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Under the provisions of the Fly America Act, Government travelers are required to use American-flag air carriers for official business overseas. The act was intended to counterbalance foreign governments' restrictive routing practices in relation to use of their national-flag carriers and to increase use of American-flag carriers.

Findings/Conclusions: Although there were few statistics available to measure the use of American-flag carriers versus foreign-flag carriers, indications are that Federal agencies and their employees are making a special effort to use American-flag carriers. However, the Fly America Act has resulted in additional costs to Federal agencies in terms of increased administrative costs, higher air fares, and more employee per diem expenses. It has impinged on the agencies' ability to complete their missions as expeditiously as possible and to exercise flexibility in the manner in which they perform their work. The most significant effect of compliance with the Fly America Act is the high financial risk to the individual traveler. Recommendations: The Congress should amend the Fly America Act to provide greater flexibility in its application to flights between points outside the United States; such an amendment would reserve to American-flag carriers the lucrative long-distance travel so that costs of complying with the act

would be reasonable in proportion to the financial benefit to those carriers. The amendment should also reduce the traveler's burden and risk of scheduling travel to a more reasonable proportion. (RES)

8153

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BY THE COMPTROLLER GENERAL

# Report To The Congress

OF THE UNITED STATES

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## The Fly America Act Should Allow More Agency Discretion In Authorizing Use Of Foreign-Flag Air Carriers To Conduct Business Overseas

A Federal statute requires Government travelers flying on official business overseas to use American-flag carriers whenever they are available. Implementing regulations defining "availability" have given agencies little discretion in deciding when foreign carriers can be used.

As a result, travel often takes longer and costs more because of the need to use American-flag carriers on indirect routes at inconvenient hours. Agencies costs have increased while operational efficiency has decreased. One agency--the State Department--estimates its added costs at \$1 million a year.

Travelers must bear the financial risk for any improperly justified use of foreign carriers as measured by revenues lost to American-flag carriers.

GAO concludes that agencies should have more discretion in deciding when they can use foreign carriers and recommends an amendment to the statute to modify its application on travel between cities outside the United States.



LCD-78-235

OCTOBER 31, 1978



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-138942

To the President of the Senate and the  
Speaker of the House of Representatives

This report discusses the need to amend section 5 of the International Air Transportation Fair Competitive Practices Act of 1974--the so-called Fly America Act--to allow more agency discretion in authorizing use of foreign-flag air carriers to conduct business overseas.

Our review was prompted by the many complaints and other correspondence received from agencies and Government travelers voicing their problems in interpreting and complying with the act's provisions. We made our examination pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of State; the Secretary of Defense; and the Administrator of General Services.

  
Comptroller General  
of the United States

D I G E S T

Government travelers are required to use American-flag air carriers for official business overseas, subject to availability of suitable service. Under provisions of the so-called Fly America Act, <sup>1</sup>/ the Comptroller General is required to disallow expenses against travelers who use foreign-flag air carriers improperly.

The act was intended to counterbalance foreign governments' restrictive routing practices in relation to use of their national-flag carriers and increase use of American-flag carriers. It was also felt that enforcement of previous policies directing use of American-flag carriers had become lax. (See pp. 1 and 2.)

As a result of the act, Government agencies and their travelers are making an extra effort to consider the availability of American-flag service in their travel planning. No one has statistics to show how much the use of American-flag service has increased, but travelers are now using American-flag service in cases where, for various reasons, they had previously used foreign-flag service. (See pp. 4 and 5.)

Government departments and agencies and their travelers, however, have had serious problems in implementing and complying with the act. This has resulted, in part, from the definition and interpretation of the criteria for "availability" of American-flag service and the assignment of liability for violating the act.

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<sup>1</sup>/Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517).

While the Comptroller General's guidelines and decisions reflect congressional intent with respect to implementation of the act, the manner in which they define availability has necessarily curbed prior laws and policies governing travel to the extent that persons can no longer travel in the most expeditious, least costly manner. Liability for violations fall on Government employees, who are often in a poor position to know when they are violating the act. (See pp. 4, 5, and 10.)

Travel now may be delayed, extended, or even performed needlessly early simply to use American-flag service. Travel must also be taken on indirect routes, at odd hours, or outside normal working hours.

American carriers must also be used without regard to whether they offer the lowest fares. This has meant added travel expenses and lessened efficiency. One agency--the State Department--estimates its added costs at \$1 million a year. (See pp. 5 and 8.)

