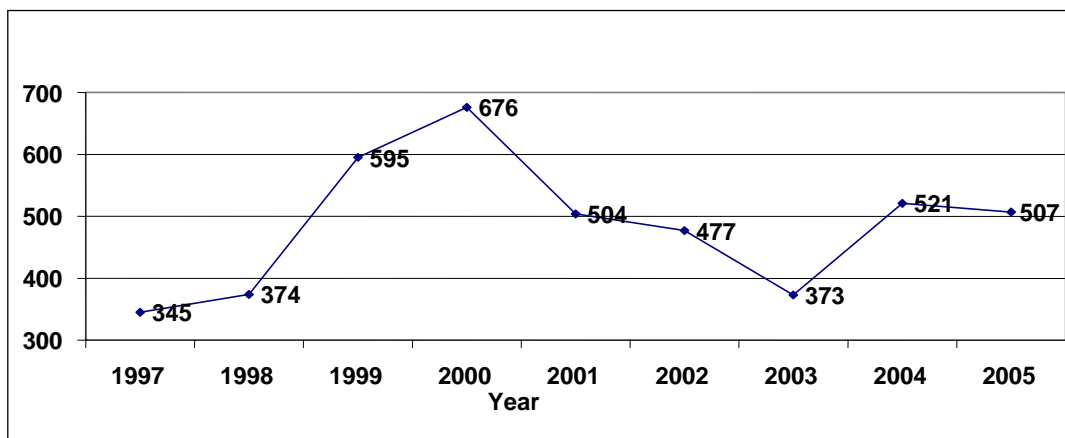


- 21 contractor employees either received initial training late or the airlines were unable to provide training records.
- The remaining 50 employees failed to receive refresher training or did not receive it promptly.
- One airline was not providing initial or refresher training for contractor personnel.

**Training Inconsistencies Are a Frequent Complaint.** The airlines need to refocus their attention in the area of training and service. In fact, advocacy groups representing passengers with disabilities have consistently identified the on-going problems with training airline personnel to properly assist passengers with disabilities. The National Council on Disability<sup>29</sup> frequently hears complaints from passengers with disabilities about the airlines' training inconsistencies.

In its Air Travel Consumer Report, DOT reports that civil rights complaints filed by air travelers with disabilities were on the rise from 345 complaints in 1997 to a peak of 676 complaints in 2000, almost doubling the amount of complaints since 1997 (see Figure 4). While complaints declined from 2000 through 2003, they are on the rise again, and the airlines cannot be complacent. The top complaint by passengers with disabilities was failure to provide adequate or timely assistance (51 percent).

**Figure 4. Number of Complaints Filed By Air Travelers With Disabilities**



<sup>29</sup> The National Council on Disability is an independent Federal agency making recommendations to the President and Congress for enhancing the quality of life for all U.S. citizens with disabilities and their families. It is composed of 15 members appointed by the President and confirmed by the U.S. Senate.

**Establishment of Focus Groups.** In our 2001 report, we recommended the ATA airlines consider establishing advisory councils, including persons with disabilities, to help better address the needs of air travelers with disabilities and special needs. However, only six ATA airlines and one non-ATA airline did so. Seven of the other eight airlines who did not implement the recommendation did obtain input from interest groups to help address the needs of this group of air travelers. Those airlines that have not already done so need to consider establishing advisory councils that include persons with disabilities to help better address the needs of these air travelers.

*OAEP Needs To Improve Oversight, and Certain Provisions in the Regulation Need Strengthening*

The immediate solution to ensure that the airlines and their contractors are complying with their own policies and DOT rules for accommodating air travelers with disabilities is for OAEP to closely monitor the airlines' compliance, as well as their contractors' compliance. This will ensure that all employees who require training receive it.

Although 14 airlines use contractors to assist passengers with disabilities, oversight of contractor compliance with Part 382 varies from no oversight by some airlines, to informal observations or reviews, to reliance on customer service complaints, to established performance tracking systems.

The two ATA airlines where we found the most training deficiencies have never had their training programs for assisting passengers with disabilities and special needs examined by the Department. In fact, OAEP's most recent review of Part 382 compliance was limited and did not include a review of the training records of either the airlines' employees or contractor employees.

More importantly, however, is a need to strengthen the requirements in Part 382 to ensure greater responsibility and accountability of the air carriers and their contractors. Part 382 should be changed to require:

- All employees of air carriers or contractors whose job duties involve assisting passengers with disabilities be trained before taking on those duties. Requiring passing a test before beginning work should also be considered. The current rule allows up to 60 days to train the employee, and testing is not required.
- All employees whose job duties involve assisting passengers with disabilities receive mandatory annual refresher training. Under the current rule, aside from employees designated as complaint resolution officials,

annual refresher training is not required and refresher training simply must be completed as needed to maintain proficiency.

- Air carriers and their contractors to maintain employee training records for a minimum of 1 year. Part 382 does not require air carriers to keep or maintain records of individuals trained and dates of training.
- Air carriers to ensure contractor employees assisting passengers with disabilities get the required training. The current rule is ambiguous regarding air carrier oversight responsibilities of their contractor training programs and employee on-the-job performance. The rule simply states that each air carrier “shall provide, or require its contractors to provide, training to the contractors’ employees concerning travel by individuals with a disability.”

