



ASSOCIATION OF ASIA PACIFIC AIRLINES

BEFORE THE  
OFFICE OF THE SECRETARY  
U.S. DEPARTMENT OF TRANSPORTATION  
WASHINGTON, DC

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In the Matter of	)	Docket Management Facility
	)	Department of Transportation
	)	400 7 <sup>th</sup> Street, SW.,
ACCOMMODATIONS FOR INDIVIDUALS	)	Room PL-401
WHO ARE DEAF, HARD OF HEARING,	)	Washington, DC 20590
OR DEAF-BLIND	)	
	)	
	)	14 CFR Part 382
NOTICE OF PROPOSED RULEMAKING	)	OST-2006-23999
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**COMMENTS OF**

**THE ASSOCIATION OF ASIA PACIFIC AIRLINES**

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Dated: 23 June 2006

**Air New Zealand • All Nippon Airways • Asiana Airlines • Cathay Pacific Airways • China Airlines • Dragonair • EVA Airways  
Garuda Indonesia • Japan Airlines • Korean Air • Malaysia Airlines • Philippine Airlines • Qantas Airways  
Royal Brunei Airlines • Singapore Airlines • Thai Airways International • Vietnam Airlines**



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**COMMENTS OF**  
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The Association of Asia Pacific Airlines (AAPA) files these comments regarding the Notice of Proposed Rulemaking (NPRM) outlining the Department of Transportation (DOT) rules on accommodations for individuals who are deaf, hard of hearing, or deaf-blind.

**I. THE ASSOCIATION OF ASIA PACIFIC AIRLINES**

AAPA is the trade association of 17 major international airlines based in the Asia Pacific region. The association was founded in 1966 to provide a forum for examining international air transport issues and for developing action plans on matters of mutual concern. Its Members are Air New Zealand, All Nippon Airways, Asiana Airlines, Cathay Pacific Airways, China Airlines, Dragonair, EVA Air, Garuda Indonesia, Japan Airlines, Korean Air, Malaysia Airlines, Philippine Airlines, Qantas Airways, Royal Brunei Airlines, Singapore Airlines, Thai Airways International and Vietnam Airlines.

Thirteen AAPA member airlines operate more than 500 flights per week to thirteen destinations in the United States.

## II. INTRODUCTION

AAPA appreciates the opportunity to comment on the NPRM.

AAPA and its Member Airlines are committed to safe transport of all passengers with dignity and respect in a non-discriminatory manner and are recognised leaders in standards of service.

AAPA wishes to state that in this respect, it supports the empathetic carriage of persons with disabilities. AAPA Member Airlines have long established procedures, formulated in accordance with ICAO Recommended Practices as stipulated under Annex 9 (“Facilitation of the Transport of Air Passengers Requiring Special Air Assistance”) to the Chicago Convention. Annex 9 was developed through extensive consultations amongst the international aviation community, taking into account the distinct nature of international flights, such as extended duration of travel and cross-border operations.

AAPA cannot support the NPRM in its current form due to several factors. In particular, the NPRM fails to address the issue of extraterritoriality. The operational requirements set out in the NPRM will result in carriers being made to comply with one set of regulations when flying to the US, and other sets of regulations on flights outside US territory, leading to inevitable confusion and inconsistencies in practices and procedures affecting passengers with disabilities. The NPRM also fails to address a situation where one set of US regulations is clearly in conflict with a carrier’s home legislation, exposing the carrier to legal liability through no fault of its own.

Furthermore, the rule fails to take into account the operational realities of today’s international airline environment, where code-sharing is a common feature in airline cooperation arrangements. The rule in its current form would mean that a flight operated between two non-US points, e.g. Bangkok and Tokyo, by a non-US carrier but carrying a US airline code under commercial code-sharing agreements, would have to comply with US regulations on

passengers with disabilities. This is entirely inappropriate and contrary to the spirit of international law.

### **III. GENERAL PROVISIONS**

The proposed rule is an uncontrolled invitation with no limitations on the number of requests that airlines might have to address, with a significant impact on airline resources. The NPRM imposes a burden on airlines to make refurbishments throughout the international fleet. Carriers cannot designate a limited number of aircraft to fly to the US without complicating fleet utilisation, thus the cost of compliance far exceeds any benefit stated in this NPRM.

#### **A. New Definitions Being Considered (specific reference to § 382.3)**

AAPA supports the DOT proposal that there should not be any further new definitions. The NPRM makes clear that an individual with severe hearing and visual impairments has the responsibility of initially informing carrier personnel of his, or her, need for communication accommodations. There is no need to get into technical definitions of “deaf, hard of hearing and deaf-blind”. Since deafness and blindness may occur across a wide spectrum of varying degrees of disability, the carrier’s personnel will not be able to definitively ascertain whether the individual qualifies under any definition, hence rendering such definition meaningless.