Agencies and travelers have difficulty in finding out when and where American-flag carriers operate. However, travelers are held liable for violations of the act even when they rely on advice of others, such as their travel offices and the American-flag air carriers. Penalties for violation, based on losses of revenues to American-flag carriers, can run into thousands of dollars. (See pp. 10 to 13.)

GAO concludes that the increased cost and lost efficiency, together with the administrative and traveler liability problems, are significant enough to warrant amending the act in order to limit its application. (See p. 14.)

GAO recommends that the Congress amend the Fly America Act to provide greater flexibility in its application to flights between points outside the United States. Such an amendment should reserve to the American-flag carriers the lucrative long-distance travel so that the collateral costs of complying with the act would be reasonable in proportion to the financial benefit to those carriers. The amendment would also reduce the traveler's burden and risk of scheduling travel to more reasonable proportions. (See p. 16.)

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GAO	General Accounting Office
OAG	Official Airline Guide

## CHAPTER 1

### INTRODUCTION

As its programs and operations have grown and expanded throughout the world, the Federal Government has become a significant user of international commercial air transportation services. Government-funded travel annually provides millions of dollars in revenues for the world's air carriers.

Since 1962 congressional policy has been that all official Government travel using civil aircraft be on American-flag carriers. This policy was stated in Senate Concurrent Resolution 53, passed October 1, 1962:

"Resolved by the Senate (the House of Representatives concurring), that it is the sense of the Senate and the House of Representatives that when travel on official business is to be performed on civil aircraft by legislative and Government officers and employees, that said travel be performed by them on United States flag air carriers, except where travel on other aircraft (a) is essential to the official business concerned, or (b) is necessary to avoid unreasonable delay, expense, or inconvenience."

The basis for this policy was that previous statutes had required that official ocean travel be on American-flag merchant vessels and that the executive branch had long urged its employees to use American-flag air carriers for official travel. Moreover, the development and preservation of a strong American civil air fleet was considered vital to our national interests.

In 1974 the American-flag international air carriers were having severe financial problems, many of which were felt to result from foreign government discriminatory practices. For example, American-flag carriers overseas often operated at a disadvantage because various foreign governments required their employees and even business travelers to use their national-flag airlines for all official travel. Our Government had no control over private business travelers, but it was believed that at least Government employees and Government-funded travelers could be made to use American-flag carriers when they were available. Moreover, it was felt that agencies' compliance with the 1962 resolution had become somewhat lax.

After debating the problems experienced by our national-flag carriers, the Congress passed the International Air Transportation Fair Competitive Practices Act (Public Law 93-623) on January 3, 1975, to correct or counterbalance some of the problems. Section 5 of the act (49 U.S.C. 1517) applies to Government-financed transportation and is commonly called the Fly America Act.

The act now requires all Government employees and other Government-funded travelers traveling overseas on commercial aircraft to use American-flag carriers to the extent such service is available. The act further requires the Comptroller General to disallow transportation expenses incurred for any use of foreign-flag service which cannot be justified under approved guidelines. (The full text of section 5 is in app. I.)

#### COMPTROLLER GENERAL GUIDELINES

To implement the act, the Comptroller General issued a set of guidelines in June 1975. Essentially these guidelines were intended to define the conditions under which American-flag service could be considered "available." (A copy of these guidelines, as amended, is in app. II.)

The Comptroller General has also issued many decisions addressing the application of the act and guidelines to specific travel circumstances. In summary, the guidelines and decisions provide that American-flag service is to be considered "available" if it can provide the air transportation needed by the agency and if the service will allow accomplishment of the agency's mission, even though

- comparable or a different kind of service by a foreign-flag carrier costs less;
- service by a foreign-flag carrier can be paid for in excess foreign currency;
- service by a foreign-flag carrier is preferred by the agency or traveler;
- service by a foreign-flag carrier is more convenient for the agency or traveler;
- American-flag service, by itself or in combination with other air service, may take up to 12 hours longer than foreign-flag service from the origin to destination airport to accomplish the agency's mission;

- the elapsed travel time on a scheduled foreign-flag carrier from origin to destination airports is 3 hours or less and the American-flag carrier(s) may take up to anything less than twice such time;
- a traveler may have to wait up to anything less than 6 hours to transfer to an American-flag carrier to proceed to the intended destination;
- a traveler may have to delay the initiation of his travel, or extend his travel, or arrive early at his destination before he can proceed with his duties, up to 48 hours in order to use American-flag service; or
- a traveler may have to schedule his trip to require travel outside his regularly scheduled workweek or during the hours while he is normally sleeping.

