

**BEFORE THE
UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY**

August 21, 2018

<hr/>)
National Association for Biomedical Research))
Complainant))
	)	) Docket
v.))
United Airlines, Inc., British Airways, PLC	)	) Complaint For Discrimination In
China Southern Airlines Co., Ltd.,	)	) Violation Of 49 U.S.C. § 41310(A);
and Qatar Airways Company, Q.C.S.C.	)	) Unlawful Refusal In Violation Of 49
	)	) U.S.C. § 44902(B); Failure To
Respondents	)	) Establish Reasonable Practices In
	)	) Violation Of 49 U.S.C. § 41501;
	)	) Unlawful Refusal To Transport
	)	) Baggage In Violation Of 49 U.S.C.
	)	) § 41704
<hr/>)

Communications regarding this complaint should be sent to:

K&L Gates LLP
Barry M. Hartman
barry.hartman@klgates.com
1601 K Street, N.W.
Washington, DC 20006
(202) 778-9338

Counsel for Complainant

I. INTRODUCTION

1. The National Association for Biomedical Research (“NABR”) files this formal complaint on behalf of its members, including specifically (but not necessarily limited to) Covance Research Product, Inc. and Marshall BioResources, pursuant to 14 C.F.R. § 302.404, against four airlines who have illegally discriminated and continue to illegally discriminate against customers who seek to transport animals for purposes of live animal research undertaken at medical and other research facilities.

2. This discrimination by the airlines impinges our medical and research community’s ability to develop new medicines to save lives and cure disease. Less than a handful of major air carriers accept live animals, such as canines and non-human primates, for carriage, even though those animals are intended for legal, legitimate and necessary live animal research. The same animals routinely are accepted for carriage by most major airlines if they are transported for non-research purposes, such as transportation for captivity (in zoos) or as personal pets. The reason for this disparate treatment is not the result of transportation-related nor safety-related factors. Rather, airlines have been the target of advocacy groups that are politically opposed to live animal research regardless of its purpose and value. Increasingly, airlines refuse to carry animals destined for research purposes to avoid this political criticism, regardless of legitimate customer needs and important purposes that the animals serve.

3. Animal research is essential to the advancement of medicine, and ultimately, the availability of life saving treatments. In the pharmaceutical context, animal testing is required by regulatory bodies (including the U.S. Food and Drug Administration

("FDA")) in evaluating the safety and efficacy of new medicines. Animal testing is used to measure:

- how much of a drug or biologic is absorbed into the blood
- how a medical product is broken down chemically in the body
- the toxicity of the product and its breakdown components (metabolites)
- how quickly the product and its metabolites are excreted from the body

FDA, *Why Are Animals Used for Testing Medical Products?*, (updated Aug. 7, 2018)

<http://www.fda.gov/AboutFDA/Transparency/Basics/ucm194932.htm>.

4. In the context of "medical devices, the focus of animal testing is on the device's ability to function with living tissue without harming the tissue (biocompatibility)." *Id.* The white paper, *The Critical Role of NonHuman Primates in Medical Research*, sponsored by some of the most prestigious and leading medical organizations states that "it is no exaggeration to say they [non-human primate research subjects] are essential to our ability to find cures for **cancer, AIDS, Alzheimer's, Parkinson's, obesity/diabetes** and dozens of other diseases that cause human suffering and death." Henry Friedman, et al., *The Critical Role of NonHuman Primates in Medical Research*, 2 *Pathogens & Immunity* J. 352, 354 (Aug. 23, 2017) (emphasis added).

5. Despite technical advancements, "[t]here are still many areas where animal testing is necessary and **non-animal testing is not yet a scientifically valid and available option.**" FDA, *Why Are Animals Used for Testing Medical Products?*, <http://www.fda.gov/AboutFDA/Transparency/Basics/ucm194932.htm> (emphasis added).

6. The complainant is not aware of any drugs or medical devices that are approved by any agency of the federal government unless, at some point, safety and efficacy is evaluated using data from live animal research.

7. Thus, it is imperative for research facilities to have animals available. Therefore, they need to be able to arrange for the transport of animals necessary to conduct animal research.

8. This complaint is filed against United Airlines, British Airways, Qatar Airways, and China Southern Airlines (collectively referred to as “Respondents”). It seeks an investigation and enforcement of 49 U.S.C. §§ 41310(a), 44902(b), 41501, and 41704. Based on what we believe will be found to be violations of the cited provisions, we also seek appropriate remedies, including cease and desist orders directed to each airline, civil penalties, and other appropriate enforcement remedies against each Respondent, to end and correct this continued illegal refusal to transport animals that are destined for research facilities.