### **Airlines Need To Resume Efforts To Self-Audit Their Customer Service Plans**

In our 2001 report, we recommended that the ATA airlines establish quality assurance and performance measurement systems and conduct internal audits to measure compliance with the Commitment provisions and customer service plans. The key to success of the customer service plans was the need for each airline to have a credible tracking system for compliance with each provision and the implementation of the customer service plan, buttressed by performance goals and measures.

In June 2001, in a hearing before the US House of Representatives Committee on Transportation and Infrastructure Subcommittee on Aviation, ATA, on behalf of its member airlines, committed to establishing internal performance measurement systems and audit procedures to measure compliance with their customer service plans. At that time, we confirmed that 12 of the 14 ATA airlines had internal performance measurement systems and audit procedures in place and that the remaining two airlines were finalizing their performance measurement systems.

However, during our current review, we found that only five ATA airlines currently have quality assurance and performance measurement systems and conduct internal audits to measure compliance with the Commitment and their customer service plans. The other ATA airlines either discontinued their customer service internal audit activities after the events of September 11th or combined this activity with their operations or financial performance review, where the Commitment provisions are overshadowed by operational or financial issues. We also found that the non-ATA airlines do not have comprehensive quality assurance and performance measurement systems or conduct internal audits to measure compliance with their customer service plans.

A quality assurance and performance measurement system is necessary for each airline to have a credible system for ensuring compliance with its customer service policies and procedures. Those airlines that have not already done so need to implement quality assurance and performance measurement systems and conduct internal audits. OAEP should use these systems to review more efficiently the airlines' compliance with those Commitment provisions governed by Federal regulations.

### **The Department Needs To Improve Its Oversight of Air Traveler Consumer Protection Requirements**

The Airline Deregulation Act of 1978 gives the Secretary the authority to investigate and take enforcement actions against carriers engaging in unfair and deceptive practices and unfair methods of competition. OAEP is the division within the Office of the General Counsel that enforces DOT's air travel consumer protection rules. These rules encompass many areas, including unfair and deceptive practices and unfair methods of competition by carriers and travel agents. OAEP also investigates and enforces violations of rules governing denied boarding compensation, access for travelers with disabilities, and ticket refunds. When violations occur, OAEP can pursue enforcement action, which may range from warning letters to litigation in U.S. District Courts.

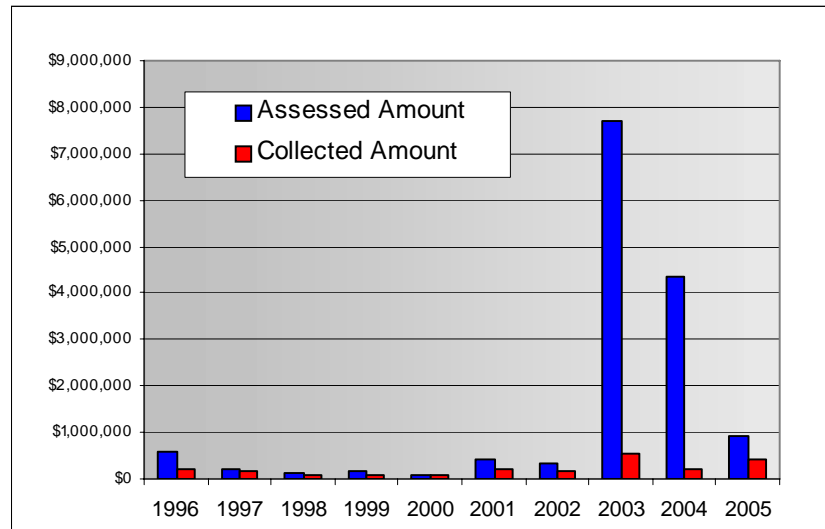
We found that while OAEP has made efforts to enforce civil rights violations, it needs to improve its oversight of consumer protection laws, including its efforts to monitor compliance with the terms and conditions of enforcement actions. In recent years, OAEP has not conducted on-site compliance reviews, relying instead on air carriers' self-certifications and company-prepared expense summaries submitted without supporting documentation. OAEP currently uses an outdated manual monitoring system to track milestones and due dates and relies on "institutional memory" to track prior actions against air carriers. An electronic information system will be necessary to effectively monitor compliance with enforcement cases and ensure that the Office's mission is not compromised during cycles of employee attrition.

We also found that, until recently, OAEP's toll-free hotline for air travelers with disabilities was underutilized and consumed significant financial resources—resources that can potentially now be used to support increased enforcement activities including on-site compliance inspections. In addition, these funds could also be used to reinstate other types of consumer protection activities, such as investigating the availability of advertised fares and consumers' ability to redeem frequent flyer awards.

### *OAEP Needs To Increase Its Efforts To Monitor Enforcement Actions Taken Against Air Carriers and Other Providers of Air Service*

Most of OAEP's formal enforcement activities involve consent orders issued against air carriers or other providers or sellers of air service that OAEP enters into with the alleged violator. The consent orders we reviewed contained cease-and-desist provisions and assessed penalties that ranged from \$0 to \$1.5 million. The higher penalties were assessed primarily in 2003 and 2004 following the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) mandating numerous additional consumer protection responsibilities to be carried out by OAEP, such as a provision requiring individual, comprehensive investigations of each disability-related complaint received by OAEP (see Figure 5). Since 1996, OAEP has negotiated 233 consent orders with air carriers and other providers or sellers of air services, with penalties totaling \$21.8 million.