In addition, employees may not take personal side trips in conjunction with their official travel or schedule rest stops in any manner that would decrease American-flag carriers' revenues even when there would be no additional cost to the Government. Employees are required to reimburse their employers in the amount of the pro rata share of Government revenues lost by American-flag carriers as a result of use of foreign carriers that cannot be justified under the act.

#### IMPLEMENTATION PROBLEMS

After the Comptroller General's guidelines were issued, the various departments and agencies acted to include these instructions in their travel regulations--the State Department, in the Foreign Service Travel Regulations; the Defense Department, in the Joint Travel Regulations; and the General Services Administration, in the Federal Travel Regulations. These actions, however, raised additional problems, essentially how closely the guidelines had to be followed and how situations not covered by the guidelines should be handled. These problems and actions needed to simplify administration of the act are discussed in the following chapters.

## CHAPTER 2

### PROBLEMS IN ADMINISTERING AND COMPLYING WITH THE FLY AMERICA ACT

The basic purpose of the Fly America Act is to have the Government better use the services of American-flag air carriers in carrying out their missions. Although there are few statistics to adequately measure use of such carriers versus use of foreign service, all indications are that Government agencies and their travelers are making a special effort to use American-flag carriers.

But the act has also resulted in additional costs to Government agencies in terms of increased administration, higher air fares, and more employee per diem expenses. It has also impinged on the agencies' ability to complete their missions as expeditiously as possible and to exercise flexibility in the manner in which they accomplish their work. But perhaps most significant has been the heightened financial risk placed on travelers. They run the risk of violating the act and having to pay for unauthorized use of foreign carrier service, even if the violation was totally unintentional or based on erroneous advice from their own travel offices or the American-flag carrier representatives.

### BENEFITS OF THE ACT

In meeting congressional intent that Government agencies make better use of American-flag air carriers, the act has been successful. This is largely because the act is more than just a congressional resolution on the need to use American-flag carriers. It is the law and the exceptions permitted under the resolution have been minimized.

Then too, the Comptroller General's guidelines and decisions spell out when American-flag service is "available" in terms of what the specific routing criteria are, what amounts of time travel should be delayed to use American-flag service, whether travel should be scheduled at "odd-hours" or non-working hours, how rest stops should be scheduled, and what consideration should be given to the ability to pay transportation expenses in excess foreign currencies.

The mere fact that the act gives the Comptroller General specific disallowance authority undoubtedly has made agency enforcement of Fly America rules tighter. Agency auditors are more carefully reviewing vouchers because they know the Comptroller General must disallow payment of any act violations.

But ultimately, we believe, the act has been most effective in increasing the use of American-flag carriers because it places the financial responsibility for violation of the act on the traveler. Because of this, travelers are more aware of the need to follow their travel-office-planned itineraries and to refrain from personal side trips which often lessen the American-flag carriers' revenues.

No statistics show the amounts of increased revenue the American-flag carriers have received as a result of the act. Neither the agencies nor the air carriers maintain such data. The most evident impact has been on the routes where American-flag service is less frequent and less conveniently scheduled than alternate foreign-flag or combination American-flag/foreign-flag service, such as those to and from Africa. In the past, travelers were generally using American-flag service on these routes only when there would be no additional fare or per diem costs or when the service was the same as or similar to the other carriers' service. Now, with few exceptions, travelers must use only American-flag carriers.

#### ADMINISTRATIVE PROBLEMS CAUSED BY THE ACT

Despite providing increased revenues to the American-flag air industry, the act has increased costs and frustrated Government agencies and travelers in a number of ways. Most visible has been the administrative burden associated with planning and routing travel and educating travelers about the act and its restrictions. In addition:

- Air fare costs have increased because of the Fly America routing guidelines.
- Per diem travel expenses have grown because of the need to extend travel times to use American-flag carriers.
- Employee paid work time has been lost because of the need to delay travel or to travel ahead of time to use American-flag service.
- The opportunities to use excess foreign currencies which could replace the need to appropriate dollars for travel have decreased.

The overall impact of the act on Government travel costs has not been determined. Few agencies have kept data to show the additional costs, but one agency--the State Department--has estimated its costs at more than \$1 million a year.

## Increased administrative burden

Basic to the administrative problems created by the act is the fact that the customary rules related to expeditious and economical travel have been changed. Previous attempts to plan travel so that it could be accomplished in the least time and at the least cost must now take second place to a consideration of American-flag availability.

