UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Policy Statements - Part 399
Effective: November 5, 1958
Adopted: August 12, 1958

STATEMENTS OF GENERAL POLICY

PROCESSING OF APPLICATIONS OF FOREIGN AIR CARRIERS FOR AUTHORIZATION TO CONDUCT OFF-ROUTE CHARTER TRIPS

In an opinion and order issued concurrently herewith the Board amended the foreign air carrier permits of certain designated foreign air carriers so as to authorize them to conduct off-route charter trips in foreign air transportation under regulations prescribed by the Board (order No. E-12945, dated August 12, 1958). In the same decision the Board adopted Part 212 of the Economic Regulations (Regulation No. ER-236, dated August 12, 1958) governing the operation of off-route charter trips by the foreign air carriers whose permits were amended. The regulation provides that in order to conduct an off-route charter trip a foreign air carrier must file an application with the Board and must receive authority in the form of a statement of authorization granted by the Board. Before such a statement of authorization will be issued the Board must find that the proposed flight comes within the definition of "off-route charter trip" set forth in the regulation and that the operation of the trip will be in the public interest.

Since this rule relates only to Statements of Policy, notice and public procedures hereon are unnecessary.

In consideration of the foregoing the Civil Aeronautics Board hereby enacts Regulation Policy Statement No. 5 comprising new Section 399.30 of Subpart B of Part 399 effective November 5, 1958, to read as follows:

PART 399 - STATEMENTS OF GENERAL POLICY

SUBPART B - STATEMENTS OF POLICY

FOREIGN AIR CARRIER OFF-ROUTE CHARTER TRIPS

Section 399.30 - Processing of Applications Filed by Foreign Air Carriers Pursuant to Part 212 of the Economic Regulations for a Statement of Authorization to Conduct Off-Route Charter Trips.

I. General Provisions

This policy prescribes the general standards which will be used by the Board in processing applications for Statements of Authority. Since a determination of public interest requires consideration of all of the standards set forth in the Civil Aeronautics Act, this statement does not purport to cover every matter that may be taken into account by the Board in passing upon applications by foreign air carriers to conduct off-route charter trips. For similar reasons, the Board reserves the right to depart from the provisions of this policy when there is a showing of exceptional circumstances and the

Board finds that strict adherence to the detailed standards of the policy in a particular situation would not be in the public interest. However, in the absence of such a showing, any practice by a foreign air carrier, travel agent, or chartering group which is prohibited by this policy will constitute sufficient basis for denying an application for a statement of authorization. If any such practice is discovered after the particular charter flight has been performed, the practice will justify denial of future applications by the same foreign air carrier.

II. Requirements Relating to Air Carrier Applicants

1. The carrier may not solicit individual members of the chartering organization either through personal contact, through the placing of advertisements in newspapers, magazines or billboards, or through radio or television stations, or otherwise. However, a carrier may solicit prospective charter groups, but may not engage in public advertising except the "institutional-type" provided for in paragraph 2.

2. A carrier is not prohibited from "institutional-type" advertising to the effect that it conducts off-route charters under regulations established by the Civil Aeronautics Board. However, the carrier may not, directly or indirectly, advertise rates for off-route services in foreign air transportation on an individual passenger basis.

3. The carrier may not employ, directly or indirectly, any person for the purpose of organizing and assembling members of the chartering party into a chartering group.

4. Without prior Board approval, upon good cause shown at the time the application is filed, the carrier shall not transport one-way passengers in the case of a round-trip charter. Similarly, in the case of a charter contract calling for two or more round trips, without prior Board approval upon good cause shown at the time of application, there shall be no intermingling and each plane-load group shall move as a unit in both directions.

III. Requirements Relating to Travel Agents

1. A travel agent may not receive a commission from both the direct air carrier and the charterer for services performed in connection with the charter agreement or for services rendered on behalf of the charterer.

2. A travel agent may not assist in the organization and assembly of the charter group or handle the sale or ticketing of any individual members of the group except as hereinafter indicated.