**Figure 5. Penalties Assessed by OAEP and Amounts Collected After Offsets**



Note: 2005 is partial year data.

We reviewed 121 of the consent orders signed between 1996 and 2005 relating to advertising (78), civil rights (30), and "other" consumer matters (13). The penalties assessed in these orders totaled \$14.9 million, of which OAEP actually collected \$2.1 million after offsets or forgiveness provisions.

OAEP believes these forgiveness provisions and offsets are a better way to effect positive change than merely assessing a financial penalty. The intent is for the forgiveness provisions to provide an incentive for future compliance and for the offset to be used to improve service to consumers above and beyond what is required by existing rules or the carrier's contract of carriage. Without these forgiveness provisions and offsets, penalties would simply be deposited into the U.S. Treasury's General Fund.

Forgiveness or offset provisions were contained in 105 of the 121 consent orders we reviewed. *Forgiveness* provisions allow for a portion of the penalty to be paid

up front and another portion to be suspended for a period of time (usually 1 or 2 years), after which time the suspended amount will be forgiven if the violator has committed no further violations. *Offset* provisions allow for a portion of the penalty to be paid up front, with another portion to be credited against the amount assessed if the violator complies with certain conditions.

Most of the orders we reviewed had penalties that were split 50-50—one-half collected up front and the other half forgiven. In some cases, however, most of the penalty was offset if the air carrier agreed to invest like funds to improve service for consumers above and beyond what is required by existing rules or the carrier’s contract of carriage. For example, one air carrier was assessed a fine of \$100,000 for non-compliance with disability requirements. Of that, \$90,000 was offset because the air carrier established a consumer advisory group and provided information on their web site about the DOT toll-free hotline.

### *OAEP Should Verify Air Carrier Action Was Taken To Comply With Consent Orders*

From the 121 cases we reviewed, we randomly selected 20 consent orders to review the case monitoring files. Twelve of the 20 cases contained no evidence of monitoring—OAEP does not take special action to monitor compliance with forgiveness provisions for consent orders covering advertising violations.<sup>30</sup> The other eight cases documented different degrees of monitoring activity. Examples follow.

- A company-prepared spreadsheet was submitted to document expenses incurred on a disability-awareness program. No support was provided for the spreadsheet, but the air carrier advised that, “the costs were calculated on the basis of voluminous employee, payroll and other files.” There was no indication that the air carrier’s costs had been verified.
- Sworn certifications were submitted stating that civil rights training had been provided for all employees who interact with passengers. The airline provided no documentation to support that the training has in fact been received, (e.g., class sign-in sheet, agenda, or training materials) and there was no indication that OAEP had reviewed the training records or made any other attempts to validate the certifications.
- One consent order, with a \$90,000 penalty offset, required the airline to certify in writing that it had met three conditions within 1 year of the August 2003 order date. Although there is no evidence that OAEP received

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<sup>30</sup> Most of these cases involved advertising infractions that relate to fare display (disclosure of fees, taxes, restrictions) where there is clear evidence of non-compliance. The Department indicated that it does take action to collect suspended penalties when violations are discovered, although we did not verify this during our audit work.

this certification by August 2004, the carrier was allowed to offset the entire \$90,000 at that time. The last documented monitoring activity, prior to our office inquiring about this matter, was in January 2004 when OAEP confirmed that the carrier had implemented one of the three specified accommodation measures.

OAEP did contact the airline to request verification of compliance when our office inquired about this case in February 2006. The airline responded affirmatively, albeit 18 months after the \$90,000 penalty was offset. OAEP believes the required documentation was provided by the carrier in August 2004 but attributes its failure to locate the certification to the difficulty in managing cases and maintaining document controls without a central tracking system, particularly in this case where there was staff turnover. The carrier was also not able to provide proof of timely compliance.

To ensure air carrier compliance with the terms and conditions of consent orders, OAEP must verify that the terms and conditions have been met before forgiving any penalties. We are recommending that OAEP require documented proof—such as invoices, contracts, and receipts—of compliance with conditions of penalty offsets. OAEP should also verify compliance with advertising cease-and-desist orders before forgiving any penalties.

*The Department Should Make Enforcement Monitoring a Priority and Direct Its Resources Accordingly*

In April 2000, Congress passed legislation<sup>31</sup> that significantly increased the Department's responsibilities, especially as they relate to civil rights violations such as disability-related issues. In FY 2002, at our recommendation, Congress provided \$942,000 to fund activities and personnel in OAEP, primarily to implement OAEP's Accessibility for All America program—an effort aimed at improving access to the air transportation system for passengers with disabilities.

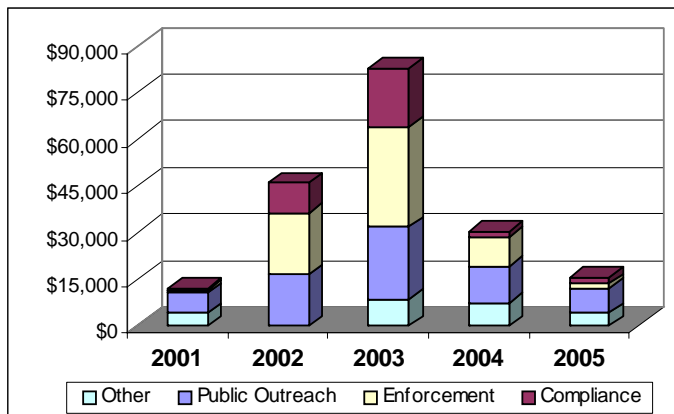
Staffing levels in the program have declined from a high of 40 in 2003 to 33 in 2006 because OAEP has not been permitted to fill positions vacated through attrition.