"Availability" has been defined to cover a broad range of route choices; the traveler's choice of routes is limited by principles designed, in the aggregate, to make the greatest use of American-flag service.

There are more than 50 typewritten pages defining availability and explaining the rules, regulations, and guidelines of the Fly America Act. Each page contains some advice or a caveat about compliance with the act. To assure compliance, this information must be understood not only by the individual traveler, but also by the agency's travel office planning staffs, certifying officers, and internal auditors.

As a result of all these regulations, a lot of time and analysis must be spent in determining the possible alternative ways in which travel can be accomplished. Planning for non-Government travelers involves little more than deciding when to begin travel and then asking a travel agent or airline to make reservations on the lowest cost, most expeditious, and most convenient routing. Government travel planning, however, involves the often-complicated task of determining American-flag air carrier availability and then trying to put together an itinerary that will accomplish the mission and still optimize the use of American-flag service. Specific attention must be given to

- adjusting travel time to make use of available American-flag air carriers' service,
- considering the need to travel outside normal working hours or during periods normally used for rest,
- determining alternate routes and the extent to which they permit use of American-flag service,
- planning where to schedule rest stops with reference to American-flag service, and
- properly documenting the justification for using foreign-flag carriers.

Reviewing all possible alternative routes to use American-flag service now often takes an extensive portion of a travel clerk's worktime for a single itinerary. There are few sources of such information and airline schedules change often.

Travel planning officials and travelers are required to document and justify the use of any foreign-flag service. Documentation must be included on the individual's travel voucher when submitted for reimbursement of travel costs. In addition, the justification must be made available to the billing carriers involved so that they can certify the necessity for such service in order to get paid. Documentation must first be acceptable to the pertinent certifying officer for both the individual's travel voucher and the carrier's transportation bill and ultimately be acceptable to the Comptroller General.

The above process is much more involved than that required before the act. Previously, travel officials were simply required to minimize travel time and cost while following the generally accepted travel management routing criteria, such as those found in the Official Airline Guide (OAG) and various Government travel regulations.

#### Higher air fare costs

The Fly America Act has greatly hampered the ability of Government agencies to use the lowest cost air services. The use of foreign-flag carriers can no longer be justified on the basis of cost. Agency travel personnel cannot "shop around" for the lowest air fares unless they have first determined that American-flag service is not available at any cost.

When American- and foreign-flag carriers offer identical services, American-flag service must be used regardless of the difference in fares. When carriers offer different fare levels on the same flight, Government travelers must use whatever fare level is available on the American-flag flights even if the foreign carriers have space available at a lower fare level.

On a number of routes, foreign-flag carriers, often in conjunction with American-flag carriers, offer reduced excursion fares, but only if the originating portion of the journey is on the national-flag airline of the country of origin. However, under the guidelines, if American-flag service is available at origin, such reduced fares cannot be used.

Other routes, such as between Bangkok and Manila via Hong Kong, must be taken on higher fare indirect routes instead of less costly direct routes because of the Fly America routing rules. The State Department has pointed out many routes, primarily between posts overseas, for which indirect routings are required in order to use American-flag service for at least part of official travel itineraries. Examples are trips between the Caribbean islands and Central and South America.

The Defense Department is now often constrained in using the lowest cost routes because of its inability to use a combination American-flag charter, foreign-flag local in-country service instead of through noncharter American-flag service. For example, in sending personnel to Barcelona, Spain, the Department chartered American-flag carrier plane-load service to Madrid and then used foreign-flag service to Barcelona. The cost of this service is substantially less than the through American-flag service to Barcelona, but because American-flag service is considered available under the Fly America guidelines, the lower cost routing cannot be used.

The cost to the Government as a whole resulting from the need to pay higher air fares is not known. The State Department, however, estimates that the additional fare cost accounts for about \$250,000 of the additional \$1 million it is spending to comply with the act.

#### Increased travel costs and employee productivity problems

To reduce travel expenses, agencies have always been encouraged, and in fact required by law, to conduct their business in the most expeditious manner possible. The Fly America Act, however, has required that consideration of availability of American-flag service take precedence over expeditious accomplishment of a mission. As a result, travelers wanting to begin trips often cannot start when they would like to or when their agencies would want them to, because American-flag service may not be available until several days later. Sometimes travelers must arrive at a destination several days before they can begin work. Likewise, travelers are not permitted to return from temporary duty stations on the first available flights. They must carefully review the Fly America guidelines to determine how long they must wait for American-flag service and then try to find what service there is. This may require the

traveler to fly on an indirect route, at odd hours of the day or night, or outside normal working hours to use American-flag service. The additional per diem the traveler must incur while on a duty status to wait for American-flag service is a direct cost of the act.