II. JURISDICTION

9. Pursuant to 49 U.S.C. § 46101, the Secretary has the authority to investigate and take enforcement actions for violations of Title 49, Subtitle VII.

III. BACKGROUND

A. Live Animal Research is Both Legally and Scientifically Necessary for Research to Address Medical and Other Health and Safety Issues

10. Research animals are essential to the advancement of medicine and development of a wide variety of safe and effective products used in all aspects of our lives. Animal

based testing is in fact required, either explicitly or implicitly, by many federal agencies, before drugs, medical devices, pesticides, chemicals, etc., may be approved for use in a variety of contexts for humans and animals alike.

11. Agencies requiring this testing include the National Institutes of Health, the U.S. Food and Drug Administration, the Centers for Disease Control and Prevention, the National Science Foundation, the Environmental Protection Agency, the U.S. Department of Agriculture, the Department of Defense, the Department of Transportation, the Department of the Interior, the U.S. Department of Veterans Affairs, the Consumer Product Safety Commission, and the Occupational Safety and Health Administration.¹

12. Federal agencies fund hundreds if not thousands of studies that require live animal research and, necessarily the transport of live animals to do that research.

<https://projectreporter.nih.gov/reporter.cfm> (last visited Aug. 14, 2018).

13. Many research animals are flown to the United States from locations around the world. Thus, they are transported on international air carriers.

14. On information and belief, there are as many as 1,733 National Institutes of Health grants that are going towards projects that use primates or rely on primate research as a basis for the grants, and another 637 current projects that involve or are based on canine research. The private sector and state funded organizations undertake a great deal of this research through federally and privately funded programs.

¹Animal testing is widely required for evaluative purposes in connection with regulations under the Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 *et seq.*, Toxic Substances Control Act of 1976, 15 U.S.C. §2601, and the Federal Hazardous Substances Act 15 U.S.C. § 1261 and 16 C.F.R. pt. 1500, among other statutes. See Jonathan Berr, *The High Costs — and Heartbreak — of Pet Cancer*, CBSNews.com (Dec. 18, 2015, 5:30 AM), <https://www.cbsnews.com/news/the-heartbreak-and-high-costs-of-pet-cancer/> (noting the FDA's conditional approval of a medication to treat cancer in dogs).

B. The Named Airlines and Others Have Refused to Transport Animals Needed for Medical Research but Transport the Same Animals for Other Purposes

15. NABR is an organization comprised of a wide variety of research facilities that require live animals to perform essential medical and other research. Many of these organizations arrange for the transport of live animals for the research projects. NABR's members have been denied requests to transport animals for live animal research as described in this formal complaint.

16. For example, Covance Research Products, Inc. ("Covance") is a company headquartered in Pennsylvania. Covance imports and supplies animals for biomedical research. Its business and contractual commitments require that it supply animals for certain research purposes, including research needed in the early development of drugs. In order to do so, Covance must transport live animals by air from Asia to research center locations in the United States. For many years, Covance has been able to do so by contracting with a variety of airlines, depending on the locations, schedules, and other considerations. Airlines have eliminated those opportunities over the years, with only a select few airlines continuing to offer very limited, and often circuitous, routes that add time and cost. In addition, all transport within the United States needs to be by truck because domestic airlines refuse to carry animals needed for this essential medical research though they carry the same animals for other purposes. Trucking can take days, whereas an airline could transport the animals in hours. Trucking raises both costs and the risks to the animals' welfare during transport. Airlines have adopted policies that refuse to carry animals destined for lawful and appropriate live animal research relating to medical and other scientific needs for no other reason than that they are destined for

research. As set forth in the table below, Covance was denied service by airlines subject to the laws cited in this complaint.

17. By way of further example, Marshall BioResources (“Marshall”) is a company headquartered in New York. Marshall is engaged in the business of supplying animals for biomedical research. Its business and contractual commitments require that it supply quality animals for biomedical research. In order to do so, Marshall is often required to transport live animals from the United States to locations around the world in order to undertake these services. For many years, Marshall has fulfilled its obligations by contracting with a variety of airlines, depending on the locations, schedules, and other considerations. Those opportunities have shrunk over the years as airlines have adopted policies refusing to carry animals destined for lawful and appropriate live animal research relating to medical and other scientific needs. No other reason has been given for this denial other than the ultimate purpose of the transport and in fact these airlines do carry the same animals for other purposes. As set forth in the table below, airlines subject to the laws cited in this complaint denied service to Marshall.

