

Actions	Compliance	Procedures
<p>(iii) If the clearance does meet that specified in the service bulletin, re-cover the crew seat frame and locking mechanism.</p> <p>(2) For models SR20, serial numbers 1005 through 1439, and SR22, serial numbers 0002 through 1044, do the following actions:</p> <p>(i) Identify whether the recline lock is secured with two bolts or three bolts.</p> <p>(ii) If the recline locks are secured effective 6, 2004. with two bolts, remove the existing recline date of this locks and replace with the new recline locks AD. kit, kit number 70084-001.</p> <p>(iii) If the recline locks are secured with three bolts, remove existing recline locks and replace with the new recline locks kit, kit number 70084-002.</p> <p>(iv) Check break-over pin alignment and adjust as necessary.</p> <p>(v) Repeat the above actions for the opposite crew seat.</p>	<p>Within 50 hours TIS or within 180 days, whichever occurs first after the effective date of this AD.</p>	<p>Follow Cirrus Design Corporation Service Bulletin SB 2X-25-06 R2, dated December 6, 2004.</p>

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Chicago Aircraft Certification Office, FAA. For information on any already approved alternative methods of compliance, contact Angie Kostopoulos, Aerospace Engineer, ACE-116C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294-7426; facsimile: (847) 294-7834.

#### May I Get Copies of the Documents Referenced in This AD?

(g) To get copies of the documents referenced in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727-2737. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC, or on the Internet at <http://dms.dot.gov>. The docket number is FAA-2004-19694.

Issued in Kansas City, Missouri, on January 7, 2005.

#### James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-717 Filed 1-12-05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 257

[OST Docket No. 2004-19083]

RIN 2105-AD49

#### Disclosure of Code Sharing and Long-Term Wet Lease Arrangements

**AGENCY:** Department of Transportation; Office of the Secretary.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The Department of Transportation (Department or DOT) is proposing to amend its rule governing the disclosure of code-share and long-term wet lease arrangements in print advertisements of scheduled passenger services to permit carriers to disclose generically that some of the advertised service may involve travel on another carrier, so long as they also identify a list of all potential carriers involved in serving the markets being advertised. This proposed action is being taken in response to a petition for rulemaking filed by United Airlines, Inc.

**DATES:** Comments must be received on or before March 14, 2005. The Department will consider late-filed comments only to the extent practicable.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number 2004-19083 by any of the following methods: Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

Fax: 1-202-493-2251.

Mail: Docket Management Facility; U.S. Department of Transportation, 400

Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001. Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Trace Atkinson or Blane Workie, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Office of the General Counsel, U.S. Department of Transportation, 400 7th Street SW., Room 4116, Washington, DC 20590, (202) 366-9342 (Voice) or (202) 366-7152 (Fax).

**SUPPLEMENTARY INFORMATION:**

## Background

The Secretary of Transportation has the authority to define unfair or deceptive practices or unfair methods of competition. 49 U.S.C. 41712. Since 1985, it has been the Department's stated policy to view the failure of U.S. carriers to provide reasonable and timely notice to consumers of the existence of a code-share arrangement as an unfair and deceptive practice. 50 FR 38508. The Department further strengthened its consumer notification rules and policies to ensure that consumers would have pertinent information about airline code-sharing arrangements and long-term wet leases in domestic and international air transportation through the adoption of 14 CFR part 257 on March 15, 1999. 64 FR 12838. Section 257.5(d) of that part requires carriers in any print advertisement for service in a city-pair market that is provided under a code-sharing arrangement or long-term wet lease to clearly indicate the nature of the service in reasonably sized type and identify the transporting carrier[s] by corporate name and by any other name under which the service is held out to the public.

## Petition for Rulemaking

United Airlines, Inc., (United) filed a petition for rulemaking with the Department on September 7, 2004, asking that we amend 14 CFR 257.5(d). United asserts that the current print advertisement disclosures have become increasingly burdensome on network carriers while failing to provide meaningful off-setting consumer benefits. United points out that a network carrier typically publishes print advertisements offering service for travel in multiple domestic and international city pairs over a large number of alternative routings, some of which would be provided by carriers other than the advertising carrier pursuant to a code-share or a wet lease arrangement. Presently, in order to comply with section 257.5(d), such a carrier must provide consumers with a detailed set of disclosures that will vary depending on the number of alternative routings that may be available for travel in a specific city-pair. This results in print advertisements that include numerous footnotes relating exclusively to the disclosure of code-share and wet lease arrangements. According to United, not only do such disclosures impose a significant burden on carriers, but these disclosures may also serve to increase consumer confusion and, at best, provide only limited information to consumers about the carrier that

would be operating a particular flight the consumer desires.

