

## § 255.5

(ii) The system has used all the points that meet those criteria, along with all additional connecting points and double connect points requested by participating carriers.

(6) If a system selects connecting points and double connect points for use in constructing connecting flights it shall use every point requested by a participating carrier up to the maximum number of points that the system can use. The system may use fewer than all the connect points requested by participating carriers to the extent that:

(i) Points requested by participating carriers do not meet the service criteria described in paragraph (c)(1) of this section; and

(ii) The system has used all the points that meet those criteria.

(d) Each system shall apply the same standards of care and timeliness to loading information concerning every participating carrier. Each system shall display accurately information submitted by participating carriers. Each system shall provide to any person upon request all current data base update procedures and data formats.

(e) Systems shall use or display information concerning on-time performance of flights as follows:

(1) Within 10 days after receiving the information from participating carriers or third parties, each system shall include in all integrated schedule and availability displays the on-time performance code for each nonstop flight segment and one-stop or multi-stop single plane flight, for which a participating carrier provides a code.

(2) A system shall not use on-time flight performance as a ranking factor in ordering information contained in an integrated display.

(f) Each participating carrier shall ensure that complete and accurate information is provided each system in a form such that the system is able to display its flights in accordance with this section.

(g) A system may make available to subscribers the internal reservations system display of a participating carrier, provided that a subscriber and its employees may see any such display only by requesting it for a specific transaction.

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### § 255.5 Contracts with participating carriers.

(a) No system may require a carrier to maintain any particular level of participation or buy any enhancements in its system on the basis of participation levels or enhancements selected by that carrier in any other foreign or domestic computerized reservations system, as a condition to participation in the system.

(b) No system may require any carrier as a condition to participation to provide it with fares that the carrier has chosen not to sell through that system.

### § 255.6 Exceptions.

The obligations of a system under § 255.4 shall not apply with respect to a carrier that refuses to enter into and comply with a participating airline contract with that system.

### § 255.7 Prohibition against Carrier Bias.

No carrier may induce or attempt to induce a system to create a display that would not comply with the requirements of § 255.4.

### § 255.8 Sunset Date.

Unless extended by a document published in the FEDERAL REGISTER, these rules shall terminate on July 31, 2004.

## PART 256 [RESERVED]

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

Sec.

- 257.1 Purpose.
- 257.2 Applicability.
- 257.3 Definitions.
- 257.4 Unfair and deceptive practice.
- 257.5 Notice requirement.
- 257.6 Effective and compliance dates.

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

SOURCE: 64 FR 12851, Mar. 15, 1999, unless otherwise noted.

### § 257.1 Purpose.

The purpose of this part is to ensure that ticket agents doing business in the United States, air carriers, and foreign air carriers tell consumers clearly

when the air transportation they are buying or considering buying involves a code-sharing arrangement or a long-term wet lease, and that they disclose to consumers the transporting carrier's identity.

#### § 257.2 Applicability.

This part applies to the following:

(a) Direct air carriers and foreign air carriers that participate in code-sharing arrangements or long-term wet leases involving scheduled passenger air transportation; and

(b) Ticket agents doing business in the United States that sell scheduled passenger air transportation services involving code-sharing arrangements or long-term wet leases.

#### § 257.3 Definitions.

As used in this part:

(a) *Air transportation* means foreign air transportation or interstate air transportation as defined in 49 U.S.C. 40102 (a)(23) and (25) respectively.

(b) *Carrier* means any air carrier or foreign air carrier as defined in 49 U.S.C. 40102(2) or 49 U.S.C. 40102(21), respectively, that is engaged directly in scheduled passenger air transportation, including by wet lease.

(c) *Code-sharing arrangement* means an arrangement whereby a carrier's designator code is used to identify a flight operated by another carrier.

(d) *Designator code* means the airline designations originally allotted and administered pursuant to Agreements CAB 24606 and 26056.

