



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

Issued by the Department of Transportation
On the 18th day of June, 2007

Northwest Airlines, Inc.

**Violations of 14 CFR Part 250 and
49 U.S.C. § 41712**

Docket OST 2007-26781

Served June 18, 2007

CONSENT ORDER

This Consent Order concerns violations by Northwest Airlines, Inc., (Northwest) of the Department's oversales rule, 14 CFR Part 250, and 49 U.S.C. § 41712, which prohibits unfair and deceptive practices, stemming from the carrier's failure to provide, upon request, a written explanation of its denied boarding policies. The order assesses Northwest a civil penalty of \$40,000.

The Department's rule on oversales, 14 CFR Part 250, sets explicit guidelines that air carriers must follow when passengers holding confirmed reservations are denied boarding involuntarily due to overbooking of a flight. Under section 250.9(a), air carriers must "furnish passengers who are denied boarding involuntarily from flights on which they hold confirmed reserved space immediately after the denied boarding occurs, a written statement explaining the terms, conditions, and limitations of denied boarding compensation, and describing the carriers' boarding priority rules and criteria" (denied boarding statement). The regulation also requires that carriers "furnish the statement to any person upon request at all airport ticket selling positions ... and at all boarding locations being used by the carrier." Violations of 14 CFR Part 250 also constitute unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712.

During compliance inspections by the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) at Ronald Reagan Washington National Airport (DCA) and Baltimore Washington International Thurgood Marshall Airport (BWI), Northwest agents at various gates and ticket counters failed to produce Northwest's written denied boarding statement in response to specific requests by Enforcement Office staff. Instead, some agents provided Northwest's voucher guide, Customer Guide, and/or Contract of Carriage – none of which contained the disclosures required by section 250.9, while another gate agent stated that he did not have any denied boarding forms stocked at his station and suggested that DOT representatives check at another gate. Only

Northwest's supervisor-level employees (Customer Service Supervisors) were later able to provide the correct form. Northwest's failure to furnish its denied boarding statement upon request on the above-mentioned occasions violates the requirements of Part 250 and of 49 U.S.C. § 41712.

In mitigation, Northwest states that it is firmly committed to ensuring that any passenger who relinquishes, either voluntarily or involuntarily, his or her seat on an oversold flight is treated fairly, properly advised, and compensated. Northwest further states that its agents do everything possible to avoid involuntarily denying boarding. In fact, Northwest's corporate goal is to avoid involuntarily denying boarding to any passenger. Accordingly, Northwest describes itself as having a well-established program to train its employees and has adopted policies, procedures, and forms to address issues regarding potentially oversold flights, including soliciting volunteers and compliance with requirements of 14 CFR Part 250.

The Department's oversales regulation reflects a balance between the right of passengers to obtain the services they purchase and the right of carriers to market their services effectively. Compliance with these requirements is, therefore, essential, and we take seriously any violation of the rule. The Enforcement Office views the incidents at DCA and BWI described above as indicative of a general pattern of noncompliance by Northwest that must be remedied and, after carefully considering all the facts of this matter, we therefore believe that enforcement action is warranted.

In order to avoid litigation, and, without admitting or denying the violations described above, Northwest agrees to the issuance of this order to cease and desist from future violations of 14 CFR Part 250 and 49 U.S.C. § 41712. Under the order, Northwest is assessed \$40,000 in compromise of potential civil penalties otherwise assessable. This compromise is appropriate in light of the nature and extent of the violations in question. This order and the penalty it assesses will provide a strong incentive to all air carriers to comply with the Department's denied boarding policy disclosure requirements.

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

ACCORDINGLY,

1. Based on the above, we approve this settlement and the provisions of this order as in the public interest;
2. We find that Northwest Airlines, Inc., violated 14 CFR 250.9 by failing to provide upon request its written explanation of denied boarding compensation and boarding priorities at airport ticket selling positions and boarding locations;
3. We find that Northwest Airlines, Inc., by engaging in the conduct described in paragraph 2 above, engaged in an unfair and deceptive practice in violation of 49 U.S.C. § 41712;

4. We order Northwest Airlines, Inc., and all other entities owned, controlled by, or under common ownership with Northwest Airlines, Inc., to cease and desist from further violations of 14 CFR Part 250 and 49 U.S.C. § 41712;
5. We assess Northwest Airlines, Inc., \$40,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 of this order; and
6. We order Northwest Airlines, Inc., to pay the compromise civil penalty assessed in ordering paragraph 5 above within 15 days of the date of issuance of this order. 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. The wire transfer shall be executed in accordance with the attached instructions. Failure to pay the penalty as ordered shall subject Northwest Airlines, Inc. to assessment of interest, penalty, and collection charges under the Debt Collection Act, and to 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 unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)