The guidelines contemplate paying up to 12 hours additional per diem for interchange delays in continuing travel. Insofar as those 12 hours may fall within regular duty hours, they may also involve nonproductive time for which the employee receives full salary. The additional per diem and nonproductive salary costs contemplated by the guidelines involve only en route delays after the traveler has embarked and before he has arrived at destination. In 56 Comp. Gen. 216 (1977), it was held that up to 48 hours additional per diem, including the 12 hours contemplated by the guidelines, is payable to accommodate scheduling of travel under the Fly America Act. This holding applies to delays in initiation and continuation of travel. Depending upon the travel schedule, this may necessitate paying the traveler's salary for as much as 2 full workdays of nonproductive time.

At many locations throughout the world, American-flag service is infrequent. Service from a number of points in Asia, Africa, South America, and Europe is often offered no more than once or twice a week. Under Fly America guidelines, personnel leaving those locations must wait up to 2 days to use American-flag service. During that time, the employees are often not able to work productively since their work has already been completed. In such instances, if employees were permitted to depart on the first available flights to a location where more frequent American-flag service was available, they could be used more productively.

For example, Tokyo and Hong Kong are the major Asian cities receiving daily American-flag service. Cities such as Bangkok, Taipei, and Manila have less than daily service and are therefore more difficult to leave on American-flag carriers. London, Paris, Frankfurt, and Rome are the major European cities with daily American-flag service. Other cities, such as Amsterdam, Copenhagen, Istanbul, and Ankara, have less frequent American-flag service, and unless foreign-flag carriers are used to the major American-flag gateway cities, an employee's productivity may not be maximized.

The State Department estimates that increased per diem and lost productivity to adhere to the Fly America Act costs it nearly \$500,000 a year.

### Lessened opportunities to pay bills in foreign currencies in lieu of dollars

For many years Government policy has been to pay obligations, wherever possible, in excess foreign currencies and thus avoid spending dollars. One way to use such currencies was to pay transportation bills for travel to and from excess currency countries, such as Egypt, India, and Pakistan.

In the past, American-flag carriers have been willing to accept payment in excess currencies. Agencies were encouraged to use whatever carriers would accept such currencies while still trying to make the most use of American-flag carriers. However, if the only American-flag carrier serving Cairo, for example, would not accept payment in excess currency, the agency could justify using a foreign carrier who would.

Fly America has changed that. The opportunity to spend excess currencies instead of dollars in paying air fare costs is no longer a justification for using foreign carriers.

### HIGH FINANCIAL RISK TO THE INDIVIDUAL TRAVELER

For Government travelers, the most significant result of the Fly America Act has been the potential for financial risk placed on them. If a traveler flies on foreign-flag carriers and it is later determined that American-flag service was available, the traveler must ultimately bear the financial burden of that mistake. Since the burden is measured in terms of lost revenue to the American-flag carriers, the traveler might be held liable for thousands of dollars. Furthermore, Government travelers cannot escape the potential risk of financial liability for violating the act. The fact that they rely on the advice of their travel offices or the airlines does not relieve them of personal liability.

Generally, an employee's travel office is the most familiar source of advice on all the intricacies of the Fly America guidelines and airline schedules. Yet, the travel officials are not liable for violations of the act. Thus, even if the traveler follows the advice of his agency travel officers, he may run afoul of the law.

The traveler also takes a risk if he relies on the advice of the air carriers because they may not route

passengers under the guidelines addressed by the Comptroller General. They are usually reliable in advising about their own routes, but not in routing traffic to other carriers.

Difficulty of finding out when and where American-flag carriers operate

Agency travel planners and travelers have trouble finding out when and where American-flag carriers operate. There is no single, readily available source of such information. The information that is available is generally not directed toward making maximum use of American-flag service.

Flight information for any particular carrier can be obtained by calling the airline or by using one of the available commercial flight guide publications. Neither source is completely satisfactory for a Government traveler trying to comply with the Fly America Act. Neither makes any claim that it is the best source for Fly America information.

Air carriers, in general, normally route passengers in a manner tending to maximize their own revenues or at least promote their own operations. No airline that we looked at has designed its routing procedures to promote American-flag service at its own expense even if such procedures would have benefited the American-flag industry as a whole.