(e) *Long-term wet lease* means a lease by which the lessor provides both an aircraft and crew dedicated to a particular route(s), and which either:

(1) Lasts more than 60 days; or

(2) Is part of a series of such leases that amounts to a continuing arrangement lasting more than 60 days.

(f) *Ticket agent* has the meaning ascribed to it in 49 U.S.C. 40102(40).

(g) *Transporting carrier* means the carrier that is operating the aircraft in a code-sharing arrangement or long-term wet lease.

#### § 257.4 Unfair and deceptive practice.

The holding out or sale of scheduled passenger air transportation involving a code-sharing arrangement or long-

term wet lease is prohibited as unfair and deceptive in violation of 49 U.S.C. 41712 unless, in conjunction with such holding out or sale, carriers and ticket agents follow the requirements of this part.

#### § 257.5 Notice requirement.

(a) *Notice in schedules.* In written or electronic schedule information provided by carriers in the United States to the public, the Official Airline Guides and comparable publications, and, where applicable, computer reservations systems, carriers involved in code-sharing arrangements or long-term wet leases shall ensure that each flight in scheduled passenger air transportation on which the designator code is not that of the transporting carrier is identified by an asterisk or other easily identifiable mark and that the corporate name of the transporting carrier and any other name under which that service is held out to the public is also disclosed.

(b) *Oral notice to prospective consumers.* In any direct oral communication in the United States with a prospective consumer and in any telephone calls placed from the United States concerning a flight that is part of a code-sharing arrangement or long-term wet lease, a ticket agent doing business in the United States or a carrier shall tell the consumer, before booking transportation, that the transporting carrier is not the carrier whose designator code will appear on the ticket and shall identify the transporting carrier by its corporate name and any other name under which that service is held out to the public.

(c) *Written notice.* Except as specified in paragraph (c)(3) of this section, at the time of purchase, each selling carrier or ticket agent shall provide each consumer of scheduled passenger air transportation sold in the United States that involves a code-sharing arrangement or long-term wet lease with the following notice:

(1) If an itinerary is issued, there shall appear in conjunction with the listing of any flight segment on which the designator code is not that of the transporting carrier a legend that states "Operated by" followed by the corporate name of the transporting

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carrier and any other name in which that service is held out to the public. In the case of single-flight-number service involving a segment or segments on which the designator code is not that of the transporting carrier, the notice shall clearly identify the segment or segments and the transporting carrier by its corporate name and any other name in which that service is held out to the public. The following form of statement will satisfy the requirement of this paragraph (c)(1):

IMPORTANT NOTICE: Service between XYZ City and ABC City will be operated by Jane Doe Airlines d/b/a QRS Express.

(2) If no itinerary is issued, the selling carrier or ticket agent shall provide a separate written notice that clearly identifies the transporting carrier by its corporate name and any other name under which that service is held out to the public for any flight segment on which the designator code is not that of the transporting carrier. The following form of notice will satisfy the requirement of this paragraph (c)(2):

IMPORTANT NOTICE: Service between XYZ City and ABC City will be operated by Jane Doe Airlines d/b/a QRS Express.

(3) If transportation is purchased far enough in advance of travel to allow for advance delivery of the ticket by mail or otherwise, the written notice required by this part shall be delivered in advance along with the ticket. If time does not allow for advance delivery of the ticket, or in the case of ticketless travel, the written notice required by this part shall be provided no later than the time that they check in at the airport for the first flight in their itinerary.

(4) At the purchaser's request, the notice required by this part may be delivered in person or by telecopier, electronic mail, or any other reliable method of transmitting written material.

(d) In any printed advertisement published in or mailed to or from the United States (including those published through the Internet) for service in a city-pair market that is provided under a code-sharing arrangement or long-term wet lease, the advertisement

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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."

[64 FR 12851, Mar. 15, 1999, as amended at 70 FR 44851, Aug. 4, 2005]

### § 257.6 Effective and compliance dates.

(a) This Part is effective as of August 25, 1999.

