

qrulepubliccomments

From: Brooks, Jessica [JBrooks@crowell.com]
Sent: Wednesday, March 01, 2006 2:57 PM
To: qrulepubliccomments
Subject: Q Rule Comments
Attachments: SFX1A0F.pdf

The attached comments are submitted on behalf of First Choice Airways. We are overnighting a hard copy to the Center for Disease Control and Prevention, Division of Global Migration and Quarantine, ATTN: Q Rule Comments, 1600 Clifton Road, NE, (E03), Atlanta, GA 30333.

<<SFX1A0F.pdf>>

**BEFORE THE
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR DISEASE CONTROL AND PREVENTION
WASHINGTON, D.C.**

In the matter of: :
: :
Control of Communicable Diseases : Q Rule Comments
42 C.F.R. Part 70/71 :
: :

**FIRST CHOICE AIRWAYS RESPONSE TO
NPRM CONTROL OF COMMUNICABLE DISEASES
PUBLISHED IN THE FEDERAL REGISTER ON 30 NOVEMBER 2005**

Communications with respect to this document should be addressed to:

Mr. Eddie Redfern
Group Head of Aviation Regulation &
Industry Affairs
First Choice Airways Limited
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London Road
Crawley
West Sussex
RH10 9GX

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First Choice Airways, a UK charter air carrier operating program and ad hoc charter flights that serve over 78 countries worldwide, including the United States, welcomes the opportunity to respond to the above-referenced NPRM. Our comments are primarily directed at Sections 71.6, 71.7 and 71.10, which apply to the collection of passenger data.

As an international air carrier, First Choice Airways has a general duty to inform the 'appropriate Port Health authority' at any destination to which it is operating when a passenger dies or falls ill during a flight, or where there is a suspicion of infectious disease on board, or where one or two passengers fall ill on a flight. We therefore have adopted one generic procedure for advising the appropriate authorities on a worldwide basis in those circumstances. Thus we believe that the introduction of a mandatory written procedure by the U.S. government, on a unilateral basis, is contrary to the public interest because it may lead to confusion by crews in the event of an incident needing to be reported.

The procedures that First Choice has adopted on a worldwide basis enable the cabin crew to obtain passenger names, addresses and contact details should the authorities require this in the case of an illness or death. This data can only be collected at the time by hand written completed forms. First Choice does not maintain an electronic reservations system and there are no facilities on board our flights to gather such information electronically. The details would be handed to the port health authorities at the point of disembarkation of the ill passenger(s).

On those occasions on which the cabin crew did not capture passenger names, and these are subsequently required, the airline does not hold or have access to most of the required data information, and in many cases the tour operator also would not have access to such data. The only entity in the charter air transportation supply chain that may collect and hold some of the data identified in proposed Section 71.10 of the proposed rule is the travel agent. Unfortunately charter air carriers (that is airlines and tour operators) have no legal powers to

require the travel agent to provide such data. Indeed UK travel agents would use the privacy rules to prevent the provision of such data to airlines. In particular, First Choice Airways and other UK charter airlines would NOT have access to the following passenger information identified by proposed Section 71. 10:

1. Emergency contact number
2. Emergency contact number for non-US citizens, or if a US citizen had declined to provide that data upon request at check-in.
3. Phone number
4. e-mail address
5. Current home address (in most cases)
6. Travelling companion
7. Return flight information (if not a First Choice passenger)

The proposed rule should be modified to require carriers to 'provide' the data, "only to the extent that they have it available" and such data is collected as part of the day to day operations. There is precedent for this general approach under the US DHS APIS requirements, which limit the rule requiring CBP access to PNR data to carriers which routinely collect and maintain such data in a reservations system.¹ We do not have a reservations system, so would be unable to hold such data.²

Under these circumstances First Choice Airways would make its best efforts to obtain the required information, and would submit the data to U.S. authorities in the format it was received. We do not have sufficient resources to collate a list for electronic transmission for use by a 3rd party agency and should not be compelled to provide this data electronically, as the airline would have no legal basis to compel tour operators or travel agents to provide such data. Furthermore the cost and systems development requirements would be out of proportion to the actual or expected use of the data.

The airline would be able to provide either the US APIS transmission, or the US APIS+ transmission, but CDC could obtain that directly from CBP without the airline involvement.

First Choice Airways would be able to implement a manual system for a known scope and limited duration for any given flight; a pre-printed card that is handed to passengers at check-in going to or exiting the US, for completion by the passenger post check-in and collected by the airline at the boarding gate. We would not have the resources or means of converting those cards to an electronic transmission. Such cards would be handed to the appropriate US port authority prior to departure, or upon arrival in the US.

Crew data, is held centrally at head office and could be transmitted electronically for any given flight upon request.

The routine collection and capture of the proposed passenger data for electronic transmission is neither feasible nor practical given the relatively low incidence of deaths or illness on board flights. Where an emergency situation were to apply, for example a flu pandemic, First Choice Airways would be able to introduce a manual capture of the passengers data by issuing cards to the passengers at check-in for completion prior to boarding. This procedure

¹ 67 Federal Register 42710, 42711, June 25, 2002 (limiting Customs Service access to PNR data to data already collected by airlines).

² Letter to Air 2000 dated July 24, 2002, under ref CMP2:FO:P JJ. First Choice Airways was formerly known as Air 2000.

should only be implemented for a known scope and limited duration to meet a particular health threat pertaining at the time of implementation.

Given the way in which this particular section of the travel industry operates, and the inability of airlines such as First Choice Airways to obtain data, we are totally opposed to the unduly severe penalty provisions detailed in 71.31. The proposed penalties for individuals and organisations are disproportionate at \$250,000, plus the possibility of 1 year in Jail, or \$500,00 for an organisation.

Submitted by:

/s/ Eddie Redfern

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March 1, 2006