3. In cases where the group has itself engaged the aircraft without intermediary, they may employ the services of a travel agent for the land tour who may solicit individual members of the group for such tours, receive deposits and conduct ticketing for such land tours. He may not, however, engage in any activities with or without compensation relating to the organization or assembly of the charter group itself or receive remuneration of any kind from the carrier in connection with the charter.

4. In cases where an agent, either singly or by agreement with others,

acts as both the direct air carrier's agent and as agent for land tours, such agent may not directly handle the sale or ticketing of any individual members of the group either for the air transportation portion of their journey or for the land tour portion, except for charter participants who, on an individual basis, request land tour arrangements different from those made available to the charter group. The services of the travel agent may be utilized in the preparation of a brochure or other literature describing all the aspects of the whole trip: Provided, however, That the distribution of such material, and the actual administration of the charter flight (which includes the collection and distribution of all pro rata shares of all the participants) be confined to the hands of the charterer.

5. The travel agent shall not incur any obligations on behalf of a chartering group relating to the expenses of solicitation or organization of the individual participants in the chartering group, whether or not it is intended for the group to assume ultimately the obligation incurred.

6. The travel agent shall make no payments or extend gratuities of any kind, directly or indirectly, to any member of the chartering organization in relation either to the air transportation or land tour portions of the charter trip.

7. No travel agent, or officer, director or employee of such an agent, who may be a member of a charter group, shall participate in the charter activity of such group, if such travel agent, or officer, director or employee thereof, is receiving directly or indirectly any compensation either from the charter flight or the land tours.

IV. Requirements Relating to Chartering Organization

1. An application for exemption to perform an off-route charter flight in foreign air transportation where the participants are individually bearing all or a substantial part of the cost of such transportation will be granted only where such participants have not been brought together as a result of solicitation of the general public or a substantial portion thereof. In making this determination, the Board will consider both the size of the group and the area of residence of the group from which the participants have been solicited. The Board will also consider the relative ease of admission to membership and, where admission is on a casual or informal basis, may construe a charter solicited from such membership as being, in effect, held open to the general public.

2. An organized club or group may solicit only its members and their immediate families for participation in the charter flight. Immediate family is construed by the Board to include the spouse, children, and parents who are in the member's immediate household. Further, participation of immediate families should be limited to the immediate families of those members who will themselves participate in the charter flight as passengers.

3. It shall be considered solicitation of the general public when the charter is described, announced or referred to in advertisements, whether paid or unpaid, in any media of mass communication such as newspapers, magazines, radio or television. A news item carried on such media would be considered as solicitation if initiated or inspired by the charterer, carrier, or travel agent and, if reasonably construed, it is likely to induce travel on

the charter. However, advertising or the initiation of an unpaid announcement in media the circulation of which is primarily restricted to an eligible group--e.g., the plant newspaper of a factory, the student newspaper of a college--would not ordinarily be considered as solicitation of the general public, particularly if it included a statement that the charter is limited to bona fide members of the organization and their immediate families. Distribution of circulars to persons not members of the organization or the posting of notices outside the premises of the organization will also be regarded as evidence of solicitation of the general public, as will campaigns by telephone, telegraph, or letter going beyond the bona fide membership.

4. In the case of a round-trip charter flight, one-way passengers are not permitted. Where more than one round trip is contracted for, intermingling between flights or reforming of plane-load groups is not permitted, and each plane-load group must move as a unit in both directions. Waiver of these rules may be obtained where there is good cause shown at the time the charter application is filed.

(Sec. 205 (a), 52 Stat. 989; 99 U.S.C. 925. Administrative Procedure Act § 3, 60 Stat. 238; 5 U.S.C. 1002.)

By the Civil Aeronautics Board:

/s/ Phyllis T. Kaylor

Phyllis T. Kaylor
Acting Secretary

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Note: Statements of General Policy, Policy Statements, Part 399, issued May 25, 1955 (Regulation Policy Statement No. 1), amended April 4, 1957, No. 2; January 7, 1958, No. 3, May 8, 1958, No. 4.