

Association for Airline Passenger Rights (AAPR)
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March 23, 2010

Secretary Ray LaHood
Office of the Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

RE: CAPTIONING / SUBTITLES ON ALL IN-FLIGHT ENTERTAINMENT

Dear Secretary LaHood,

I am writing to you on behalf of the Association for Airline Passenger Rights (“AAPR”) and the undersigned organizations to request that the U.S. Department of Transportation (“DOT”) require commercial air carriers to provide accessibility on all in-flight entertainment for their deaf and hard-of-hearing passengers and for passengers with vision loss. While DOT requires that captioning be available on all safety and information related videos, it does not enforce the same accessibility standard for in-flight entertainment, such as movies and television shows. Furthermore, much of this video material already included captioning or subtitles and may also have included video description, used by people with vision loss. We contend that by not ensuring pass through of available captioning and video description, DOT has created two separate, yet unequal standards, one for passengers with sensory disabilities and another for passengers without sensory disabilities.

Title III of the Americans with Disabilities Act (“ADA”) – including changes made by the ADA Amendments Act of 2008 (P.L. 110-325) – covers public accommodations, including businesses that are public accommodations, privately operated transportation, and commercial facilities. The ADA mandates public accommodations must comply with basic nondiscrimination requirements that prohibit exclusion, segregation, and unequal treatment. They also must comply with specific requirements related to, among other things, reasonable modifications to policies, practices, and procedures; effective communication with people with hearing, vision, or speech disabilities; and other access requirements.

Aside from the ADA, the 1986 Air Carrier Access Act (“ACAA”) – 49 U.S.C. § 41705 – requires certain accommodations for passengers who are deaf and hard-of-hearing. The ACAA states that where safety briefings are presented to passengers on video screens in the aircraft, the carrier shall ensure that the video presentation is accessible to persons with hearing impairments by using open captioning or an inset for a sign language interpreter as part of the video presentation, or by closed captioning.

Passengers with sensory disabilities, such as people who are deaf or hard-of-hearing and passengers who are blind, lose value on their tickets when they cannot enjoy the in-flight entertainment on board because of the failure to ensure pass through of any available captioning or video description. It is not right that they have to pay a full fare and not receive the same service as average passengers. Passengers with sensory disabilities travel a lot so they should be given the same consideration by the airlines as other customers. We question whether it is fair or ethical that they have to sit through long flights, forced to miss whatever is being displayed on the in-flight entertainment while other customers are able to enjoy the services to the fullest.

Secretary LaHood Letter on Captioning/Subtitles
March 23, 2010
Page 2 of 3

We know that the technology exists to make in-flight entertainment accessible for passengers who are deaf or hard-of-hearing and for passengers with vision disabilities. At least two equipment vendors of in-flight entertainment systems have demonstrated caption display capability in their products and services and deployment has occurred on at least one airline. As you may know, video description is the narration of key visual elements inserted by content providers into the natural pauses in dialogue to help low-vision viewers to better understand the story. Many movies and TV programs now include this form of accessibility.

Last year, DOT issued new regulations governing ACAA's accessibility standards. Under Subpart E of the regulations, which were effective on May 13, 2009, air carriers must ensure that all new videos, DVDs, and other audio-visual displays played on aircraft for safety purposes, and all such new audio-visual displays played on aircraft for informational purposes that were created under their control, are high-contrast captioned. The captioning must be in the predominant language or languages in which they communicate with passengers on the flight. It is our belief that DOT missed an important opportunity to require this same accessibility standard extend to in-flight entertainment, too.

At that time, DOT recognized the value of requiring captioning (or subtitles) because it promised to issue a Supplemental Notice of Proposed Rulemaking to get an update on the further development of technology for captioning in the air. As it stands now, DOT has left it to the discretion of the air carriers to implement captioning or subtitles on all non-emergency in-flight entertainment.

Additionally, it is our belief that DOT failed to consider the needs of passengers with vision loss when it did not also require pass through of any available video description.

We contend that in 2010, nearly twenty years after the signing of the landmark Americans with Disabilities Act, commercial airlines should make a good-faith effort to make these accommodations to their paying customers who are deaf or hard-of-hearing, or with vision disabilities, so that all aspects of flying are accessible to them. In the absence of the airlines voluntarily making their in-flight entertainment more accessible, DOT should uphold the spirit of the law and require all commercial airlines to improve customer service for all passengers.

We the undersigned organizations look forward to working with you to correct this inequity. Thank you.

Sincerely,

Brandon M. Macsata
Executive Director

SUPPORTING ORGANIZATIONS:

1. ACCSES
2. Alternative Communication Services LLC (ACS)
3. American Association of the Deaf-Blind (AADB)
4. American Association of People with Disabilities (AAPD)
5. American Council of the Blind (ACB)
6. American Foundation for the Blind (AFB)
7. Association for Airline Passenger Rights (AAPR)
8. Association of Late-Deafened Adults (ALDA)
9. Autistic Self Advocacy Network (ASAN)
10. Collaborative for Communication Access via Captioning (CCAC)
11. Communication Service for the Deaf (CSD)
12. Community Access National Network (CANN)
13. Connecticut Business Leadership Network (CTBLN)
14. Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN)
15. Easter Seals
16. Hearing Loss Association of America (HLAA)
17. Independent Living Center of the Hudson Valley (ILCHV)
18. International Center for Disability Resources on the Internet (ICDRI)
19. National Association of the Deaf (NAD)
20. National Association to Advance Fat Acceptance (NAAFA)
21. National Council on Independent Living (NCIL)
22. National Black Deaf Advocates (NBDA)
23. Springboard Consulting LLC
24. TCS Associates LLC
25. TecAccess LLC
26. Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)