

**Department of Transportation
Office of the Chief Information Officer**

SUPPORTING STATEMENT:

**INFORMATION COLLECTION
SUPPORTING STATEMENT
DISCLOSURE OF CODE SHARING AGREEMENTS
AND LONG-TERM WET LEASES
*OMB Control Number: 2105-0537***

JUSTIFICATION

- This is a request for OMB to reinstate and partially-modify control number 2105-0537 as related to the *Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases*.
- The growth in the use of code-sharing, wet-leasing, and similar marketing tools, particularly in international air transportation, led the Department on March 15, 1999, to adopt specific regulations requiring the disclosure of code-sharing arrangements and long-term wet leases by carriers (U.S. and foreign) and ticket agents via oral, written, and internet communications.
- In a recent final rule published in the Federal Register on November 3, 2016, titled “Enhancing Airline Passenger Protections,” the Department, among other things amended the code-share disclosure regulation to:
 - require that carriers and ticket agents must disclose any code-share arrangements on their websites, including mobile websites and applications;
 - clarify the format in which that information must be displayed and;
 - specify that verbal code-share disclosures should be made the first time a flight involving a code-share arrangement is offered to consumers or the first time a consumer inquiries about such a flight whether by telephone or in person conversations.

1. Circumstances that make collection of information necessary. ***Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.***

Code-sharing is the name given to a common airline industry marketing practice where, by mutual agreement between cooperating carriers, at least one of the airline designator codes used on a flight is different from that of the airline operating the aircraft. In one version of code-sharing, two or more airlines each use their own designator codes on the same aircraft operation. Although only one airline operates the flight, each airline in a

code-sharing arrangement may hold out, market, and sell the flight as its own in published schedules. Code-sharing also refers to other arrangements, such as when a code on a passenger's ticket is not that of the operator of the flight, but where the operator does not hold out the service in its own name. Such code-sharing arrangements are common between commuter air carriers and their larger affiliates. In a wet-lease situation, a leasing arrangement is made whereby the lessor provides both an aircraft and crew to a lessee dedicated to a certain route under either an agreement that lasts more than 60 days or under a series of such lease agreements that amount to a continuing arrangement lasting more than 60 days.

Although code-sharing and wet-lease arrangements can offer significant consumer benefits, they can also be misleading unless consumers know the identity of the airline operating the flight. The growth in the use of code-sharing and wet-leasing, particularly in international air transportation, led the Department to adopt specific regulations requiring the disclosure of code-sharing arrangements and long-term wet leases on March 15, 1999 (14 CFR part 257). More specifically, the rule requires carriers to provide information about their code-share relationships in written or electronic schedule information provided by carriers to the public (e.g. the Official Airline Guide/OAG). The rule also requires carriers and ticket agents to disclose code-share information in written notice at the time of a ticket purchase. Further, the regulation requires those entities to tell prospective consumers in all oral communications that the transporting airline is not the airline whose designator code will appear on travel documents and to identify the transporting airline by its corporate name and any other name under which that service is held out to the public.

In 2010, to further enhance these consumer protections, Congress enacted Pub. L. 111-216, sec. 210 (August 1, 2010), which was codified as 49 U.S.C. 41712(c). Among other things, the statute requires ticket agents and carriers (U.S. and foreign) to disclose in oral communication or in written or electronic communications (including on the internet), prior to the purchase of a ticket, the name of the carrier providing the air transportation and, if the flight has more than one segment, the name of each carrier providing the air transportation for each flight segment. The statute also requires ticket agents and carriers (U.S. and foreign) that sell tickets on an Internet website to disclose the required information on the first display of their website following a consumer's search of a requested itinerary in a format that is easily visible.

In a recent final rule, *Enhancing Airline Passenger Protections III* (81 FR 76800, November 3, 2016), the Department clarified its code-share disclosure regulation to ensure that carriers and ticket agents disclose code-share arrangements in schedules, advertisements, and communications with consumers. The rule amended the Department's code-share disclosure regulation to codify the statutory requirement that carriers and ticket agents must in a format that is easily visible to a viewer disclose any code-share arrangements on the first display of the website following itinerary search results; clarify that the requirement for code-share disclosures in flight itinerary search results and flight schedule displays includes information provided by airlines via mobile

websites and applications; clarify the format in which that information must be displayed; and specify that verbal code-share disclosures should be made the first time a flight involving a code-share arrangement is offered to consumers or inquired about by consumers during telephone or in person conversations.