#### **B. Passenger to Travel With a Safety Assistant (specific reference to § 382.29)**

AAPA wishes to reiterate the comments submitted on 4 March 2005 during the initial NPRM (OST-2004-19482) on Nondiscrimination on the Basis of Disability in Air Travel, that the issue of safety assistants is a source of unending inquiries and deliberations. Though it is essential that the passenger with disability self identifies his or her needs, AAPA submits that the matter should fall within the sphere of the airline’s discretion: not only on the basis of ensuring the safety and health of passengers with disability, but also that of other passengers. AAPA reiterates that the carriers are in a better position to determine if a passenger with a disability requires a safety assistant for reasons of onboard safety. This is especially true for ultra-long haul flights. Self-assessment cannot be an equivalent, as passengers are rarely as familiar

with the operational and safety characteristics of ultra-long haul flights; or with the effects that their condition, coupled with the operating environment, may induce.

The carrier may request other passengers (whether revenue or non-revenue) to act as the safety assistant, but this would depend on the willingness of these other passengers to do so, with or without compensation. These challenges are magnified where ultra long haul flights are concerned. Further, there may be legal implications should the passenger with the disability be inadvertently injured during the flight whilst under a care of a “volunteer”.

**C. Accessibility of Carrier’s Telephone Information and Reservation Services (specific reference to §382.43)**

AAPA objects to the requirement for carriers to have provisions for TTY, and that the service and response time are equal for TTY and non-TTY lines. Due to technology limitations outside of the US, it would not be feasible for our member airlines to comply with this proposed rule as written.

**D. Availability of Accessible Copies of Part 382 (specific reference to § 382.45)**

With reference to the requirement for carriers to make available a copy of 14 CFR part 382 for review by any member of public on request, AAPA continues to support comments previously submitted by other carriers in opposing the proposed requirement, as it would surely impose an unnecessary and costly burden on the airlines, with little or no value over existing procedures.

Instead AAPA members suggest it would be more practical to provide passengers, upon request, with information on how to obtain an accessible copy of part 382 and disability-related assistance from US DOT.

## **E. Accessibility of Airport Facilities (specific reference to § 382.51)**

The US airports to which our member airlines operate are mostly airports where facilities and equipments are owned by the airport authorities, and where the carriers have little control over the availability and functions of televisions, or audiovisual displays in the terminals.

While carriers can raise the issue to the airport authorities collectively through the Airline Operators Committee (AOC), the carriers can at best, only attempt to influence the authorities or terminal owners. The onus on compliance thus cannot be placed solely on carriers.

## **F. Accommodations Required at Airports and Aircraft for Individuals with Visual Impairments or Individuals Who are Deaf or Hard of Hearing (specific reference to § 382.53 and § 382.69)**

It seems that the US DOT is over prescribing the accommodations required at airports and on aircraft for passengers who are disabled. We believe that our members currently provide excellent quality service for passengers requiring special assistance both at the airport and on board the aircraft. Such services extend, and are not limited to, services for passengers who require wheelchairs, disabled passengers and the elderly and unaccompanied minors.

These passengers are cared for from the moment they check-in at the airport until their arrival at their final destination. AAPA submits to the US DOT that member airlines' current procedures and training are adequate, without the need for US DOT to impose additional and unnecessary detailed requirements on carriers.

As for accessibility of videos, DVDs and other audio-visual presentations on board aircraft, AAPA wishes to state that airlines have limited control on the technologies deployed for inflight entertainment. The NPRM fails to recognise the related issues of inflight entertainment technology and complexities of providing content in a variety of languages, with or without subtitling, as provided on international services. In this respect, AAPA fully supports the comments submitted by the World Airline Entertainment Association (WAEA) to this NPRM.

## IV. CONCLUSIONS

AAPA submits that DOT should carefully reconsider the merits and approach of this rulemaking, failing which we do not believe it should be progressed in its current form.

In particular, AAPA wishes to reiterate that there is a need for a more harmonised international approach, to avoid conflicting regulations and potential confusion amongst passengers. The approach of this NPRM presents significant obstacles for international carriers which are required to comply with a multiplicity of inconsistent and conflicting national and international regulations.

Notwithstanding the issues raised in this submission, AAPA and its member airlines are committed to treating all passengers with dignity and respect in a non-discriminatory manner. We will continue to work towards this shared goal through international cooperation with the aim of developing a more harmonised approach to customer service standards in this and other areas.

Respectfully submitted  
by



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