



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

Issued by the Department of Transportation  
On the 3<sup>rd</sup> day of October, 2007

**JetBlue Airways Corp.**

**Violations of 49 U.S.C. § 41712  
and 14 CFR Part 234**

**OST-2007-26781**

**Served: October 3, 2007**

**CONSENT ORDER**

This consent order is the result of an investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) which revealed the failure of JetBlue Airways Corp. (JetBlue) to provide on-time performance information to consumers in violation of 14 CFR Part 234 and 49 U.S.C. § 41712. This order directs JetBlue to cease and desist from future similar violations of Part 234 and section 41712, and assesses the carrier \$30,000 in civil penalties.

Section 234.8 of the Department's regulations, 14 CFR 234.8, requires carriers reporting on-time performance information, including JetBlue, to assign an on-time performance code to flights covered by that section. Additionally, section 234.9 sets out the guidelines by which carriers must report on-time performance codes to the vendors of computer reservations systems. Under section 234.11, a carrier must disclose to a consumer during the course of a reservation inquiry and upon reasonable request the on-time performance information for any flight which has been assigned an on-time performance code under Part 234. Violations of Part 234 constitute unfair and deceptive trade practices and unfair methods of competition in violation of 49 U.S.C. § 41712.

The Enforcement Office's investigation revealed a lack of compliance with section 234.11 by JetBlue employees. In a recent telephone survey conducted by that office, JetBlue failed to provide requested on-time performance information to callers on numerous occasions,<sup>1</sup> and during several other calls in which on-time information was

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<sup>1</sup> The JetBlue reservations agents indicated that they did not have the information or could not provide it due to an error in their computer system. In two calls made by the Enforcement Office, after being asked for the on-time performance information, JetBlue reservations agents put the caller on hold and failed to return to provide the information.

provided, different JetBlue reservations agents gave the callers varying information for the same flight.

In mitigation, JetBlue states that any non-compliance with section 234.11 was purely unintentional, as JetBlue is committed to providing consumers with on-time performance information, as well as all other required information, so that consumers can make an educated decision to fly JetBlue. Indeed, JetBlue points out, it prides itself on providing superior customer service for which it has been recognized with numerous awards. JetBlue believes this compliance issue can be addressed through improved training and retraining of its reservation agents. JetBlue states that it already has initiated a multi-faceted program designed to remedy any problem concerning the disclosure of on-time performance information. First, JetBlue states it will increase the training new reservation agents will receive to include specific instruction on the location and interpretation of on-time performance information. Second, JetBlue states it will retrain current reservation agents by placing calls to its own customer service number to test reservation agents' ability to provide the required information. For those agents who cannot provide the requested information, JetBlue states it will follow up with additional training. Third, JetBlue states that, during in-person meetings between reservation agents and their supervisors over the next month, it will provide additional training concerning the proper disclosure of on-time performance information. Fourth, JetBlue states it has sent to all reservation agents an update concerning the proper disclosure of on-time performance that will remind reservation agents of DOT's requirements and re-instruct agents on how to locate, interpret and provide on-time performance information when customers request it.

Despite the existence of these mitigating factors, we view seriously JetBlue's failure to disclose on-time performance information as required by Part 234. Accordingly, after carefully considering all of the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. By this order, the Department finds that JetBlue failed to disclose the on-time performance of its flights in violation of 14 CFR Part 234 and 49 U.S.C. § 41712. In order to avoid litigation, and without admitting or denying the violations described above, JetBlue agrees to settle these matters with the Enforcement Office through the issuance of this consent order directing it to cease and desist from future similar violations of Part 234 and 49 U.S.C. § 41712 and assessing it \$30,000 in compromise of potential civil penalties otherwise due and payable. We believe that this compromise assessment is appropriate and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's reporting requirements by JetBlue, as well as by other domestic air carriers.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;

2. We find that JetBlue Airways Corp. has violated 14 CFR 234.11 by failing to disclose on-time performance information as required;
3. We find that by engaging in the conduct and violation described in ordering paragraph 2 above, JetBlue Airways Corp. has engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712;
4. JetBlue, and all other entities owned or controlled by or under common ownership with JetBlue, its successors and assignees are ordered to cease and desist from further violations of 14 CFR 234.11 and 49 U.S.C. § 41712;
5. JetBlue Airways Corp. is assessed \$30,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 above, which payment shall be made within 15 days of the date of issuance of this order; and
6. Payment shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," to the account of the U. S. Treasury in accordance with the attached instructions. Failure to pay the penalty as ordered will subject JetBlue Airways Corp. to the assessment of interest, penalty and collection charges under the Debt Collection Act and possible enforcement action for failure to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

**BY:**

ROSALIND A. KNAPP  
Deputy General Counsel

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