As most of these provisions are implementing the statutory requirement enacted in 2010, carriers and ticket agents should already be complying with most of the requirements.¹ The aspect of the provision which is new is the specification of *when* during a telephone or in-person booking process a carrier or ticket agent must disclose the code-share information, which may result in additional compliance costs for some carriers and ticket agents. Those additional costs would be borne by those carriers and ticket agents that currently do not present code-share information at the first mention of a flight during a reservation call or in-person booking. As such, these carriers and ticket agents may have slightly longer reservation calls and longer in-person bookings. However, the disclosure was already required so the additional time, if any, would be minimal.

The information collection furthers the objectives of 49 U.S.C. §§ 41712, 40101(a)(4), 40101(a)(9), and 41702 to protect consumers from unfair or deceptive practices, and to ensure safe and adequate service in air transportation. This information collection also supports the Department's mobility goal by helping to shape a more accessible and reliable transportation system for air travelers, as well as a more informed traveling public.

2. How, by whom, and for what purpose is the information used. *Indicate how, by whom, and for what purpose the information is to be used.*

U.S. airlines, foreign airlines, and travel agents will provide oral, written and Internet notification to air travelers containing pertinent information about code-sharing and long-term wet leases at the time the consumer is considering the purchase of air transportation and for use during the traveler's journey. This information is intended to aid the prospective consumer in making a more informed choice regarding the purchase of air transportation, and to facilitate travel by reducing the possibility that the traveler will be misled or ill-informed about the operator of the flights before and during his or her trip.

3. Extent of automated information collection. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.*

Disclosure of the code-share and wet-lease information required by this rule will be accomplished almost entirely using highly-automated and electronic media as most airline tickets are processed using a Global Distribution System (GDS, formerly known as computer reservations systems or CRS). These systems are composed of a central

¹ The regulated entities that have a website should already have the required information programmed in their systems and that information should already appear on their websites. Thus, the incremental costs to add the information to mobile websites and applications should be small. To the extent there are any costs, they could be minimized if any necessary changes were incorporated at the same time as another upgrade.

database that is accessed by travel agents and airline reservation agents through computer terminals and that provides agents with up-to-date information on flight itineraries, including code-share information. In addition, the marketing airlines currently provide information about their code-share flights via electronic media to the GDSs who, in turn, provide that information to travel agents.

4. Efforts to identify duplication. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in 2 above.

Most of the required information is not available through other means.

Although large U.S. carriers must provide the Bureau of Transportation Statistics (BTS) with this information for the “Airline Passenger and Destination Survey,” the reported information is only a 10% sample of airline tickets.² While the reported information provided must include the name of the marketing carrier, as well as the operating carrier of the flight (which may be a regional or foreign carrier), the information is mainly used by BTS for statistical and data analysis. As such, the reported information is not useful to a consumer for purposes of determining whether he or she would choose to travel on a given/specific air carrier.

5. Efforts to minimize the burden on small businesses. If the collection of information has a significant impact on a substantial number of small businesses or other small entities, describe the methods used to minimize burden.

For purposes of this rule, small entities may include small U.S. and foreign airlines as well as small travel agencies. As the greater majority of travel agents and airline reservation agents already obtain code-share information via automated computer reservation systems either directly or through a GDS, the Department does not anticipate that the rule will be unduly burdensome to a significant number of small entities.

6. Impact of less frequent collection of information. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

There is no direct consequence to the federal program in that respondents do not provide information related to this ICR to the Department. However, the Department is responsible for determining whether carriers comply with the provisions to protect consumers from unfair and deceptive practices. Requiring travel agents and airline reservation agents to provide code-share and wet-lease related information, including the corporate name of the operating carrier, protects consumers in that they are more informed about the air carrier who operates a given flight/route and can use that information to decide whether or not to utilize the carrier’s services.

² See, https://www.transtats.bts.gov/DatabaseInfo.asp?DB_ID=125. The data collected includes origin, destination and other itinerary details of passengers transported.

7. Special circumstances. ***Explain any special circumstances that require the collection to be conducted in a manner inconsistent with 5 CFR 1320.5(d)(2)(i)-(viii)***

The collection of information is consistent with 5 CFR 1320.5(d)(2)(i)-(viii).