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<sup>31</sup> The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), Public Law 106-181.

OAEP resources for on-site visits to verify compliance with orders have also declined. As Figure 6 illustrates, travel funds—especially those for enforcement and compliance purposes—have declined significantly since 2003. Between 2003 and 2005, travel funding for compliance and enforcement purposes declined from \$51,000 to \$3,500.

**Figure 6. OAEP Travel Expenditures**



The Department needs to develop mechanisms to strengthen enforcement monitoring, despite budgetary constraints. In the absence of physical verification of compliance, OAEP must rely on self-certification by the air carriers and other providers of air services. Certifications may be appropriate in some cases, but they should not supplant physical verification, especially in cases resulting from severe consumer harm (e.g., a pattern of civil rights violations). To the extent possible, the Department should make enforcement a priority and direct sufficient resources for staff to conduct on-site compliance verification.

An alternative to OAEP staff verification could be to require the carrier, as part of its offsetting requirements, to contract with a neutral third-party to independently verify that the conditions of the consent order have been met. For example, if the Department enters into a consent order for \$250,000 with an offset of \$200,000 if certain conditions are met, one of those conditions could be to use an appropriate amount of funds to hire a third-party compliance monitor.

### *To Improve Its Oversight, OAEP Needs To Make Fully Operational an Electronic Case-Monitoring System*

OAEP staff attorneys, on average, handle about 17 cases or projects.<sup>32</sup> At any given time, OAEP has 200 to 300 active projects or cases. Despite its increased oversight responsibilities, OAEP has no electronic case monitoring system to track changes in case status. Before 2004, cases and projects were not centrally tracked at all. The current system is manual and accomplished through biweekly updates that are reviewed by the office management. These reports are 10 to 15 pages of narrative that provide sporadic updates of cases that can span several years. Tracking the progress of an enforcement action requires tracing the case manually through these biweekly reports.

<sup>32</sup> Among other duties, OAEP also participates in rulemakings, prepares technical assistance manuals, provides outreach to the disability community, and participates in air carrier fitness determinations.



Attorneys monitor their own cases to ensure that air carriers comply with the provisions of the consent orders within the timeframe specified, and that documentation verifying the cost and implementation of each offset is submitted. Most of these cases have staggered milestones and deadlines, which the attorneys must track individually. There is no standard protocol for case monitoring—each attorney has the latitude to develop his or her own system—which not only makes it difficult for managers to ensure effective oversight in real time but makes it extremely burdensome for managers to locate records documenting prior activity after attorneys leave. OAEP is in the process of developing an electronic monitoring system and expects it to be fully operational in FY 2007.

Without a fully operational electronic case monitoring system, OAEP does not have a central, automatic means to ensure all offenders are being monitored or to identify repeat offenders—functions that are currently performed via “institutional memory” and paper records. This ad hoc monitoring is not sufficient to ensure continuity of OAEP’s mission through cycles of employee attrition. One-quarter of the professional staff in OAEP are currently eligible to retire, including the top three managers.

#### *OAEP’s Toll-Free Hotline for Passengers with Disabilities Is Underutilized*

OAEP operates a toll-free hotline for airline passengers with disabilities to resolve time-sensitive disability-related disputes. Since the toll-free hotline began operations in August 2002, the contractor-operated hotline has received about 17 calls per week, at an average cost per call of about \$1,200. In October 2006, well after we started our audit, the Department began to operate the hotline in-house, a move that OAEP estimates will save approximately \$400,000 in budgeted FY 2007 funds and bring the cost per call down to under \$25. Bringing the hotline operations in-house frees up funds that can potentially be used to support OAEP’s oversight and enforcement of air carriers’ compliance with air traveler consumer protection rules.

#### *Legislative Requirements and Administration Priorities Have Curtailed OAEP’s Traditional Consumer Protection Activities*

New laws contain mandates under which OAEP has to assume numerous additional consumer protection responsibilities, including a new aviation civil rights provision; a provision requiring individual, comprehensive investigations of each disability-related complaint received by OAEP; a provision extending the air carrier disabled passenger discrimination law (Air Carrier Access Act) to foreign air carriers; and new data collection and reporting requirements. These requirements have taken resources away from OAEP’s other responsibilities that focus on consumer economic protections.

The consumer protection activities that have been curtailed include investigating the availability of advertised fares and consumers' ability to redeem frequent flyer awards. OAEP has stated that both of these functions are part of its responsibility in enforcing the regulations against false and deceptive practices. As the current market of reduced seat capacity along with deeply discounted fares translates into higher load factors and fewer seats available for redeeming frequent flyer awards, OAEP needs to be vigilant of the promises airlines are making to consumers regarding their frequent flyer programs and their actual ability to deliver.