To ease the burden on carriers, United requests that section 257.5(d) be reinterpreted to permit carriers to provide a generic disclosure in print advertisements indicating that some of the service offered may involve travel on one or more of its listed partner carriers. United contends that if its proposal is adopted, the information consumers obtain in practical terms would not change and the burden on carriers would be eliminated. United emphasizes that print advertisements serve only as the first opportunity to inform consumers about an airline's service offerings and consumers will continue to receive more detailed disclosures about any code-sharing arrangement that may be relevant to their travel plans before making any travel purchase decisions through telephone inquiries to reservation offices or by reviewing Internet flight listings.

## Comments on the Petition

Four carriers, an airline association and, Orbitz, LLC (Orbitz) submitted comments on United's petition for rulemaking. The Air Carrier Association of America (ACAA) and Southwest Airlines (Southwest) filed comments opposing the petition while American Airlines, Inc. (American), Delta Air Lines, Inc. (Delta), US Airways, Inc. (US Airways), and Orbitz filed comments in support of the petition.

In addition to supporting United's petition, two carriers and Orbitz seek additional relief. American asks that United's requested change to DOT's rule governing the disclosure of code-share and long-term wet lease arrangements in print advertisements also apply to Internet advertisements. US Airways requests that the Department act expeditiously on United's petition by limiting the comment period for this NPRM to 30 days and/or moving directly to issue an interim final rule on this matter. Orbitz urges that any amended rule apply not just to carriers, but explicitly to travel agents as well; however, it also cautions against a common standard applicable to both print and Internet advertising for all of the Department's rules. Orbitz contends that rules designed specifically for the static print medium may artificially restrain the ability of electronic advertisers to provide complete fare information to consumers in a dynamic, intuitive, and interactive way.

### A. Print Advertisements

Commenters supporting an amendment to DOT's rule governing the

disclosure of code-share and long-term wet lease arrangements in print advertisements agree with United that the current disclosure requirements may actually serve to confuse customers rather than inform them that advertised services may involve travel on code-share partners. According to Delta, without knowing a customer's specific itinerary, it is impossible to determine whether transportation will be provided by the advertising carrier or by one or more code-share partners. Delta, like United, asserts that once enough details are known about a customer's actual travel plans, carriers can and do provide accurate and detailed disclosure information about any actual code-sharing involving particular flights. All four carriers that filed in support of United's petition also argue that the increased burden of the current code-share disclosure rule on carriers that rely extensively on code-sharing to serve their customers adds significant costs without providing corresponding benefits to consumers. Orbitz agrees that the current rule is onerous and fails to offer off-setting consumer benefits and protections. United further contends that those opposing its petition are interested not in protecting consumers, but in preventing the Department from reducing the regulatory burden on such network carriers. In addition, US Airways argues that an unintended consequence of the current rule is to create incentives for carriers not to advertise in smaller markets because of the high cost of compliance with the rule as now written.

On the other hand, Southwest and ACAA argue that the Department should not amend its rule governing the disclosure of code-share and long-term wet lease arrangements in print advertisements because, they assert, there is no empirical evidence to show that the Department's reasons for requiring route-specific disclosure requirements are any less valid today than they were when they were first adopted. They note that the very carriers who initially argued for the rule requiring the disclosure of code-share and wet-lease arrangements are now seeking a change in the rule because they have increased their own code-share relationships. ACAA appears to be concerned that the adoption of United's proposal would result in advertisements that would increase the market dominance of large carriers. ACAA explains that customers seeing such an ad, even if told later that the flight will be operated by a code-share partner, will remember the ad and focus on the largest carrier in a particular city-pair

market which will in turn allow a larger carrier to increase its market dominance. ACAA requests that the Department undertake a thorough review of the impact of code-sharing on consumers and competition before considering United's petition, while Southwest argues that rather than weakening the current rule respecting disclosure of code-share and long-term wet leases in print advertisements, the current requirements should be strengthened, as violations of the current rule persist despite the fact that these requirements have been in place for several years.