8. Compliance with 5 CFR 1320.8. ***Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and the recordkeeping disclosure, or reporting format (if any) and on the data elements to be recorded, disclosed, or reported.***

In accordance with the Paperwork Reduction Act of 1995, the Department issued a 60-Day notice in the Federal Register (82 Fed. Reg. 42877, September 12, 2017) announcing and requesting comments on its intention to request a reinstatement and partial-modification of the previously approved collection of information regarding disclosure of code-sharing arrangements and long-term wet leases. One comment was submitted on Regulations.gov (Docket DOT-OST-2011-0170), but the comment was not substantively related to the ICR. A 30-day notice was published on April 4, 2018 (83 Fed. Reg. 14548).

9. Payments or gifts to respondents. ***Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.***

There are no payments or gifts in this rule.

10. Assurance of confidentiality: ***Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.***

There are no such assurances in this rule.

11. Justification for collection of sensitive information. ***Provide additional justification for any questions of a sensitive nature such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.***

There are no questions of this nature.

12. Estimate of burden hours for information requested. ***Provide estimates of the hour burden for the collection of information. The statements should: Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories***

**Table 1: Data for Collection of Information, Disclosure of Code-Share Agreements
and Long-Term Wet Leases (OMB Control Number 2105-0537)**
(Rounded to the nearest dollar/hour)

	Disclose Code-Share and Wet-Lease Information via Oral Communication³
Total # of Respondents	12,165 (estimated 48 marketing carriers and 12,117 travel agents/tour operators)
Frequency	74.56 million to 90.87 million total calls per year that involve personal contact/phone call and a code-share itinerary. (Average = 82.72 million)
Estimated Annual Burden per Respondent (hours)	29.26 to 45.65 hours (Average = 37.46 hours)
Estimated Total Annual Burden (hours)	355,966 to 555,307 hours (Average = 455,638 hours)
Estimated Total Burden Costs (per year)	\$9,148,326 to \$14,271,390 (total for all respondents, Average = \$11,709,843) \$752 to \$1,173 (total per respondent, Average \$962.50)

³ In addition to costs for additional agent time during some calls and in-person bookings, some respondents may have a slight increase in their training costs, as they modify their trainings to note that code-share information must be shared when the flight is first presented to the consumer. The costs are minimal if this change is incorporated into agent curricula during the same time as other updates and/or sent in an update bulletin via the carrier's/travel agent's intranet system, as is standard industry practice.

Title: Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases in Flight Itineraries and Schedules, Oral Communications with Prospective Consumers, Ticket Confirmations, and Advertisements.

Respondents: All U.S. air carriers and foreign air carriers that participate in code-sharing arrangements or long-term wet leases involving scheduled passenger air transportation; and all ticket agents/tour operators doing business in the United States that sell scheduled passenger air transportation services involving code-sharing arrangements or long-term wet leases.

Number of Respondents: 12,165 (estimated 48 marketing carriers⁴ and 12,117 travel agents/tour operators/GDSs⁵).

Estimated Annual Burden on Respondents: 29.26 to 45.65 hours (1,755.6 to 2,739.0 minutes) per year for each respondent. The hours were calculated by using the estimated annual number of code-share related disclosures involving personal contact via a call or in person (58.25 million to 90.87 million)⁶ and multiplying by the estimated average amount of time per trip for an agent to disclose a code-share itinerary (22 seconds or .006111 hours) to determine the total number of burden hours (355,966 to 555,307), and then dividing the total number of burden hours by the estimated number of respondents (12,165).

Estimated Total Annual Burden: Annual reporting burden for this data collection is estimated at 355,966 to 555,307 hours (21,357,960 to 33,318,420 minutes) for all travel agents/tour operators and airline ticket agents who have personal contact (via a call or in person) with a consumer that involves a code-share flight. Most of the data collection associated with this ICR is accomplished through travelers using highly automated computerized systems to make their air travel reservation(s), in which the code-share data is already available on the regulated entities websites and/or is programmed into their database/reservation systems.

⁴ See, Final Regulatory Impact Analysis for Rulemaking Regarding *Enhancing Airline Passenger Protections III* (FRIA EAPP III) at page 10, prepared by HDR, October 2016.

⁵ See, FRIA EAPP III at page 14.

