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**DECISION**



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

*[Request for Reconsideration of Fly America Act Violation]*

FILE: B-192548

DATE: November 23, 1979

MATTER OF: Geoffrey Arn - Fly America Act

**DIGEST:** Where employee's wife could have traveled by U.S. air carrier directly from Boston to Paris from home leave, but instead accompanied him on temporary duty assignment in London en route, employee is liable for Fly America Act penalty based on wife's use of foreign air carrier service between London and Paris. Employee's decision to have wife accompany him on temporary duty was a matter of his personal preference and does not justify her travel by foreign air carrier. B-192548, April 18, 1979, affirmed.

Mr. Geoffrey Arn, an employee of the Drug Enforcement Administration, has asked that we reconsider our decision, B-192548, April 18, 1979, insofar as it concerns his wife's return travel from home leave in San Francisco by way of London. That decision involved the question of whether Mrs. Arn's travel from London to Paris violated the Fly America Act, 49 U.S.C. § 1517. *AGC00010*

Because their home leave trip predated our holding in Matter of Michael A. Sulak, 57 Comp. Gen. 76 (1977), Mr. Arn was not penalized for routing their travel to San Francisco by way of London, even though selection of London as a rest stop en route resulted in a reduction in U.S. air carrier revenues. However, for the reasons set forth in the following excerpt from that decision, Mr. Arn was assessed a penalty for his wife's return travel by way of London:

"\* \* \* Although Mr. Arn's stopover in London incident to his return travel was for the purpose of performing temporary duty, his wife's travel appears to have been routed by way of London for personal reasons. Since she took a rest stop in Boston en route from San Francisco, her stopover in London cannot be viewed as a rest stop. Mrs. Arn could have traveled directly from Boston to Paris aboard a U.S. air carrier. Therefore, the air fare that may be reimbursed in connection with her return travel is required to be reduced by \$64, the penalty determined in accordance with the proration formula set forth in 56 Comp. Gen. 209 (1977)."

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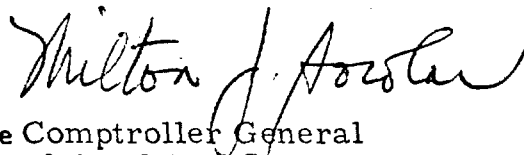
Mr. Arn is of the opinion that the status of marriage places a duty upon spouses to travel together insofar as reasonable and feasible and that the assessment of a penalty for his wife's travel by way of London improperly denies him of his wife's companionship while on temporary duty. Contrary to Mr. Arn's views there is no obligation on the part of the Government to assure an individual his spouse's companionship while on temporary duty. B-147476, November 6, 1961. Except in limited circumstances where the services of the employee's spouse as an attendant are necessary because of the employee's physical handicap, there is no authority for the Government to pay for the cost of travel of an employee's spouse incident to temporary duty. See, for example, 56 Comp. Gen. 661 (1977).

Unless it would interfere with the purpose of the temporary duty assignment, there is generally no restriction on an employee's decision to have his wife accompany him at his own expense. In fact, where it has been determined to be in the Government's interest, we have held that employees on temporary duty for more than a specified period of time may be allowed to transport their dependents in Government vehicles. That privilege is necessarily limited by the prohibition contained at 31 U.S.C. § 638a(c)(2) against use of Government vehicles for other than official purposes. 57 Comp. Gen. 226 (1978).

Because Mr. Arn's temporary duty assignment in London was scheduled in conjunction with his and his wife's home leave travel, Mrs. Arn was able to accompany him to London without incurring transportation expenses significantly in excess of the cost of her direct travel to Paris. While her travel by way of London involved no additional cost to the Government, the Government's authority to pay for that travel is based on her entitlement to return transportation expenses to Paris following home leave. That authority is limited by the prohibition contained in 49 U.S.C. § 1517 against use of foreign air carrier service in the absence of a showing that U.S. air carrier service is unavailable. The Comptroller General's guidelines implementing the Fly America Act, B-138942, March 12, 1976, specify that U.S. air carrier service is not rendered unavailable simply because foreign air carrier service is preferred by the traveler. Thus, we have held that considerations of preference or convenience will not justify the use of a foreign air carrier where a U.S. air carrier is available to provide the transportation that is authorized to be performed at Government expense. 57 Comp. Gen. 519 (1978).

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Since Mr. Arn's decision to have his wife accompany him while on temporary duty in London cannot be characterized as other than a matter of his personal preference or convenience, he is liable under 49 U.S.C. § 1517 for losses suffered by U.S. air carriers as a result of her failure to use U.S. air carrier service direct to Paris. Accordingly, the holding in B-192548, April 18, 1979, is affirmed.



For the Comptroller General  
of the United States