Different airlines follow different procedures, generally because of their types of route structure. Carriers with both international and domestic routes usually route passengers over their own routes as far as possible even if they eventually have to turn the passengers over to foreign carriers. Carriers with only domestic routes generally route passengers over their own routes to whatever airline will reciprocate or return opposite direction passengers to them. In our opinion, neither type of carrier pays much attention to whether the other carriers are American-flag or foreign-flag. Neither generally deals with American carriers if that means lessening its own business.

To illustrate this problem, we asked a major domestic carrier at its Dallas airport ticket office to route a traveler on a hypothetical trip to Athens, Greece, with intermediate duty stops in Stuttgart and Munich, Germany. Specific instructions were given to use American-flag

carriers whenever possible. The carrier issued a ticket with a routing of American-flag service to New York, but with foreign-flag service through to Germany. Yet, on the day that transportation was needed, 23 different American-flag flights were scheduled to Europe from some point in the United States. Most were from New York to cities from which easy connections to Stuttgart could have been made.

On another occasion, a traveler from Minneapolis to Stockholm was advised by the major carrier serving Minneapolis to use foreign-flag service from Chicago to Stockholm even though American-flag carriers could have provided the complete service. In yet another case, a traveler from Washington, D.C., to Madrid was advised by a domestic American-flag carrier to use foreign service from New York to Madrid even though alternate American-flag service was available over the entire route.

The Official Airline Guide is a useful but difficult-to-use tool

The employee's only reasonably safe source of flight information is the Official Airline Guide. The OAG is subscribed to by most, if not all, Government agencies, but it is reliable only insofar as the employee may be able to understand it. Although the OAG is an extremely useful tool, it is not light reading. It is a publication of all the world's airline flight schedules, and each monthly edition is nearly 2,000 pages long. The guide shows direct flights between major cities. In total, more than 46,000 city pairs are listed. To keep the book to even this size, much of the flight and fare data is coded.

With a concerted effort an individual can develop a certain facility in interpreting the information. But the utter bewilderment that most Government employees feel when confronted with the fact they may be financially penalized if they incorrectly interpret any of the abbreviations on its pages or inadvertently overlook any remarks can easily be understood. And imagine the uncomfortable position of the employee in actual travel status pursuing a complex travel itinerary who finds himself in some foreign country without even the limited security of such a guide. If all cities had direct American-flag service, the OAG would be satisfactory. But most do not. Only a little over 100 foreign cities receive American-flag service. Getting to the other cities requires at least some foreign-flag service.

The problem with getting between cities when one city does not have American-flag service is that there can be many different possible routings, all of which may have some degree of American-flag service. The connections shown in the OAG are generally those that provide the most convenient service or are shown at the specific request of an airline. Therefore, if a traveler relied exclusively on the OAG, he would presume that the farthest he could fly on American-flag service on the Los Angeles to Warsaw route would be to London. In fact, however, there is connecting service on American-flag carriers all the way to Warsaw. On the Hartford to Frankfurt route, as another example, no connections are shown indicating American-flag service beyond New York. Actually, such service can be used all the way to Frankfurt.

There are many city pairs for which this type of information is provided in conjunction with connecting service. Nevertheless, the traveler is still obligated, in most cases, to take the routing which, in effect, makes the most use of American-flag service, regardless of what is shown under the particular city pair listing in the OAG. If he relies solely on the city pair listing in the OAG, he will be penalized by the amount of revenue the American-flag carriers lose as a result of an improper routing.

## CHAPTER 3

### NEED FOR LEGISLATIVE CHANGES TO ALLOW MORE AGENCY DISCRETION IN AUTHORIZING USE OF FOREIGN-FLAG CARRIERS

The intent of the Congress in enacting the Fly America Act was clearly to increase use of American-flag carriers by Government travelers. Through GAO guidelines defining American-flag "availability" and agencies' implementation of the act, this seems to have been accomplished. However, as discussed in the preceding chapter, the restrictive nature of the act has resulted in increased costs of Government travel; a loss of operational efficiency; and in particular, a high financial risk shouldered entirely by the individual traveler.

We believe the act should be amended to give agencies more flexibility in their travel planning functions and relieve the travelers of the extensive liability they now face. An amendment that would give agencies more discretion in choosing carriers and eliminate much of the financial risk to the traveler would focus on limiting the act's application on what might be termed local foreign transportation--that is, travel between cities in foreign countries. It is on such routes that American-flag service is least suitable for expeditious and economical travel and that travelers face the greatest risk of inadvertently violating the act. Such an amendment would make the act easier to administer and would significantly lessen the burden of risk on travelers when overseas. However, it would still retain the application of the act to the major and more costly segment of overseas travel--that is, travel to and from the United States.