Since 1996, OAEP has taken action in only two instances of insufficient capacity at the lowest advertised fare. As part of our review, we performed a simple test to determine whether customers can reasonably obtain advertised fare specials at each of the 16 airlines.<sup>33</sup> We tested 449 city-pairs and were able to obtain the advertised fare for 379 of the city-pairs or 84 percent of the time. Obtaining the advertised sale fare 84 percent of the time represents a fairly reasonable percentage; nevertheless, in our opinion, not getting the fare sale 16 percent of the time is an adequate reason for OAEP to verify fare sale availability. OAEP's Aviation Consumer Protection Division has reported that, on occasion, it does mass callings to verify availability of advertised fares, but does not document its findings. OAEP needs to continue its efforts to verify availability of advertised fares and document its findings.

## **RECOMMENDATIONS**

In order to strengthen the Department's oversight and enforcement of air traveler consumer protection provisions, we are making the following recommendations to the Acting General Counsel:

1. Work with BTS to prominently display a direct link on its Internet home page to on-time performance statistics by flight number.
2. Direct OAEP to revisit its current position on chronic delays and cancellations and take enforcement actions against air carriers that consistently advertise flight schedules that are unrealistic, regardless of the reason.
3. Determine whether (a) the maximum denied boarding compensation amount needs to be increased and (b) denied boarding compensation needs to be expanded to cover aircraft with 31 to 60 seats.

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<sup>33</sup> We tested US Airways and America West separately because their Internet site reservations systems had not yet been combined at the time of our tests.

4. Examine through rulemaking proceedings the need to standardize the reporting of airline data on frequent flyer redemptions so that customers can make a more meaningful comparison of the benefits of each airline's frequent flyer program.
5. Strengthen requirements in Part 382 to require (a) all employees of air carriers or contractors whose job duties involve assisting passengers with disabilities must first be trained before taking on those duties and receive annual refresher training, (b) air carriers and their contractors maintain employee training records, and (c) air carriers to ensure contractor employees assisting passengers with disabilities are in compliance with Part 382.
6. Direct OAEP to develop strategies to more effectively monitor air carrier compliance with Federal requirements governing air travel consumer protection provisions and to verify air carrier compliance with the terms and conditions of consent orders, including those that involve advertising infractions. In the absence of sufficient funds for OAEP staff to verify compliance, OAEP could require the carrier, as part of its offsetting requirements, to contract with a neutral party to independently verify that the conditions of the consent order have been met.
7. Ensure that OAEP fully implements its centralized electronic case monitoring system to track and manage its projects and enforcement activities.
8. Direct OAEP to resume efforts to oversee and pursue enforcement action, as appropriate, regarding the availability of seats at the lowest advertised fares and consumers' ability to redeem frequent flyer awards.

## **AGENCY COMMENTS**

OAEP officials generally agreed with our findings and recommendations. In September OAEP officials provided their comments, which were incorporated into this report as appropriate.

## AIRLINE CUSTOMER SERVICE COMMITMENT

June 17, 1999

The member carriers of the Air Transport Association (ATA) are committed to providing the best level of service to our customers. In recent months, there has been an increasing recognition of the need to improve airline passenger service. As a result, the ATA carriers, working with Members of Congress, have developed an Airline Customer Service Commitment, and each carrier will develop its individual Customer Service Plan to demonstrate our ongoing dedication to improving air travel.

The ATA carriers hereby commit to:

- Offer the lowest fare available  
Each airline will offer the lowest fare available for which the customer is eligible on the airline's telephone reservation system for the date, flight and class of service requested.
- Notify customers of known delays, cancellations and diversions  
Each airline will notify customers at the airport and on board an affected aircraft, in a timely manner, of the best available information regarding known delays, cancellations and diversions. In addition, each airline will establish and implement policies for accommodating passengers delayed overnight. A clear and concise statement of airlines' policies in these respects will also be made available to customers.
- On-time baggage delivery  
Each airline will make every reasonable effort to return checked bags within 24 hours and will attempt to contact any customer whose unclaimed, checked luggage contains a name and address or telephone number.
- Support an increase in the baggage liability limit  
The airlines will petition the Department of Transportation within 30 days to consider an increase in the current baggage liability limit. [Since 1984, DOT rules provide baggage liability of \$1250.]
- Allow reservations to be held or canceled  
Each airline will allow the customer either to hold a telephone reservation without payment for 24 hours or (at the election of the carrier) to cancel a reservation without penalty for up to 24 hours, in order to give customers an opportunity to check for lower fares through other distribution systems, such as travel agents or the Internet.
- Provide prompt ticket refunds  
Each airline will issue refunds for eligible tickets within 7 days for credit card purchases and 20 days for cash purchases.
- Properly accommodate disabled and special needs passengers  
Each airline will disclose its policies and procedures for handling special needs passengers, such as unaccompanied minors, and for accommodating the disabled in an appropriate manner.



- Meet customers' essential needs during long on-aircraft delays  
The airlines will make every reasonable effort to provide food, water, restroom facilities and access to medical treatment for passengers aboard an aircraft that is on the ground for an extended period of time without access to the terminal, as consistent with passenger and employee safety and security concerns. Each carrier will prepare contingency plans to address such circumstances and will work with other carriers and the airport to share facilities and make gates available in an emergency.
- Handle "bumped" passengers with fairness and consistency  
Each airline will disclose to a passenger, upon request, whether the flight on which the passenger is ticketed is overbooked, if, within the usual and ordinary scope of such employee's work, the information is available to the airline employee to whom the request is directed. Each airline will also establish and disclose to the customer policies and procedures, including any applicable requirements (such as check-in deadlines), for managing the inability to board all passengers with confirmed reservations.
- Disclose travel itinerary, cancellation policies, frequent flyer rules, and aircraft configuration  
Each airline will disclose to the customer:
  - (i) any change of aircraft on a single flight with the same flight number;
  - (ii) cancellation policies involving failures to use each flight segment coupon;
  - (iii) rules, restrictions and an annual report on frequent flyer program redemptions; and
  - (iv) upon request, information regarding aircraft configuration, including seat size and pitch.
- Ensure good customer service from code-share partners  
Each airline will ensure that domestic code-share partners make a commitment to provide comparable consumer plans and policies.
- Be more responsive to customer complaints  
Each airline will assign a Customer Service Representative responsible for handling passenger complaints and ensuring that all written complaints are responded to within 60 days.

