§ 41310. Discriminatory practices

(a) Prohibition.— An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(b) Review and Negotiation of Discriminatory Foreign Charges.—

(1) The Secretary of Transportation shall survey charges imposed on an air carrier by the government of a foreign country or another foreign entity for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation decides that a charge is discriminatory, the Secretary promptly shall report the decision to the Secretary of State. The Secretaries of State and Transportation promptly shall begin negotiations with the appropriate government to end the discrimination. If the discrimination is not ended in a reasonable time through negotiation, the Secretary of Transportation shall establish a compensating charge equal to the discriminatory charge. With the approval of the Secretary of State, the Secretary of the Treasury shall impose the compensating charge on a foreign air carrier of that country as a condition to accepting the general declaration of the aircraft of the foreign air carrier when it lands or takes off.

(2) The Secretary of the Treasury shall maintain an account to credit money collected under paragraph (1) of this subsection. An air carrier shall be paid from the account an amount certified by the Secretary of Transportation to compensate the air carrier for the discriminatory charge paid to the government.

(c) Actions Against Discriminatory Activity.—

(1) The Secretary of Transportation may take actions the Secretary considers are in the public interest to eliminate an activity of a government of a foreign country or another foreign entity, including a foreign air carrier, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity—

(A) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against an air carrier; or

(B) imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market.

(2) The Secretary of Transportation may deny, amend, modify, suspend, revoke, or transfer under paragraph (1) of this subsection a foreign air carrier permit or tariff under section 41302, 41303, 41304 (a), 41504 (c), 41507, or 41509 of this title.

(d) Filing of, and Acting on, Complaints.—

(1) An air carrier, computer reservations system firm, or a department, agency, or instrumentality of the United States Government may file a complaint under subsection (c) or (g) of this section with the Secretary of Transportation. The Secretary shall approve, deny, or dismiss the complaint, set the complaint for a hearing or investigation, or begin another proceeding proposing remedial action not later than 60 days after receiving the complaint. The Secretary may extend the period for acting for additional periods totaling not more than 30 days if the Secretary decides that with additional time it is likely that a complaint can be resolved satisfactorily through negotiations with the government of the foreign country or foreign entity. The Secretary must act not later than 90 days after receiving the complaint. However, the Secretary may extend this 90-day period for not more than an additional 90 days if, on the last day of the initial 90-day period, the Secretary finds that—
(A) negotiations with the government have progressed to a point that a satisfactory resolution of the complaint appears imminent;
(B) an air carrier or computer reservations system firm has not been subjected to economic injury by the government or entity as a result of filing the complaint; and
(C) the public interest requires additional time before the Secretary acts on the complaint.

(2) In carrying out paragraph (1) of this subsection and subsection (c) of this section, the Secretary of Transportation shall—
(A) solicit the views of the Secretaries of Commerce and State and the United States Trade Representative;
(B) give an affected air carrier or foreign air carrier reasonable notice and an opportunity to submit written evidence and arguments within the time limits of this subsection; and
(C) submit to the President under section 41307 or 41509 (f) of this title actions proposed by the Secretary of Transportation.

(e) Review.—
(1) The Secretaries of State, the Treasury, and Transportation and the heads of other departments, agencies, and instrumentalities of the Government shall keep under review, to the extent of each of their jurisdictions, each form of discrimination or unfair competitive practice to which an air carrier is subject when providing foreign air transportation or a computer reservations system firm is subject when providing services with respect to airline service. Each Secretary and head shall—
(A) take appropriate action to eliminate any discrimination or unfair competitive practice found to exist; and
(B) request Congress to enact legislation when the authority to eliminate the discrimination or unfair practice is inadequate.

(2) The Secretary of Transportation shall report to Congress annually on each action taken under paragraph (1) of this subsection and on the continuing program to eliminate discrimination and unfair competitive practices. The Secretaries of State and the Treasury each shall give the Secretary of Transportation information necessary to prepare the report.

(f) Reports.— Not later than 30 days after acting on a complaint under this section, the Secretary of Transportation shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on action taken under this section on the complaint.