⁶Per BTS data, there were 932 million enplanements in 2016. See, https://www.rita.dot.gov/bts/press_releases/bts017_17. Of those travel itineraries, the Department estimates that 25% to 39% of these enplanements (233,000,000 to 363,480,000) involve a code-share flight in which an agent must reveal that information. See, https://www.transtats.bts.gov/databases.asp?Mode_ID=1&Mode_Desc=Aviation&Subject_ID2=0. Of these 233,000,000 to 363,480,000 enplanements, the Department also estimates that 25% of travelers (58,250,000 to 90,870,000) make a call to an airline or travel agent to book a ticket or obtain information about a flight and each traveler will only need to obtain the information once per travel itinerary. See, <https://www.asta.org/News/PRDetail.cfm?ItemNumber=14517&navItemNumber=539> and <http://fortune.com/2016/07/27/travel-agents/> (for the estimated number of travelers who use a travel agent).

Frequency:

For disclosures involving oral communications: The Department estimates 15 seconds per call (to reveal the code-share information) and an average of 1.5 calls per trip (a total of 22.5 seconds per respondent per trip) for the approximately 25% to 39% of itineraries that are estimated to involve a code-share itinerary, of which the Department estimates that 25% of travelers make a call to an airline or travel agent to book a ticket or obtain information about a flight and each traveler will only need to obtain the information once per travel itinerary.⁷

For transactions involving written and internet disclosure: The Department estimates the burden should be minimal to non-existent⁸ as many airlines already have a process in place to make code-share information available written in their schedules, by written notice at time of ticket purchase and available on their websites (including mobile sites) and applications. In addition, the marketing airlines currently provide information about their code-share flights to the GDSs who, in turn, provide that information to travel agents. As the code-share information is integrated into the data provided by the airlines to GDSs and travel agents, the code-share information is automatically displayed on the internet/computer, as well as on a printed version of an itinerary/ticket.

13. Estimate of total annual costs to respondents.⁹ ***Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.***

The total cost estimate is calculated by multiplying the total burden hours for all respondents (355,966 to 555,307) times the cost of an hour of time for a travel agent or reservation agent at \$25.70 per hour (the median hourly wage plus benefits for travel agents in air transportation). The Department estimates that the total cost to all respondents will be \$9,148,326 to \$14,271,390 per year.

The cost estimate per respondent is calculated by dividing the total annual costs for all respondents (\$9,148,326 to \$14,271,390) by the total number of respondents (12,165). The Department estimates that the total annual cost burden to respondents will be \$752 to \$1,173 per respondent per year.

14. Estimate of cost to the Federal government. ***Provide estimates of annualized cost to the Federal Government.***

⁷ We also anticipate that the number of consumers booking air travel using on-line and mobile applications will increase and the number of code-share related transactions involving phone calls and personal contact will decrease. See, <https://www.emarketer.com/Article/Slow-Steady-Continued-Gains-US-Digital-Travel-Sales/1009909> and <http://www.phocuswright.com/Travel-Research/Research-Updates/2017/US-Market-Booking-Channels-Shifting>.

⁸ See, FRIA EAPP III at 27-30.

⁹ The median hourly wage for travel agents, including benefits, is estimated at \$25.70. Wage estimates in this section are based on The Bureau of Labor Statistics' (BLS) May 2016 National Industry-Specific Occupational Employment and Wage Estimates as related to Air Transportation (See, <http://www.bls.gov/oes/current/oes413041.htm>).

There is no annualized cost to the federal government.

15. Explanation of program changes or adjustments. ***Explain the reasons for any program changes or adjustments reported.***

As of November 13, 2016, the code-share disclosure rule was amended to require that carriers and ticket agents must disclose any code-share arrangements on their websites, including mobile websites and applications; clarify the format in which that information must be displayed and; specify that verbal/oral code-share disclosures should be made the first time a flight involving a code-share arrangement is offered to consumers or the first time a consumer inquiries about such a flight whether by telephone or in person conversations. As many disclosures are oral and driven by consumer action, there are no forms/checklists associated with the ICR. Although the rule requires respondents to disclose codeshare information the first time a consumer makes an inquiry, the burden has decreased in part because there are less estimated respondents (e.g. air carriers and ticket agents) that are subject to the rule.

16. Publication of results of data collection. ***For collections of information whose results are planned to be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.***

Not applicable.

17. Approval for not displaying the expiration date of OMB approval. ***If seeking approval to not display the expiration date for OMB approval of the information collections, explain the reasons that display would be inappropriate.***

Not applicable.

18. Exceptions to certification statement. ***Explain each exception to the certification statement "Certification for Paperwork Reduction Act Submissions."***

Not applicable.