Each airline will develop and implement a Customer Service Plan for meeting its obligations under the Airline Customer Service Commitment. Customer Service Plans will be completed and published within 90 days and will be fully implemented within 6 months.

Airline implementation will include training for airline reservation, customer service and sales personnel to enhance awareness of the responsibilities involved in implementation of the Customer Service Commitment and Plans.

The Airlines will publish and make available their Customer Service Plans:

- (i) on airline Internet web sites;
- (ii) at airports and ticket offices (upon request); and
- (iii) to travel and reservation agents.

Upon completion and publication of the Customer Service Plans, the Airlines will notify and provide copies to Congress and the Department of Transportation. The Airlines expect and will cooperate fully in any request from Congress for periodic review of compliance with the Customer Service Commitment.

Signed June 17, 1999

Carol B. Hallett

Carol B. Hallett  
President and Chief Executive Officer  
Air Transport Association of America, Inc.

On behalf of,

Alaska Airlines  
Aloha Airlines  
America West Airlines  
American Airlines  
American Trans Air  
Continental Airlines  
Delta Air Lines  
Hawaiian Airlines  
Midwest Express Airlines  
Northwest Airlines  
Southwest Airlines  
Trans World Airlines  
United Airlines  
US Airways

## **EXHIBIT B. OBJECTIVES, SCOPE AND METHODOLOGY, AND PRIOR COVERAGE**

### **Objectives**

In response to a request by Representative John L. Mica, Chairman, Committee on Transportation and Infrastructure, Subcommittee on Aviation, the Office of Inspector General (OIG) conducted a follow-up review of implementation of selected provisions of the Airline Customer Service Commitment by 15 U.S. airlines. The audit focused on the following provisions and issues that derive from them: (1) notification of delays and cancellations, (2) overbooking and denied boardings, (3) frequent flyer program issues, and (4) accommodating passengers with disabilities and special needs.

The audit also examined how the Department has used the additional resources that Congress provided to oversee and enforce requirements that protect the air travel consumer. We also followed up on a promise made by the Airlines to establish quality assurance and performance measurement systems to measure compliance with the Commitment provisions and conduct internal audits.

### **Scope and Methodology**

Audit work for this report was conducted between September 7, 2005 and June 28, 2006 and was conducted in accordance with Generally Accepted Government Auditing Standards as prescribed by the Comptroller General of the United States. In the conduct of this audit, we relied on computer-generated data from the airlines and did not access the general and application controls for each of the automated systems.

During the course of the audit, we met with and obtained data from officials in the Department's OAEP within the Office of General Counsel and from the BTS, both located in Washington, DC, and FAA's Air Traffic Control System Command Center, located in Herndon, VA. We also met with executives of the ATA, the Regional Airline Association, the Air Carrier Association of America, and various industry groups to solicit feedback on implementation of the selected provisions.

To evaluate the performance of each airline's implementation of the selected provisions and other issues, we visited the corporate offices and various airport facilities of 13 ATA-member airlines and 2 non-ATA airlines. We interviewed officials responsible for the policies regarding notifying passengers of delays and cancellations, compensating passengers who voluntarily relinquish their seats, reporting frequent flyer redemptions, accommodating passengers with disabilities and special needs, determining prices and availability of advertised special fares, and implementing the quality assurance and performance measurement system.

### **Exhibit B. Objectives, Scope and Methodology, and Prior Coverage**

We reviewed airline policies, procedures, and practices for implementing the selected provisions and associated laws and developed protocols to test provision compliance. We also performed audit work at 17 airports throughout the country to observe and test individual airlines' policies and procedures. As part of our airport observations, we conducted limited reviews of how delayed and canceled flights were handled. Our observations were a snap-shot in time and were conducted only when a flight delay or cancellation presented itself. We also note that some airlines had more observations than others. For two airlines, there were no delays to observe during our visit to their airports. Also, we reviewed the airlines' customer service plans and contracts of carriage to determine if the provisions of the Commitment remained incorporated in these documents.

We used statistical sampling techniques to test whether (1) airlines were consistently compensating passengers who voluntarily gave up their seats, (2) airline and contractor personnel responsible for accommodating passengers with disabilities and special needs were receiving the required training, and (3) the responses to complaints made by passengers with disabilities were within the required timeframe. Other provisions and issues were tested using judgmental samples of practices and procedures as we deemed necessary.

