

**Before the
U.S. Department of Transportation
Washington, D.C.**

**In the Matter of
Accommodations for Individuals Who Are
Deaf, Hard of Hearing, or Deaf-Blind**

**OST Docket No. 2006-23999
RIN 2105-AD41**

**Comments of the
American Society for Deaf Children**

The American Society for Deaf Children (“ASDC”) submits these comments to the U.S. Department of Transportation (“the Department”) in response to the Notice of Proposed Rulemaking on Accommodations for Individuals Who Are Deaf, Hard of Hearing, or Deaf-Blind, OST Docket No. 2006-23999, RIN 2105-AD41, (71 Fed. Reg. 9285-9299, (February 23, 2006)). ASDC thanks the Department for the opportunity to comment.

ASDC is a parent-run organization that supports and educates families of deaf and hard of hearing children and advocates for high quality programs and services. Today’s deaf and hard of hearing youth are tomorrow’s deaf and hard of hearing adults. Deaf and hard of hearing individuals need access to airline information to the same extent as hearing persons.

During the one year period ending January 2006 U.S. airlines carried 658 million passengers on 10,532 flights. Since 2003 this constituted a rise of 12.7 percent and 4.7 percent, respectively.¹ With 28 million Americans experiencing hearing loss² out of a population of 296 million,³ this amounts to about one in ten persons having a hearing loss. Assuming that the population of persons with hearing loss is evenly distributed between those who fly and those who do not, this one in ten figure amounts to 65 million passengers with hearing loss per year.

ASDC is aware of numerous reports from deaf and hard of hearing travelers who have experienced problems because of inaccessibility of information. Travelers have missed critical announcements about gate changes, flight delays and cancellations, mid-air

¹ U.S. Department of Transportation Bureau of Transportation Statistics, The Intermodal Data Base, <http://transtats.bts.gov/>, retrieved May 2, 2006.

² National Institute on Deafness and Other Communication Disorders, Statistics about Hearing Disorders, Ear Infections, and Deafness, retrieved from <http://www.nidcd.nih.gov/health/statistics/hearing.asp> May 2, 2006.

³ U.S. Census Bureau, Population Finder, retrieved from http://factfinder.census.gov/servlet/SAFFPopulation?_submenuId=population_0&_sse=on May 2, 2006.

announcements about destination changes, as well as announcements about food service, sights on the ground, special offers, and entertainment. Deaf and hard of hearing passengers have had virtually no access to the auditory portion of in-flight entertainment or phone service while on the plane.

We offer our views on the following issues detailed in the NPRM.

1. Change of Terminology

ASDC supports this proposal to change “telecommunication device for the deaf” and “TDD” to “text telephone” and “TTY,” respectively.

2. Section 382.3 What do the terms in this part mean?

“Deaf, hard of hearing, deaf blind.” ASDC takes no position on whether these terms need further clarification.

“Captioning.” Any definition for captioning must ensure that captions are readable from a distance. The definition must ensure that captions will be used for the purpose they are intended: to make audible content visible.

“Informational.” ASDC believes this term should be defined as it is described in the NPRM: to “include all videos, DVDs and other audio-visual displays that do not qualify as safety or entertainment, including, but not limited to, videos, DVDs and other audio-visual displays addressing weather, shopping, frequent flyer programs, customs and immigration information, carrier routes and other general customer service presentations.”

3. Section 382.5 To whom do the provisions of this part apply?

ASDC supports these provisions.

4. Section 382.29 May a carrier require a passenger with a disability to travel with a safety assistant?

We support the views of our colleagues in the deaf-blind community on this question.

5. Section 382.43 Must information and reservation services of carriers be accessible to individuals who are deaf, hard of hearing, or deaf-blind?

ASDC supports the Department’s proposed rule, which would require U.S. and foreign carriers to ensure that the service and response times are equal for TTY information/reservation lines and non-TTY information/reservation lines, including the provision of a queue or auto attendant feature.