18. Currently, Respondents (and other airlines) refuse to transport animals for research purposes, but transport the same species so long as the animal is not destined for that use. By way of example, United Airlines will not transport primates to or from medical research facilities, but will transport these same animals if they are being transported between zoos. This policy appears to apply to both domestic and international transportation. NABR contacted United Airlines and was advised on January 6, 2016 that United would not change its policy “anytime soon.” Attachment A at 2. On August

13, 2018, United confirmed that they have not removed any embargo on transporting non-human primates for research purposes. Attachment B.

19. British Airways will not accept “[a]ny live animals that are *used for laboratory or for medical experimentation*,” however, it will accept “live animals requiring carriage for other purposes, including conservation and/or breeding. . . .” International Air Transport Association, *Live Animal Regulations Manual* 34 (44th Ed. 2018) [hereinafter “IATA Manual”] (emphasis added). NABR contacted British Airways and as of July 7, 2018, has received no evidence that the company is willing to change this policy. Attachment C.

20. Qatar Airways: It is our understanding that Qatar Airways has announced its policy of refusing to accept for transport to and from the United States animals destined for medical research. NABR contacted Qatar Airways on July 26, 2018, and was advised that as “QR policy we do not handle any animals for medical research.” Attachment D.

21. China Southern Airlines: It is our understanding that on or about March 2014, China Southern Airlines announced its policy of refusing to accept for transport to the United States animals destined for medical research. PETA, *Victory! China Southern Airlines Ends Shipment of Primates to Labs*, Blog, (Mar. 21, 2014), <https://www.peta.org/blog/china-southern-airlines-ends-shipments-primates/>. NABR contacted China Southern Airlines repeatedly since August 12, 2016 and China Southern Airlines has declined to engage in any discussions regarding the policy.

22. On the following dates, the named airlines were contacted to secure passage for live animals destined for research and were declined solely because of the intended use of the animals.

Entity contacting airline	Date of contact	Name of airline and contact	Specific response denying request for carriage
Covance Research Products	01/06/2016	United Airlines, S. K.	“We will not accept dogs or primates for biomedical research.”
The Luxe Pet – Animal Travel Agency	07/17/2018	IAG Cargo (British Airways), G. T.	“We do not accept any NHP’s [non-human primates] on any IAG carrier for research.”
J. L.	7/26/2018	Qatar Airlines, M. L.	“As QR Policy we do not handle any animals for medical research.”

23. Other airlines also have policies that discriminate against customers seeking to have animals transported for live animal research:

Airline	Description
American Airlines	AA-04 Non-human primates will only be accepted for carriage on AA’s aircraft when: (a) The shipper, or agent, certifies in writing on letterhead, which must accompany the air waybill, that the primates being shipped were born or bred in captivity on special farms; *** OR *** (b) The primates are being shipped from or to a zoo, sanctuary, preserve or rehabilitation center. Note: <i>AA will not accept primates used for laboratory research, experimentation, and exploitation purposes.</i>
Finnair	AY-04 Primates and canines intended <i>for laboratory or experimentation purposes are not accepted.</i>
Cargolux	CV-06 Animals, any type, <i>used for laboratory research are not accepted.</i>
Cathay Pacific	CX-04 Any live animals that are used <i>for laboratory or for experimentation or exploitation will not be accepted for carriage.</i>

Airline	Description
Delta Cargo	Delta Cargo maintains carrier specific policies in relation to carriage of live animals. Please reference www.deltacargo.com for the most current policies. ²
DHL	DO-03 DHL Air Ltd. will <i>not accept animals intended for laboratory and/or experimentation and/or exploitation purposes</i> . In exceptional circumstances, where conservation and/or breeding are concerned, acceptance may be granted subject to request and prior approval of the Global/Regional Restricted Commodities Group-EUHQ.
Aer Lingus	EI-01 Any live animals that are used <i>for laboratory or for medical experimentation will not be accepted for carriage</i> . Live animals requiring carriage for other purposes (including conservation and breeding) will be accepted according to commercial policy, which is regularly reviewed.
Emirates	EK-06 Acceptance of Wild and Endangered species and part thereof is governed by the following restrictions: ... All primates can be accepted only as cargo and only if the shipper or shipper's agent certifies in writing that the animals are born and bred in captivity and the transportation is performed between qualified zoological gardens/societies, wild parks and recognized wildlife protection centres, intended for conservation or breeding purposes. Such transportation is restricted to EK online services only; ... EK-10 Emirates will <i>not accept warm blooded animals intended for laboratory purposes</i> , except rats and mice.
Ethiad Cargo	EY-09 Ethiad will <i>not accept any animals for scientific purposes including rodents and primates</i> .
Gulf Air	GF-09 Non-human primate and wild caught birds and any live animal that are used <i>for laboratory or for experimentation or exploitation will not be accepted</i> for carriage. In exceptional circumstances, where conservation and/or breeding are concerned, acceptance may be granted subject to prior written approval.