During our review of OAEP, we reviewed the office's efforts to enforce consumer protection laws and monitor actions taken against carriers. To do this, we reviewed 121 consent orders with penalties ranging from \$0 to \$1.5 million. We also evaluated efforts to monitor false and deceptive actions related to chronically delayed and canceled flights and to the availability of advertised special fares and frequent flyer seats. To do so, we researched existing laws, regulations, and orders related to the Department's oversight and enforcement authority; interviewed officials responsible for collecting and analyzing data, monitoring practices, and taking enforcement actions; identified past and current enforcement actions; and identified trends in consumer complaints. We also performed simple tests of (1) obtaining on-time performance information by making 160 calls to the airlines' telephone reservation systems to determine if their customer service representatives were providing accurate on-time performance information for selected flights and (2) ticket availability for 449 city-pairs to determine if customers could reasonably obtain advertised fare specials at each of the airlines.

### **Prior Audit Coverage**

On June 27, 2000, the OIG issued Report No. AV-2000-102, "Interim Report on Airline Customer Service Commitment," on the 6-month progress of the airlines in implementing their customer service plans. The Interim Report provided the preliminary results and observations on the ATA airlines' systems to measure performance against their plans, discussed the ATA airlines' contracts of carriage in relation to their plans, provided observations of the Department's capacity to

### **Exhibit B. Objectives, Scope and Methodology, and Prior Coverage**



enforce consumer protection rights, and discussed the importance of customer service in the marketplace.

In February 2001, we issued “Final Report on Airline Customer Service Commitment.”<sup>34</sup> Overall, we found that the airlines were making progress toward meeting the Commitment and that the Commitment had been beneficial to air travelers on a number of important fronts. Notwithstanding progress by the ATA airlines toward meeting the Commitment, we also found significant shortfalls in reliable and timely communication with passengers by the ATA airlines about flight delays and cancellations. Further, we found the Commitment did not directly address the most deep-seated cause of customer dissatisfaction—flight delays and cancellations, and what the Airlines plan to do about them in the areas under their control in the immediate term.

On June 20, 2001, the OIG presented testimony<sup>35</sup> before the House Transportation and Infrastructure Committee, Subcommittee on Aviation regarding progress made by 14 ATA airlines in improving customer service since our 2001 report. We reported that most airlines had: (1) incorporated the original Airline Customer Service Commitment into their contracts of carriage, (2) established performance measurement systems, and (3) petitioned DOT to revise regulations for reporting mishandled baggage and compensating passengers involuntarily bumped from a flight. The ATA airlines also formed a task force to develop plans for accommodating passengers delayed overnight, ensuring airport display monitors are accurate, and providing for passengers’ needs during long on-board delays. There were several important recommendations that the airlines did not address, such as petitioning DOT to require that each airline with a frequent flyer program make available to the public a more comprehensive reporting of frequent flyer redemption information in its frequent flyer literature and annual reports (e.g., the percentage of successful redemptions and frequent flyer seats made available in the airline’s top origin and destination markets).

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<sup>34</sup> OIG Report No. AV-2001-020, February 12, 2001.

<sup>35</sup> Testimony No. CC-2001-217, “Status Report on Airline Customer Service.”

## **Exhibit B. Objectives, Scope and Methodology, and Prior Coverage**

**EXHIBIT C. LIST OF AIRPORTS VISITED**

Chicago O'Hare International

Dallas-Fort Worth International

Dallas-Love Field

Denver International

General Mitchell International/Milwaukee

George Bush Intercontinental/Houston

Hartsfield-Jackson Atlanta International

Honolulu International

Indianapolis International

Minneapolis-St. Paul International

New York-JFK International

Orlando International

Philadelphia International

Phoenix-Sky Harbor International

Ronald Reagan Washington National

Seattle-Tacoma International

Washington Dulles International

United States Department of Transportation  
Office of Inspector General  
Compliance with Federal Accessibility Laws

The following pages contain Section 508-compliant versions of data that was presented in the previous document in a non-compliant way. Although this page, and all pages that follow, were not part of the original document, they have been added here to assist screen readers that will be used to read this document electronically.

**Figure 1. Percentage Change in Scheduled Domestic Flights January 2001 through June 2006 (Base Year 2000)**

<b>Month</b>	<b>Percent Change in Flights from 2000</b>
<b>January-2001</b>	<b>3 percent</b>
<b>February-2001</b>	<b>2 percent</b>
<b>March-2001</b>	<b>1 percent</b>
<b>April-2001</b>	<b>2 percent</b>
<b>May-2001</b>	<b>1 percent</b>
<b>June-2001</b>	<b>1 percent</b>
<b>July-2001</b>	<b>2 percent</b>
<b>August-2001</b>	<b>1 percent</b>
<b>September-2001</b>	<b>0 percent</b>
<b>October-2001</b>	<b>-4 percent</b>
<b>November-2001</b>	<b>-15 percent</b>
<b>December-2001</b>	<b>-15 percent</b>
<b>January-2002</b>	<b>-11 percent</b>
<b>February-2002</b>	<b>-10 percent</b>
<b>March-2002</b>	<b>-10 percent</b>
<b>April-2002</b>	<b>-8 percent</b>
<b>May-2002</b>	<b>-8 percent</b>
<b>June-2002</b>	<b>-8 percent</b>
<b>July-2002</b>	<b>-6 percent</b>
<b>August-2002</b>	<b>-7 percent</b>
<b>September-2002</b>	<b>-10 percent</b>
<b>October-2002</b>	<b>-11 percent</b>
<b>November-2002</b>	<b>-12 percent</b>
<b>December-2002</b>	<b>-12 percent</b>
<b>January-2003</b>	<b>-10 percent</b>
<b>February-2003</b>	<b>-11 percent</b>
<b>March-2003</b>	<b>-11 percent</b>
<b>April-2003</b>	<b>-10 percent</b>
<b>May-2003</b>	<b>-13 percent</b>
<b>June-2003</b>	<b>-10 percent</b>
<b>July-2003</b>	<b>-8 percent</b>
<b>August-2003</b>	<b>-10 percent</b>