(b) Compliance with the following sections is mandatory as of August 25, 1999:

(1) § 257.1, § 257.2, § 257.3, § 257.4, § 257.5(d), and § 257.6.

(2) § 257.5(b) to the extent that it requires sellers of air transportation to give consumers oral notice before booking transportation involving a code-share arrangement

(i) Of the fact that the selling carrier is not the transporting carrier and

(ii) Of the transporting carrier's identity (as shown by its two-letter designator code in CRS displays).

(c) Compliance with the following sections is mandatory as of March 15, 2000:

(1) § 257.5(a) and § 257.5(c) in their entirety.

(2) § 257.5(b) insofar as it requires sellers of air transportation to give consumers

(i) Oral notice before booking transportation involving a code-share arrangement of the transporting carrier's corporate name and any other name under which the service is held out to the public and

(ii) The same disclosures for long-term wet leases as for code-sharing arrangements.

[64 FR 46821, Aug. 27, 1999]

## PART 258—DISCLOSURE OF CHANGE-OF-GAUGE SERVICES

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

SOURCE: 64 FR 12860, Mar. 15, 1999, unless otherwise noted.

### § 258.1 Purpose.

The purpose of this part is to ensure that consumers are adequately informed before they book air transportation or embark on travel involving change-of-gauge services that these services require a change of aircraft en route.

### § 258.2 Applicability.

This part applies to the following:

- (a) Direct air carriers and foreign air carriers that sell or issue tickets in the United States for scheduled passenger air transportation on change-of-gauge services or that operate such transportation; and
- (b) Ticket agents doing business in the United States that sell or issue tickets for scheduled passenger air transportation on change-of-gauge services.

### § 258.3 Definitions.

As used in this part:

- (a) *Air transportation* has the meaning ascribed to it in 49 U.S.C. 40102(5).
- (b) *Carrier* means any air carrier or foreign air carrier as defined in 49 U.S.C. 40102(2) or 49 U.S.C. 40102(21), respectively, that engages directly in scheduled passenger air transportation.
- (c) *Change-of-gauge service* means a service that requires a change of aircraft en route but has only a single flight number.
- (d) *Ticket agent* has the meaning ascribed to it in 49 U.S.C. 40102(40).

### § 258.4 Unfair and deceptive practice.

The holding out or sale of scheduled passenger air transportation that involves change-of-gauge service is prohibited as an unfair or deceptive practice or an unfair method of competi-

tion within the meaning of 49 U.S.C. 41712 unless, in conjunction with such holding out or sale, carriers and ticket agents follow the requirements of this part.

### § 258.5 Notice requirement.

(a) *Notice in schedules.* Carriers holding out or operating change-of-gauge services to, from, or within the United States shall ensure that in the written and electronic schedule information they provide to the public, to the Official Airline Guide and comparable publications, and to computer reservations systems, these services are shown as requiring a change of aircraft.

(b) *Oral notice to prospective consumers.* In any direct oral communication with a consumer in the United States concerning a change-of-gauge service, any carrier or ticket agent doing business in the United States shall tell the consumer before booking scheduled passenger air transportation to, from, or within the United States that the service requires a change of aircraft en route.

(c) *Written notice.* At the time of sale in the United States of transportation that includes a change-of-gauge service to, from, or within the United States, or, if no ticket is issued, no later than the time when the passenger checks in at the airport for the first flight in an itinerary that includes such a service, the selling carrier or ticket agent shall provide the following written notice:

#### NOTICE: CHANGE OF AIRCRAFT REQUIRED

For at least one of your flights, you must change aircraft en route even though your ticket may show only one flight number and have only one flight coupon for that flight. Further, in the case of some travel, one of your flights may not be identified at the airport by the number on your ticket, or it may be identified by other flight numbers in addition to the one on your ticket. At your request, the seller of this ticket will give you details of your change of aircraft, such as where it will occur and what aircraft types are involved.

### § 258.6 Effective and compliance dates.

- (a) This Part is effective as of August 25, 1999.
- (b) Compliance with the following sections is mandatory as of August 25,