A suggested change to ease the application of the Fly America Act, communicated to the Chairman of the Senate Committee on Foreign Relations by the Comptroller General, was included as section 112 of Senate bill 3076 (95th Cong., 2d sess), which as amended in conference, was ultimately enacted as section 706 of Public Law 95-426, October 7, 1978, the Foreign Relations Authorization Act, Fiscal Year 1979. Section 706 provides:

## USE OF FOREIGN AIR CARRIERS

"Sec. 706. Notwithstanding the limitations established by section 1117 of the Federal Aviation Act of 1956 (49 U.S.C. 1517), funds appropriated after the date of enactment of this Act to the Department of State, the International Communication Agency, the Agency for International Development (or any successor agency), and the Arms Control and Disarmament Agency may be used to pay for the transportation, between two places both of which are outside the United States of officers and employees of those agencies, their dependents, and accompanying baggage, aboard air carriers which do not hold certificates under section 401 of that Act."

In the Conference Report to accompany H.R. 12598, House Report No. 95-1535, the committee of conference stated:

"\* \* \* The committee of conference recognizes that existing law has created substantial hardships for U.S. Government personnel required to travel overseas to carry out their official duties and has frequently resulted in increased costs to the U.S. Government. The committee of conference, however, does not intend that this authority be implemented in a broad and sweeping manner. Therefore, it is fully expected that this authority will be implemented in a manner which will continue to encourage U.S. Government employees to use U.S. air carriers to the maximum practical extent. In establishing regulations to implement this new authority, the heads of affected agencies are expected to take into account both the continuing policy of Congress that U.S. airlines be used to the greatest practical extent and also any significant adverse economic impact which use of this authority may have on the revenues of any U.S. certificated air carrier. The heads of agencies affected by this provision are required to provide to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, not later than 14 months after enactment of this legislation, a comprehensive report on implementation of this provision."

As to the foreign affairs agencies, section 706 would appear to resolve many of the problems in administering the Fly America Act. It would reserve to American-flag air carriers the lucrative long-distance routes to and from the United States, on which American-flag carriers provide sufficiently frequent service and for which the collateral costs of compliance will be reasonable in proportion to the financial benefit secured to American carriers. The employee's burden and risk of scheduling travel would also be reduced to more reasonable proportions. It, however, does nothing to resolve the problems faced by other Government departments and agencies. We believe the Fly America Act should be amended to provide similar flexibility in scheduling travel for them.

#### RECOMMENDATION

GAO recommends that the Congress amend the Fly America Act to provide greater flexibility in its application to flights between points outside the United States. Such an amendment should reserve to the American-flag carriers the lucrative long-distance travel so that the collateral costs of complying with the act would be reasonable in proportion to the financial benefit to those carriers. The amendment should also reduce the traveler's burden and risk of scheduling travel to a more reasonable proportion.

## CHAPTER 4

### SCOPE OF REVIEW

The review was made at the headquarters of the Department of State and at U.S. embassies and consulates in Europe, Asia, and South America. Discussions on implementing and complying with the act were held at the Department of Defense, ACTION, and the General Services Administration. The travel planning and payment functions were extensively reviewed at almost all agencies who perform overseas travel.

The act's effect on American-flag air carriers was discussed with officials and representatives of the major air carriers and with the Air Transport Association--the trade association of the American-flag air carriers.

SECTION 5 OF THE INTERNATIONAL AIR TRANSPORTATIONFAIR COMPETITIVE PRACTICES ACT

The so-called Fly America Act is really section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (Public Law 93-623, 88 Stat. 2104). It was enacted on January 3, 1975, and is now codified at 49 U.S.C. 1517.

In its component parts, the act reads as follows:

## I

[Entities and Transactions Covered By The Act]

Whenever any executive department or other agency or instrumentality of the United States

- (1) shall procure, contract for, or otherwise obtain
  - a) for its own account or
  - b) in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States,

or

- (2) shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement,

## II

[Transportation Covered By The Act]

any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States,

## III

[Agencies' Duties Under The Act]

the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act (49 U.S.C. 1371) to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available.

## IV

[The Comptroller General]

The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for such personnel or cargo transportation on an air carrier not holding a certificate under section 401 of this Act in the absence of satisfactory proof of the necessity therefor.