Because many deaf and hard of hearing travelers use web sites for purchasing flights, the Department should require carriers to ensure that all requests that are available by phone be available from the web site. This would include requests for special meals, seat changes, and the like.

The Department also should require carriers to ensure that their web sites are compatible with screen readers used by deaf-blind (and blind) individuals.

6. Section 382.45 Must carriers make copies of this part available to passengers?

ASDC supports the views of the disability community on this matter.

7. Section 382.51 What requirements must carriers meet concerning the accessibility of airport facilities?

1) ASDC supports the proposed rule that would require U.S. carriers, with respect to terminal facilities they own, lease, or control at a U.S. airport, to enable and keep on at all times the captioning feature in public areas.

2) ASDC recommends that this requirement be applied to all televisions and other audio-visual displays in restricted passenger access areas, e.g., clubrooms. Captioning should always be enabled in public and restricted areas, even absent a request from a passenger. First, captioning benefits hearing travelers as well as deaf and hard of hearing travelers. There is a constant din in airports: a combination of verbal announcements, airplanes taking off and landing, cell phones ringing, and normal conversation. The open spaces of airports cause all this noise to echo. Television volume has to compete with this background noise, and even hearing travelers can have difficulty understanding the audio portion of television feed. Captioning ensures that hearing people have access to all the information conveyed through the television. And of course, captioning is necessary to provide deaf and hard of hearing travelers access to the auditory portion. If captioning is not enabled, here is a likely scenario of what will happen.

First, the passenger may not be sure the program even contains captions.

If the passenger ascertains that the program is captioned, the passenger needs to figure out whom to contact to request that the captions be displayed. This entails asking various airline staff if they know how to turn on the captions. It is possible that no airline staff in the vicinity have been shown how to turn on the captions.

The passenger finds an airline staff person willing and who has the time to come over to the television to turn on the captions.

The airline staff person tries the different menus until captions are located. In the meantime the video feed is blocked by the television menus. No one is able to watch the program while this is happening.

Finally, captions are turned on.

The problems inherent in this option virtually guarantee that captions will never be turned on in restricted areas. Further, the Department provides no justification as to why a barrier to access would be acceptable in a restricted area. In fact, clubrooms are only “restricted” to people who fly a lot. Therefore, the people who are being rewarded for their frequent travel would have less access to television programming than those who fly only occasionally. ASDC cannot think of any reason why this should be so.

It is far more efficient for captioning to be enabled all the time in all areas. That way deaf, hard of hearing, and hearing passengers have access to televised and video information all the time. Enabling captioning all the time would not create an additional cost to the airlines but would provide hearing, deaf, and hard of hearing travelers continuous access to televised information and entertainment.

(3) ASDC supports the proposal to require carriers to replace non-caption-capable televisions and audio-visual displays with televisions and audio-visual displays that have captioning capabilities as those devices are replaced in the normal course of operations and/or when applicable airport facilities undergo substantial renovation or expansion. This will not create an additional cost to the airlines but will achieve the goal of increased captioning.

(4) ASDC supports the proposal to require carriers to equip with captioning capability newly acquired televisions and other audio-visual displays for passenger entertainment.

ASDC does not have specific knowledge of whether there are any instances where a carrier may lease a terminal facility at a U.S. airport but the airport retains control over the television and the audio-video displays in that facility. If such instances exist, ASDC supports the Department’s proposal to require carriers and U.S. airports to work together to enable captioning on audio-visual equipment (including televisions) that have captioning capability and to replace non-caption capable audio-visual displays with captioning capable technology.

ASDC agrees that a 30 day time frame to implement these requirements is sufficient. Meeting these requirements can be done simply and quickly.