² "Non-human primates, regardless of species, are accepted only when being shipped between zoological organizations, societies, wildlife preserves or rehabilitation centers. They must be completely weaned and be a minimum of two years of age. **All other shipments of non-human primates, including shipments between private parties, are prohibited.**" Delta Cargo, *Live, Pet and Animal Transport, Restrictions & Regulations*, <https://www.deltacargo.com/Cargo/catalog/products/pet-transport> (last visited Aug. 14, 2018) (emphasis added).

Airline	Description
Iberia	IB-01 Any live animals that are <i>used for laboratory or for medical experimentation will not be accepted for carriage</i> . Live animals requiring carriage for other purposes (including conservation and breeding) will be accepted according to commercial policy, which is regularly reviewed
TAM	JJ-02 TAM <i>will not accept animals intended for laboratory and/or experimentation and/or exploitation purposes</i> . In exceptional circumstances, where conservation and/or breeding is concerned, acceptance may be granted subject to request and approval of TAM Cargo.
Cathay Dragon	KA-04 Any live animals that are <i>used for laboratory or for experimentation or exploitation will not be accepted for carriage</i> .
KLM	KL-04 Animals <i>intended for scientific purposes, biological research, circus, movies and animals used for the fur production will not be accepted for carriage</i> .
Lufthansa	LH-03 Monkey species will only be accepted if both shipper and consignee are members of the organizations WAZA, EAZA or VDZ and are subject to approval by a Lufthansa Cargo office.
Polish Airlines	LO-03 Primates intended for <i>laboratory purposes will not be accepted for carriage on LOT network</i> .
Swiss	LX-01 It is Swiss International Airlines' general policy that commodities falling under this embargo list <i>shall not be carried on LX</i> and neither may an LX AWB be used for carriage wholly by other carriers. Embargo List: ... <i>Live animals for research, except mice and live rats</i>
CSA Czech Airlines	OK-10 Primates may be only transported between zoos (shipper/consignee). Specifically primates <i>intended for laboratory purposes will not be accepted on Czech Airlines flights</i> .
Austrian	Dogs and cats <i>intended for laboratory purposes will not be accepted for carriage</i> .
Asiana Airlines	OZ-01 <i>The following breeds will not be accepted for carriage:</i> ... <i>Laboratory animals</i>

Airline	Description
EAT	QY-03 European Air Transport Leipzig GmbH <i>will not accept animals intended for laboratory and/or experimentation and/or exploitation purposes.</i> In exceptional circumstances, where conservation and/or breeding is concerned, acceptance may be granted subject to request and prior approval of the Global/Regional Restricted Commodities Group-EUHQ.
SAS	SK-01 The following animals are not accepted for carriage on SK flights regardless of origin or destination: Non-human primates for experimentation, laboratories, or laboratory suppliers.
Brussels Airlines	SN-03 Brussels Airlines <i>does not accept cats, dogs and monkeys, which are transported to serve as test animal in the research industry. Other test animals (mice, rats, rabbits) are accepted on condition that the research intended is beneficial for human or animal health.</i> Brussels Airlines demands a written statement from the shipper/consignee confirming.
Singapore	SQ-01 Rhesus monkeys or primates <i>intended for laboratory purposes</i> will not be accepted.
Turkish Cargo	TK-01 List of animals and their objects that are strictly forbidden for carriage on TK flights: Laboratory/Experimental animals.
Scot Cargo	TR-01 Rhesus monkeys or primates <i>intended for laboratory purposes</i> will not be accepted. Air Transat TS-06 The following will not be accepted for carriage under any circumstances: <i>Animals destined for laboratory research and/or scientific experimentation, such as primates and dogs.</i>
Air Transat	TS-06 The following will not be accepted for carriage under any circumstances . . . <i>Animals destined for laboratory research and/or scientific experimentation, such as primates and dogs.</i>

C. There Are No Safety Related Reasons to Justifying Refusal to Transport Animals for Research—This Activity is Fully and Comprehensively Regulated

24. As evidenced by the IATA Manual, it is safe to transport the animals as long as the detailed container guidance (as well as feeding and watering guidance) is followed. *See* IATA Manual Ch. 8, 210–408, Ch. 12. IATA’s guidance is respected worldwide as a means to provide animal transport that is safe for both the animals and the airlines.