(g) Actions Against Discriminatory Activity by Foreign CRS Systems.— The Secretary of Transportation may take such actions as the Secretary considers are in the public interest to eliminate an activity of a foreign air carrier that owns or markets a computer reservations system, or of a computer reservations system firm whose principal offices are located outside the United States, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity, with respect to airline service—

(1) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against a computer reservations system firm whose principal offices are located inside the United States; or
(2) imposes an unjustifiable or unreasonable restriction on access of such a computer reservations system to a foreign market.

### 49 USC 41310

**Historical and Revision Notes**

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<td>49 App.:1551(a)(4)(C) (related to 49 App.:1374(b)).</td>
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In subsection (a), the words “may not subject . . . to unreasonable discrimination” are substituted for “No . . . shall make, give, or cause any undue or unreasonable preference or advantage . . . in any respect whatsoever or subject . . . to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever” to eliminate unnecessary words. The words “foreign air transportation” are substituted for “air transportation” because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

In subsection (b)(1), the words “at any time”, “unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise” and “reduce such charges or” are omitted as surplus. The words “the Secretary of State shall promptly report such instances to” are omitted as surplus because the Secretary of Transportation is involved in the negotiations and aware of the failure.
to end the discrimination. The words “excessive or” are omitted as surplus. The words “or carriers” are omitted because of 1:1.

In subsection (b)(2), the words “in accordance with such regulations as he shall adopt” are omitted as surplus because of 49:322(a). The words “by them” are omitted as surplus.

In subsections (c)–(e), the words “United States” before “air carriers” and “air carrier” are omitted as surplus and for consistency because only a citizen of the United States may be an “air carrier” as defined in section 40102(a) of the revised title and because 49 App.:1301 applies to this section.

In subsections (c)(1) and (d)(1), before each clause (A), the words “foreign entity” and “entity” are substituted for “instrumentality” for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), the words “alteration”, “cancellation”, “limitation”, and “pursuant to the powers of the Secretary” are omitted as surplus.

In subsection (d)(1), before clause (A), the words “department, agency, or instrumentality of the United States Government” are substituted for “agency of the Government of the United States” for consistency in the revised title and with other titles of the Code. The words “additional periods totaling not more than 30 days” are substituted for “an additional period or periods of up to 30 days each” for clarity because the amendment made by section 10111 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418, 102 Stat. 1573) changed the additional period within which the Secretary had to act to only 30 days. The word “initial” is added for clarity.

In subsection (d)(2)(A), the words “the Secretaries of Commerce and State and the United States Trade Representative” are substituted for “the Department of State, the Department of Commerce, and the Office of the United States Trade Representative” because of 15:1501, 22:2651, and 19:2171, respectively.

In subsection (d)(2)(B), the words “as is consistent with acting on the complaint” are omitted as surplus.

In subsection (e)(1), before clause (A), the text of 49 App.:1159b(a) (1st, 2d sentences) is omitted as executed. The words “The Secretaries of State, the Treasury, and Transportation” are substituted for “The Department of State, the Department of the Treasury, the Department of Transportation” because of 22:2651, 31:301(b), and 49:102(b), respectively. The words “the heads of” and “instrumentalities of the Government” are added for consistency in the revised title and with other titles of the Code. The word “jurisdictions” is substituted for “respective functions” for clarity and consistency. In clause (A), the words “within its jurisdiction . . . such forms of” are omitted as surplus. Clause (B) is substituted for 49 App.:1159b(c) to eliminate unnecessary words.

In subsection (e)(2), the words “faced by United States carriers in foreign air transportation”, “as may be”, and “required by this subsection” are omitted as surplus.

**Amendments**

2000—Subsec. (d)(1). Pub. L. 106–181, § 741(b)(1)(A), (B), in first sentence of introductory provisions, substituted “air carrier, computer reservations system firm,” for “air carrier” and “subsection (c) or (g)” for “subsection (c)”.

Subsec. (d)(1)(B). Pub. L. 106–181, § 741(b)(1)(C), substituted “air carrier or computer reservations system firm” for “air carrier”.

Subsec. (e)(1). Pub. L. 106–181, § 741(b)(2), inserted “or a computer reservations system firm is subject when providing services with respect to airline service” before period at end of first sentence.

Subsec. (g). Pub. L. 106–181, § 741(a), added subsec. (g).


**Effective Date of 2000 Amendment**

Termination of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsec. (e)(2) of this section relating to the requirement that the Secretary of Transportation report annually to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 21st item on page 132 of House Document No. 103–7.