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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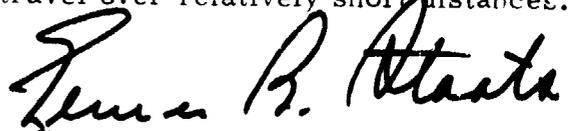
March 12, 1976

HEADS OF DEPARTMENTS, AGENCIES,  
AND OTHERS CONCERNED:

SUBJECT: GUIDELINES FOR IMPLEMENTATION OF  
SECTION 5 OF THE INTERNATIONAL AIR  
TRANSPORTATION FAIR COMPETITIVE  
PRACTICES ACT OF 1974

The attached is a revision which supersedes the guidelines issued June 17, 1975, in implementation of section 5, Public Law 93-623, 88 Stat. 2104 (49 U.S.C. § 1517).

The effect of the revision is to add subparagraph 4(d) to prevent unreasonable delays in official travel over relatively short distances.

  
Comptroller General  
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-138942

March 12, 1976

HEADS OF DEPARTMENTS, AGENCIES,  
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SUBJECT: GUIDELINES FOR IMPLEMENTATION OF  
SECTION 5 OF THE INTERNATIONAL AIR  
TRANSPORTATION FAIR COMPETITIVE  
PRACTICES ACT OF 1974

These guidelines will be considered by the General Accounting Office in carrying out its responsibilities under section 5, Public Law 92-623, 88 Stat. 2104 (49 U.S.C. § 1517). Section 5 requires, in the absence of satisfactory proof of necessity, the disallowance of expenditures from appropriated funds for Government-financed commercial foreign air transportation performed by an air carrier not holding a certificate under section 401 of the Federal Aviation Act of 1958. These guidelines will require the executive departments, agencies, and instrumentalities of the United States (hereinafter referred to as "agency") to modify their current regulations concerning Government-financed commercial foreign air transportation to avoid disallowance of expenditures that previously would have been allowed.

1. Certificated air carriers (those holding certificates under section 401 of the Federal Aviation Act of 1958, 49 U.S.C. § 1371 (1970)) must be used for all Government-financed commercial foreign air transportation of persons or property if service provided by those carriers is "available."

2. Generally, passenger or freight service by a certificated air carrier is "available" if the carrier can perform the commercial foreign air transportation needed by the agency and if the service will accomplish the agency's mission. Expenditures for service furnished by a noncertificated air carrier generally will be allowed only when service by a certificated air carrier or carriers was "unavailable."

3. Passenger or freight service by a certificated air carrier is considered "available" even though:

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- (a) comparable or a different kind of service by a noncertificated air carrier costs less, or
- (b) service by a noncertificated air carrier can be paid for in excess foreign currency, or
- (c) service by a noncertificated air carrier is preferred by the agency or traveler needing air transportation, or
- (d) service by a noncertificated air carrier is more convenient for the agency or traveler needing air transportation.

4. Passenger service by a certificated air carrier will be considered to be "unavailable":

- (a) when the traveler, while en route, has to wait 6 hours or more to transfer to a certificated air carrier to proceed to the intended destination, or
- (b) when any flight by a certificated air carrier is interrupted by a stop anticipated to be 6 hours or more for refueling, reloading, repairs, etc., and no other flight by a certificated air carrier is available during the 6-hour period, or
- (c) when by itself or in combination with other certificated or noncertificated air carriers (if certificated air carriers are "unavailable") it takes 12 or more hours longer from the origin airport to the destination airport to accomplish the agency's mission than would service by a noncertificated air carrier or carriers.
- (d) when the elapsed traveltime on a scheduled flight from origin to destination airports by non-certificated air carrier(s) is 3 hours or less, and service by certificated air carrier(s) would involve twice such scheduled traveltime.

5. The Comptroller General will disallow any expenditures for commercial foreign air transportation on noncertificated air carriers

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unless there is attached to the appropriate voucher a certificate or memorandum adequately explaining why service by certificated air carriers is "unavailable."

6. Although international air freight forwarders as defined in 14 C. F. R. §§ 297.1(c) and 297.2 (1975) engaged in foreign air transportation [49 U. S. C. § 1301 (21)(c)(1970)] may be used for Government-financed movements of property, the rule stated in guideline 5 applies to the use of underlying air carriers by international air freight forwarders engaged in such foreign air transportation.

7. In order that bills submitted by international air freight forwarders engaged in foreign air transportation may be paid upon presentation, such carriers are directed to submit with their bills a copy of the airwaybill or manifest showing the underlying air carriers utilized with such justification certificates or memoranda as they may have for the use of underlying noncertificated air carriers.



Comptroller General  
of the United States

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