<b>September-2003</b>	<b>-10 percent</b>
<b>October-2003</b>	<b>-10 percent</b>
<b>November-2003</b>	<b>-10 percent</b>
<b>December-2003</b>	<b>-8 percent</b>
<b>January-2004</b>	<b>-7 percent</b>
<b>February-2004</b>	<b>-3 percent</b>
<b>March-2004</b>	<b>-6 percent</b>
<b>April-2004</b>	<b>-5 percent</b>
<b>May-2004</b>	<b>-6 percent</b>
<b>June-2004</b>	<b>-5 percent</b>
<b>July-2004</b>	<b>-3 percent</b>
<b>August-2004</b>	<b>-3 percent</b>
<b>September-2004</b>	<b>-4 percent</b>
<b>October-2004</b>	<b>-5 percent</b>
<b>November-2004</b>	<b>-4 percent</b>
<b>December-2004</b>	<b>-2 percent</b>
<b>January-2005</b>	<b>-2 percent</b>
<b>February-2005</b>	<b>-2 percent</b>
<b>March-2005</b>	<b>-2 percent</b>
<b>April-2005</b>	<b>-1 percent</b>
<b>May-2005</b>	<b>-2 percent</b>
<b>June-2005</b>	<b>-1 percent</b>
<b>July-2005</b>	<b>0 percent</b>
<b>August-2005</b>	<b>-2 percent</b>
<b>September-2005</b>	<b>-4 percent</b>
<b>October-2005</b>	<b>-6 percent</b>
<b>November-2005</b>	<b>-6 percent</b>
<b>December-2005</b>	<b>-7 percent</b>
<b>January-2006</b>	<b>-6 percent</b>
<b>February-2006</b>	<b>-8 percent</b>
<b>March 2006</b>	<b>-6 percent</b>
<b>April-2006</b>	<b>-6 percent</b>
<b>May-2006</b>	<b>-7 percent</b>
<b>June-2006</b>	<b>-6 percent</b>

**Notes:**

**November 2001 scheduled flights reach lowest point at -15 percent. after 9/11.**

**April 2003 Iraq War and SARs**

**Scheduled Flights in July 2005 equals July 2000**

**Summer 2005 United, US Airways, Delta, and Northwest in bankruptcy**

**March 2006 fuel up 185 percent from 2000; \$2.05 per gallon**

**Figure 2: Air Travel Consumer Complaints**  
**Source: DOT's Air Travel Consumer Reports for 2005**

<b>Complaint Category</b>	<b>Percent of Consumer Complaints</b>
<b>Flight Problems</b>	<b>26</b>
<b>Baggage</b>	<b>23</b>
<b>Reservations, Ticketing, and Boarding</b>	<b>11</b>
<b>Customer Service</b>	<b>11</b>
<b>Refunds</b>	<b>10</b>
<b>Other</b>	<b>9</b>
<b>Disability</b>	<b>6</b>
<b>Oversales</b>	<b>4</b>

**Note: All numbers are rounded**

**Figure 3: Most Popular Methods To Earn Points**

<b>Method</b>	<b>Percentage</b>
<b>Flying</b>	<b>43</b>
<b>Credit Card</b>	<b>20</b>
<b>Elite Bonus</b>	<b>11</b>
<b>Telephone</b>	<b>9</b>
<b>Flight Bonuses</b>	<b>6</b>
<b>Hotels</b>	<b>5</b>
<b>Other</b>	<b>6</b>

**Note: All percentages are rounded.**

**Figure 4: Number of Complaints Filed By Air Travelers With Disabilities**

<b>Year</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
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<b>Complaints</b>	<b>345</b>	<b>374</b>	<b>595</b>	<b>676</b>	<b>504</b>	<b>477</b>	<b>373</b>	<b>521</b>	<b>507</b>
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Source: DOT's Aviation Consumer Protection Division

**Figure 5: Penalties Assessed by OAEP and Amounts Collected After Offsets**

<b>Year</b>	<b>Assessed Amount</b>	<b>Collected Amount</b>
1996	\$579,000	\$189,500
1997	\$230,000	\$185,000
1998	\$126,000	\$65,000
1999	\$156,000	\$91,000
2000	\$100,000	\$100,000
2001	\$414,000	\$213,000
2002	\$345,000	\$157,500
2003	\$7,720,000	\$532,500
2004	\$4,345,000	\$205,000
2005	\$909,500	\$404,750

Note: 2005 is partial year data

**Figure 6: OAEP Travel Expenditures**

<b>Year</b>	<b>Public Outreach</b>	<b>Compliance</b>	<b>Enforcement</b>	<b>Other</b>
2001	\$6,506	\$567	\$754	\$4,094
2002	\$16,405	\$9,726	\$19,845	\$0
2003	\$23,281	\$18,788	\$32,246	\$8,445
2004	\$11,913	\$1,581	\$9,223	\$7,375
2005	\$7,832	\$1,929	\$1,560	\$4,100