



POLICY & ACTION FROM CONSUMER REPORTS

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Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Ave. SE
West Building Ground Floor, Room W12-140
Washington, DC 20590-0001

**Comments of Consumers Union to
The U.S. Department of Transportation on
“Use of Mobile Wireless Devices for Voice Calls on Aircraft”
Docket No. DOT-OST-2014-0002-2829**

Introduction

Consumers Union (CU)¹ submits the following comments to the U.S. Department of Transportation (“Department”) in the above-referenced Notice of Proposed Rulemaking (NPRM). As we noted in our comments in this docket three years ago,² we believe there are sound passenger comfort and cabin management reasons that warrant prohibiting use of mobile wireless devices for voice calls on scheduled passenger flights, and therefore we continue to recommend a clear prohibition on such calls, both on domestic flights and on international flights to and from the United States. Because of the inherently intrusive nature of voice calls in such close quarters over an extended period, we do not believe that the Department’s proposal to require airlines and other sellers of air travel to simply “provide adequate advance notice” would be sufficient. This is not the kind of decision that should be left up to the airlines.

Comments

In October 2013, the Federal Aviation Administration (FAA) determined that, as a technical matter, mobile wireless devices could be used in flight without interfering with critical aircraft operations and communications; this was followed by the December 2013 determination

¹ Consumers Union is the policy and mobilization arm of Consumer Reports, an independent, nonprofit organization that works side by side with consumers to create a fairer, safer, and healthier world. As the world’s largest independent product-testing organization, Consumer Reports uses its more than 50 labs, auto test center, and survey research center to rate thousands of products and services annually. Founded in 1936, Consumer Reports has over 7 million subscribers to its magazine, website, and other publications.

² Department of Transportation, Office of the Secretary, 14 CFR part 251 [Docket No. DOT-OST-2014-0002], Comments of Consumers Union, March 26, 2014.

by the Federal Communications Commission (FCC) that, as a technical matter, such devices could be used in flight without interfering with land-based wireless networks.³ The Department's proposal, in contrast, is intended to address the significant passenger comfort and cabin management issues implicated in allowing voice calls in close cabin quarters.

And in this regard, although we agree with the Department's assessment that to allow such calls without providing adequate notice should be deemed an unfair and deceptive practice under 49 U.S.C. 41712, we do not believe requiring notice goes far enough to provide appropriate protections to consumers against this intrusion. Consumers who receive notice that they are likely to be constantly interrupted by voice calls by passengers in close proximity generally will not have a reasonable choice whether to fly or not. Generally, they must travel, for business, or family, or other practical reasons.

(Relying on a prior notice requirement poses additional practical issues, as indicated by the Department's tentative carve-outs on scope of coverage, and on frequency of required notice, apparently in order to reduce overall compliance costs. With a clear prohibition, in contrast, compliance costs are essentially non-existent, as it simply maintains the status quo. Similarly, requiring notice only when voice calls are permitted, again presumably in order to reduce overall compliance costs, is simply not workable. If voice calls are permitted on any commercial flights, consumers will be asking for a clear answer, and will be unwilling to rely on the absence of a statement. In that regard as well, it is less costly to just maintain current consumer expectations.)

The strong consumer preference for a complete prohibition on in flight voice calls is demonstrated in the responses to the Department's 2014 ANPRM: a "vast majority" of 96% of more than 1,700 individual commenters favored a complete ban; only 2% opposed a ban; the other 2% favored a ban except in "emergencies." It's difficult to imagine a more overwhelmingly clear consumer response.

These responses are consistent with the sources we cited in our 2014 comments, including overwhelming negative consumer responses in multiple surveys; findings from Congressional hearings from 2000 and 2005; and comments from Congressional representatives in both Houses and from both sides of the aisle.

The day this proposal was announced, Senators Ed Markey and Richard Blumenthal called for a complete ban on talking on mobile devices on commercial aircraft.⁴ They stated: "Passengers sitting for hours in the confined space of an aircraft cabin should not have to suffer through other passengers' conversations on their mobile devices. Notifications of annoyances are no substitute for the zone of privacy that airline passengers pay for and deserve."

³ As we noted in our 2014 comments, these technical concerns regarding potential interference may not be entirely resolved. See the National Aeronautics and Space Administration, ASRS Database Report Set, "Passenger Electronics Devices," updated July 29, 2016, at <https://asrs.arc.nasa.gov/docs/rpsts/ped.pdf>, cataloging a sample of reports referencing passenger electronic device incidents, including interference with flight instrumentation as well as overheating devices or chargers.

⁴ Sen. Edward J. Markey and Sen. Richard Blumenthal, "Markey, Blumenthal, Call for Ban on Voice Communications on Mobile Devices During Flight," December 9, 2016, <http://www.markey.senate.gov/news/press-releases/markey-blumenthal-call-for-ban-on-voice-communications-on-mobile-devices-during-flight>.

Labor unions representing pilots, flight attendants, and other airline employees raised concern in their 2014 comments that voice calls could make it harder for passengers to hear important crewmember instructions, and could further increase “air rage” incidents. According to the International Air Transport Association, airlines worldwide reported 10,854 unruly passenger incidents in 2015⁵ – already an alarming increase from just a few years ago. As we noted in our 2014 comments, and in the October 2016 issue of *Consumer Reports*,⁶ a confluence of factors, including record-high passenger loads, tighter airline seats, and restrictions on overhead bin space, is making commercial air travel even more stressful and nerve-wracking for passengers. Adding voice calls would likely ignite already frayed tempers.

We also agree with the Global Business Travel Association that a “quiet section” for voice calls in airline cabins isn’t feasible. Even in ideal circumstances, loud conversations would carry across several rows of passengers. With record load factors, and increasingly complex seating, such as “extra legroom” seats arrayed throughout the cabins,⁷ creating “quiet sections” is even more unworkable.

Finally, for passengers who feel the need to be in touch with others, for business or personal reasons, during the flight, emailing and texting offers an equivalent means of communicating without disturbing others. The incidental benefit to a few of adding voice calls as an option is far outweighed by the disturbance that doing so would impose on everyone else.

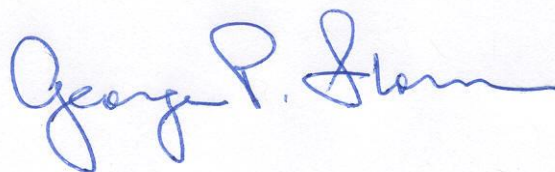
Conclusion

For the reasons explained above, Consumers Union strongly supports prohibiting in-flight voice calls onboard commercial aircraft. From a consumer perspective, rarely is an issue so unambiguous: Airline passengers have overwhelmingly spoken out in favor of prohibiting these calls. A clear, bright line is needed.

Respectfully submitted,



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⁵ International Air Transport Association, “Collaboration Needed to Stem Unruly Passenger Incidents,” September 28, 2016, <http://www.iata.org/pressroom/pr/Pages/2016-09-28-01.aspx>.

⁶ Consumer Reports, “Secrets to Stress-Free Flying,” Mandy Walker, September 29, 2016, <http://consumerreports.org/airline-travel/secrets-to-stress-free-flying/>.

⁷ E.g., JetBlue, Even More Space, <http://www.jetblue.com/flying-on-jetblue/even-more/>.