ACAA and Southwest also assert that the market-specific disclosure currently required provides consumers with valuable information concerning who will actually provide the air transportation on the specific flights the passenger is considering. They stress that this policy correctly recognizes that consumers are best served when they are given relevant information about travel choices at the beginning of their decision-making process rather than at the end of it when they have already narrowed their choices. Accordingly, they argue that it would be contrary to the public interest for carriers to suggest that they offer multiple flights in a particular market when in actuality, many of the flights advertised are operated by code-share partners. ACAA contends that under United's proposal, members of the public would have no way of knowing which flights are operated under code-share arrangements and which carriers operate those flights. In addition, in support of its argument against United's proposal, Southwest cites the Department's earlier findings that a general disclosure does not suffice to properly inform consumers about the particular flights they are considering for travel and that a failure to disclose such a relationship is deceptive and can result in confusion, hardship, and inconvenience to consumers.

#### *B. Internet Advertisements*

In asking that we change our rule governing the disclosure of code-share and long-term wet lease arrangements not only with regard to print advertisements, but with respect to Internet advertisements, as well, American argues that the same difficulties in constructing print advertisements that United identifies in its petition also arise with respect to Internet advertising. American also asserts that there is longstanding DOT policy that Internet listings provide code-share disclosures in a manner required of print media fare ads. US Airways joins American in asking that

the code-share disclosure rule change requested by United be extended to Internet advertisements. Orbitz agrees with American that the Department should amend 14 CFR 257.5(d) to explicitly state that the amended rule applies to both print and Internet advertising. Orbitz claims that for online ticket agents, the problems posed by the current rule are more acute in that a single Web page may advertise multiple city-pairs operated under code-share or wet-lease arrangements by different carriers.

#### *C. Expedited Review of Petition*

In support of its request for expedited review of United's petition, US Airways claims that code-sharing is not a novel practice, but is well understood by airline passengers, and that the Department is capable of determining whether consumers require extended verbiage in the code-sharing notification. Secondly, US Airways states the Department should act expeditiously because code-share advertising has become more burdensome as the industry has evolved, particularly for carriers like US Airways that have multiple code-sharing partners. No other comment was received on this point.

#### *Agency Review of Petition*

As noted above, the Department has a long history of requiring code-share and wet lease disclosures in print advertisements. Many of the reasons for requiring such disclosures were discussed in the notice of proposed rulemaking dated August 10, 1994, and the final rule dated March 15, 1999. 59 FR 40836 and 64 FR 12838, respectively. However, since that time, there have been many changes in the marketplace, including an increase in the number of carriers providing service in multiple domestic and international city-pair markets over a large number of alternative routings, many of which are provided by carriers other than the advertising carrier pursuant to a code-share or a wet lease arrangement. The unintended practical effect of current section 257.5(d) is that carriers that rely extensively on code-sharing to serve customers must now include numerous footnotes relating exclusively to the disclosure of code-share and wet lease arrangements in print advertisements.

We are tentatively of the opinion that the benefits of the additional specific notice provided consumers in a print advertisement under the present rule may not outweigh the detriment to carriers and the public of continuing to require such detail. We not only agree that these footnotes are burdensome for

carriers, but we also see merit in the argument that the many separate footnotes now required where multiple markets are contained in a single advertisement may also confuse customers rather than inform them of advertised services. Therefore, while we will continue to consider a failure to disclose code-share and wet lease arrangements in print advertisements to be an unfair and deceptive trade practice and to vigorously enforce any such violations, we are tentatively of the opinion that continuing to require that carriers identify each specific partner carrier that serves each particular city-pair route or market being advertised is not necessary for consumers adequately to be informed of the advertised service. Accordingly, we are proposing to grant United's petition for rulemaking and amend our rule governing code-share and long-term wet lease disclosure in print advertisements to permit a generic statement indicating that some of the advertised service may involve travel on another carrier, so long as such advertisements also include a list of all potential code-share or wet lease carriers involved in serving the markets being advertised. We specifically request comments from the public, particularly air travel consumers, as to the benefits, if any, of the market-specific disclosures currently required in print advertisements and whether any such benefits outweigh the burdens on carriers and the potential confusion for consumers from including such additional information in print advertisements.

