

BEFORE THE
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

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In the matter of :
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COMMERCIAL AVIATION SAFETY TEAM : Docket FAA-2004-19400
SAFETY ENHANCEMENTS :
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COMMENTS OF THE AIR TRANSPORT ASSOCIATION OF AMERICA, INC.

The Air Transport Association of America, Inc.¹ submits these comments in support of the Federal Aviation Administration's proposed order designating Commercial Aviation Safety Team information as protected from disclosure under 49 U.S.C. §40123. 69 Fed. Reg. 62503 (Oct. 26, 2004). FAA's proposed determination is clearly in the public interest because it will encourage the exchange of information between air carriers and the FAA about carriers' implementation of CAST safety enhancements. This will not occur or will be greatly inhibited if the order as proposed is not forthcoming.

The FAA and the U.S. airline industry have been cooperatively working for a number of years to develop and implement voluntary safety initiatives of substantial significance. These include the Flight Operations Quality Assurance

¹ ATA serves as the principal trade and service organization of the major scheduled air carriers in the United States. ATA's members include: ABX Air, Alaska Airlines, Aloha Airlines, America West Airlines, American Airlines, ASTAR Air Cargo, ATA Airlines, Atlas Air, Continental Airlines, Delta Air Lines, Evergreen International Airlines, FedEx Corp., Hawaiian Airlines, JetBlue Airways, Menlo Worldwide Forwarding, Midwest Airlines, Northwest Airlines, Polar Air Cargo, Southwest Airlines, United Airlines, UPS Airlines and US Airways; associate members include Aeromexico, Air Canada, Air Jamaica and Mexicana.

program, as well as CAST. By their very nature, these initiatives go beyond regulatory requirements. The information that is supplied to the FAA under them is voluntarily provided; it is not the subject of a regulatory mandate. Protecting from public disclosure such voluntarily supplied information is indispensable to the success of CAST and similar programs.

The importance of this issue has been recognized for some time. An early impediment to FOQA's implementation was the unresolved issue of the protection from public release of data collected under that program. 49 U.S.C. §40123, which was enacted into law in section 402(a) of the FAA Reauthorization Act of 1996,² was an effort to allay the commercial aviation industry's apprehension about the release of sensitive, voluntarily-provided safety and security information. The need to allay that concern was broadly recognized. For example, the report of the House Transportation and Infrastructure Committee that accompanied the Reauthorization Act stated in describing section 402(a) that:

“The Committee wishes to encourage and promote these sorts of innovative safety programs. One possible impediment to full implementation, however, is the concern of some in the aviation community about the confidentiality of the information being shared.”

House Rep. No. 104-714, 104th Cong., 2d Sess., *reprinted in* 1996 U.S. Code Cong. & Admin. News 3658, 3677. Moreover, the Gore Commission echoed that conclusion several months later when it stated that “[d]ata protection is the key to self disclosure [in the commercial aviation industry].” White House

² Public Law No. 104-264, 110 Stat. 3213, 3255-56 (Oct. 9, 1996).

Commission on Aviation Safety and Security, *Final Report to President Clinton* 13 (Feb. 12, 1997).

CAST-related information is precisely the type of information that Congress intended that the FAA use section 402(a) to protect. It arises from an innovative—but voluntary—safety initiative that promises to generate significant public benefits. Uncertainty about the protection of such information, however, will seriously discourage members of the commercial aviation community from providing such information to the FAA. Absent clear protection, some carriers may choose not to participate in CAST due to the risk that public release of CAST-related information will lead to misunderstandings about and misuse of sensitive safety data. Such a result would clearly contradict the public interest. The proposed order will advance the goal of all affected parties—the traveling and shipping public, the FAA, and the commercial aviation community—to improve safety.

In light of the foregoing considerations, we urge the FAA to make final its protection order as proposed.

Respectfully submitted,

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