ASDC supports the disability community’s proposal for the following language: “Captioning must be high contrast, such as white letters on a consistent black background.” The Television Decoder Circuitry Act⁴ was passed in 1990 and required televisions to include a decoder chip by 1993. All televisions with a screen size 13 inches or larger must include this chip. This chip allows high-contrast captioning – which is the easiest to read - to be displayed. So most television receivers in airports already are capable of displaying high contrast captioning. However, not all airport audio-visual displays use the type of receivers defined by the Act. The Department

⁴ 47 U.S.C. 303 (u) and (x), 330 (a) *et seq.*

should clarify that carriers must ensure that all audio-visual receivers display high contrast captions.

For the reasons noted by the Department, ASDC supports proposed Section 382.51 (a)(6), which would require carriers to supply televisions and other audio-visual displays equipped with high-contrast captioning when [1] carriers replace televisions and other audio-visual devices in the normal course of operations; or [2] the area of the airport terminal in which the non-caption-capable devices are located undergoes substantial renovation or expansion.

For the reasons the Department outlines, ASDC supports the proposal to require carriers to replace any television or other audio-visual device that is not capable of high-contrast captioning and which is present in an area undergoing substantial renovation or expansion, in a portion of the airport which the carrier owns, leases or controls even if the renovation or expansion did not require or contemplate the replacement of audio-visual equipment.

The Department should require carriers to ensure that all airport televisions and audio-visual equipment under their control contain high-contrast captioning capability, not within 180 days of the date that the final rule is issued, as is proposed, but within 60 days. As mentioned above, the Television Decoder Circuitry Act was passed 16 years ago. Sixty days is more than enough time to implement a high-contrast captioning requirement.

8. Section 382.53 What accommodations are required at airports for individuals with a vision and/or hearing impairment?

The Department proposes that deaf, hard of hearing, and deaf-blind passengers identify themselves to carrier personnel as needing auditory and or visual assistance. The Department agrees with carrier representatives that a rule requiring transmission of information accessible to deaf, hard of hearing and deaf-blind individuals irrespective of whether or not there are individuals needing such information would be unnecessarily costly. The Department concludes that the burden to passengers of self-identification is minimal in comparison to the cost of the alternative.

ASDC opposes the requirement to self-identify. It is fraught with difficulties. If service agents are not used to posting information visually, most likely they will forget to post it even when asked. Further, if they don't regularly use the visual technology, they may not be able to use it easily when requested to use it. (See 7. 2 above regarding turning on the television captioning.) Although a whiteboard may seem like an exception to this, in fact if a whiteboard is not used regularly, a service agent will have to find the whiteboard, bring it over to the desk, locate the proper marker, then write the information. Airports are busier than ever, flights are often full or overbooked, and a passenger who asks for a "special favor" during a busy check-in is not likely to receive it. Also, in some cases an important announcement will be made before the passenger has a chance to identify herself. In that case the passenger will miss that information.

Carriers should have in place a consistent and reliable method for conveying information to all passengers at all times. In fact, because it is so difficult for people who can hear to understand the audio announcements in an airport, visual communication will help ensure access for hearing passengers as well as those with hearing loss.

The instant NPRM proposes to change the time standard from “timely” to “promptly,” but travelers tell us that currently these announcements are not made accessible at all. In other words, the current system, which relies on self-identification, is not effective in providing access to information for deaf and hard of hearing persons. Requiring access to be provided “promptly” will not succeed as long as it relies on self-identification. Requiring all announcements to be displayed visually and promptly (preferably simultaneously), should be required.

The Department believes that eliminating the self-identification requirement would be costly to carriers because it would limit carriers’ compliance options. ASDC believes that compliance options that rely on self-identification – and are therefore unworkable – should be eliminated.

The Department cites LCD screens as a possible compliance option that could be required in the absence of self-identification and notes their cost. ASDC agrees that carriers should have a range of compliance options, but also notes that a Designer Tack & Write™ Combination Board from Staples costs \$19.99 (plus shipping). An 18" x 24" Designer Cork Bulletin Board w/Plastic Frame costs \$21.00 (plus shipping).⁵

While there is no out of pocket cost to a traveler identifying himself as having a hearing loss, there will continue to be a cost in the traveler missing information, going to the wrong gate or baggage claim area, missing flights, and experiencing the frustration and indignity of not being provided that same information that every other traveler is provided.