The Department further believes that it is important, as has been suggested by ACAA, that the current rule not be amended without careful consideration and full opportunity for comment, but we are aware of no reason why other aspects of the code-share rule need to be reviewed at this time, as ACAA would have us do. Therefore, we will limit our review of the rule to the issue raised by United, and not grant US Airways' request for expedited review but will instead provide for a full 60-day comment period on this NPRM. All interested parties are encouraged to comment.

With regard to American's request to change DOT's rule governing the disclosure of code-share and long-term wet lease arrangements in Internet advertisements, the Department is not persuaded that the same burdens and potential consumer confusion that may exist in constructing and reading print advertisements that United and other commenters assert exist also arise with respect to Internet advertising. With regard to Internet advertisements, it

appears to us that entities soliciting air transportation via the Internet can easily and clearly disclose information to consumers regarding each specific partner carrier that serves each particular city-pair route or market being advertised by using hyperlinks or other techniques. Accordingly, we have not proposed here to expand United's petition for a change in our code-share and wet lease disclosure rule to include Internet solicitations. However, we recognize that there may be cost burdens to carriers associated with market-specific disclosure of code-share and long-term wet lease arrangements through Internet advertising of which we are not aware and encourage all interested parties to comment. We are particularly interested in receiving comments on possible benefits or detriments of not expanding United's petition for a change in our code-share and wet lease disclosure rule to include Internet advertising as well as reasons for the Department to view Internet advertising differently or the same as print advertising.

#### Regulatory Analysis and Notices

##### *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The Department has determined that this proposal, if adopted as a final rule, would not be a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. The proposed rule would require the disclosure of less information than is required by the current rule and the Department expects an adoption of the proposed rule to reduce the regulatory burden imposed by the current rule. Therefore, this rule is expected to have a minimal economic effect and further regulatory evaluation is not necessary.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. The Department certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rule would reduce the

regulatory burden on network carriers that rely extensively on code-sharing to serve customers but does not impose any additional burdens on either small or large carriers. The Department seeks comment on whether there are small entity impacts that should be considered. If comments provide information that there are significant small entity impacts, the Department will prepare a regulatory flexibility analysis at the final rule stage.

##### *Executive Order 13132 (Federalism)*

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. The Department has determined that this proposal would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

##### *Executive Order 13084*

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule, if adopted, would not significantly or uniquely affect the Indian tribal communities, and would not impose substantial direct compliance costs, the funding and consultation requirements of the Executive Order do not apply.

##### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. The proposed rule does not contain any Federal mandate that would result in such expenditures. Therefore, the requirements of title II of the Act do not apply.

##### *Paperwork Reduction Act*

The proposed rule does not contain information collection requirements that

require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 2507 *et seq.*). There is a current OMB control number assigned to this rulemaking, and the OMB number is 2105-0537.

#### List of Subjects in 14 CFR Part 257

Air carriers, Consumer protection, Foreign air carriers.

For the reasons set forth in the preamble, the Department of Transportation proposes to amend 14 CFR part 257 as follows:

#### CHAPTER II—OFFICE OF THE SECRETARY, DEPARTMENT OF TRANSPORTATION

#### PART 257—DISCLOSURE OF CODE-SHARING ARRANGEMENTS AND LONG-TERM WET LEASES

(1) The authority for 14 CFR part 257 would continue to read as follows:

**Authority:** 49 U.S.C. 40113(a) and 41712.

(2) Section 257.5(d) would be revised to read as follows:

##### **§ 257.5 Notice requirement.**

\* \* \* \* \*

(d) In any printed advertisement published in or mailed to or from the United States for service in a city-pair market that is provided under a code-sharing arrangement or long-term wet lease, the advertisement shall prominently disclose that the advertised service may involve travel on another carrier and clearly indicate the nature of the service in reasonably sized type and shall identify all potential transporting carriers involved in the markets being advertised by corporate name and by any other name under which that service is held out to the public. In any radio or television advertisement broadcast in the United States for service in a city-pair market that is provided under a code-sharing or long-term wet lease, the advertisement shall include at least a generic disclosure statement, such as "Some services are provided by other airlines."

Issued this 5th Day of January, 2005, at Washington, DC, pursuant to 49 CFR 1.56a.

**Karan K. Bhatia,**

*Assistant Secretary for Aviation and International Affairs.*

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**BILLING CODE 4910-62-P**