ASDC supports the proposed list of information that must be made accessible. We agree with the interpretation that airlines must provide the same information to passengers with hearing and visual disabilities as it provides to non-disabled customers via public address or other means.

ASDC supports the proposed change that refers to information “at each gate, baggage claim area, ticketing area, or other terminal facility” owned, leased, or controlled by U.S. and foreign carriers. This clarifies the requirement.

9. Section 382.69 What requirements must carriers meet concerning the accessibility of videos, DVDs and other audio-visual presentations shown on board aircraft to individuals who are deaf and hard of hearing?

⁵ Both at www.staples.com, retrieved June 1, 2006.

ASDC supports the proposed removal of the permanent exemption for captioning of safety videos where the use of captioning or a sign language inset would render the safety video ineffective.

ASDC supports the proposed requirement to caption informational videos, DVDs and other audio-visual displays shown on aircraft.

ASDC believes the proposed timing for carriers to meet the proposed captioning requirements is too long. Sixty days is sufficient time to ensure that the material is captioned. Captioning is not a new or unusual technology. Obtaining media that is captioned already, or captioning media developed for the airline, would not be difficult.

ASDC is pleased to see the proposed requirement that all videos, DVDs and other audio-visual displays shown for entertainments purposes on new aircraft be captioned. However, waiting for new aircraft to be built or existing aircraft to be refurbished could take years. ASDC suggests that an interim rule be promulgated to apply to existing aircraft. ASDC proposes a requirement that entertainment media on existing aircraft be captioned (or subtitled) “when feasible.” As the NPRM notes, the disability community observed that aircraft routinely show “multilanguage captioned videos/DVDs on international flights.” It would seem that the showing of captioned videos and DVDs on other flights would be within the realm of feasibility.

10. Section 382.119 What accommodations are carriers required to provide on aircraft for individuals with a vision and/or hearing impairment?

ASDC objects to the proposal that deaf and hard of hearing passengers must self-identify in order to be provided with information about “flight safety, procedures for take-off or landing, flight delays, schedule or aircraft changes,” etc. As stated above, if airline procedures don’t normally include providing visual access, access won’t happen through sporadic request. The most effective and efficient way to make auditory information accessible to deaf and hard of hearing passengers is to make it visually accessible to all passengers all the time. The Department should promulgate a rule requiring new and refurbished aircraft to include the capability of displaying visual information about flight safety and the other topics listed in this section. This information could be displayed on video monitors, LCD displays, or other means, as long as they are effective.

ASDC agrees with the list provided that outlines the subjects about which announcements must be made accessible to passengers with hearing loss. All information that is conveyed through spoken announcements should also be conveyed through a visual channel.

11. Section 382.141 What training are carriers required to provide for their personnel?

ASDC objects to the Department’s statement that it is not proposing to require carriers to train their employees to use sign language. The Department proposes to require that

carriers train their employees about the common methods that are readily available to communicate with individuals who are deaf or hard of hearing. While not the only method of communication used by deaf and hard of hearing persons, sign language is a common one. For example, Washington, DC has a large deaf population because Gallaudet University is located there. Personnel based in DC airports may have an easier time communicating with many deaf and hard of hearing passengers there if they have some knowledge of sign language. The Department should not exclude a mode of communication from this requirement before common methods is even defined.

In addition to the methods listed in the NPRM, carriers should train their personnel to operate any technology that is used to provide visual access, such as captioning controls on video monitors, LCD terminals, and the like.

Respectfully submitted,

Barbara Raimondo
Director of Advocacy
American Society for Deaf Children
P.O. Box 685
Washington Grove, MD 20880
301/990-2847
braimondo@deafchildren.org