25. IATA represents 287 international airlines, and the IATA Live Animals and Perishables Board currently includes members representing airlines from Europe, Oceania, South America, and North America. The IATA Live Animals and Perishables Board annually publishes the IATA Live Animals Regulations (LARs), most recently the 44th Edition, 2018, the global standard for air carrier acceptance and transportation of live animals. When preparing these regulations, IATA solicits input from animal shipping experts, including the Fish and Wildlife service, the USDA, United Kingdom and Canadian governments, and others. The LARs are accepted by the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) and by the World Organization for Animal Health (OIE) as guidelines for transportation of animals by air. The LAR includes shipping container design and construction, ventilation, stocking density, feeding and watering standards and special checklists (shippers, pilot notifications, etc.), labeling clearly indicating shipment contains live animals, loading procedures, and special handling instructions for certain species.

26. CITES Resolution 10.21 recommends that CITES’ signatory parties incorporate the IATA LARs into domestic legislation. The United States Fish and Wildlife Service has incorporated portions of the LAR into US regulations. Currently, there is a complex, comprehensive, regulatory scheme that provides standards for transporting and caring for

animals. *See* IATA Manual Ch. 8, 210–408, Ch. 12; Animal Welfare Act, 7 U.S.C. § 2131 *et seq.* (2012) (creating standards for animal care in research or exhibition); 9 C.F.R. subchapter A, parts 1–12 (2018) (implementing the Animal Welfare Act, including specific transportation regulations regarding the transportation of animals subject to the Animal Welfare Act); 42 U.S.C. § 289d (2012) (requiring regulations for the proper care and treatment of animals used in biomedical research); 50 C.F.R. pt. 14, subpt. J (1992) (providing standards for the transport of nonhuman primates, marine mammals, elephants and ungulates, sloths, pats, and flying lemurs, other terrestrial mammals, and birds); 42 C.F.R. § 9.11 (2008) (regulating the transport of chimpanzees).

27. The Council of Europe and the European Union has adopted portions of the LARs as minimum standards relied upon for international transport of certain animals. These regulations ensure that airlines may transport animals in a manner that is both safe for the animals and does not interfere with the safe operation of the aircraft.

IV. LEGAL BASES FOR COMPLAINT

Count I: Discrimination in Violation of 49 U.S.C. § 41310(a)

28. Paragraphs 1 through 27 are incorporated by reference.

29. Respondents are expressly prohibited from discriminating in the context of foreign air transport. “An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.” 49 U.S.C. § 41310(a) (2012).

30. NABR and its member companies are “persons” and live animals are a type of traffic within the meaning of the statute.

31. The term “discrimination” has been interpreted to mean “different treatment of like traffic for like and contemporaneous service under substantially similar circumstances and conditions.” *Trans. Bus Sys., Inc. v. Civil Aeronautics Bd.*, 383 F.2d 466, 481 (5th Cir. 1967). If there is disparate treatment, a court may look at whether there is any transportation related factors to justify the disparate treatment. *See id.* at 490–91. The DOT has noted that “the common carrier duty not to unreasonably discriminate is not limited to discrimination on the basis of race.” Letter from Blane A. Workie, Assistant General Counsel for Aviation Enforcement Proceedings, DOT, to Evelyn D. Sahr, Attorney, Eckert Seamans Cherin & Mellot, LLC, 2 (Sept. 30, 2015) (available at <https://dokumen.tips/documents/certified-mail-return-receipt-requested-mail-return-receipt-requested-september.html>).

32. International travel is an element of 49 U.S.C. § 41310(a) and is implicated here because the research animals need to be transported between a number of countries and the United States. This is unlawful discrimination because Respondents are transporting the same cargo (animals of the same species) for zoo and sanctuary shippers but refuse to transport the same cargo for research and laboratory shippers who are delivering the animals for legitimate research purposes. There are no transportation-based factors to account for this disparate treatment. This discrimination directly harms those in the business of arranging for the transport of animals for these purposes, those in the business of conducting research including NABR’s members, and, critically, those unable to obtain life saving treatment because of the delay in medical research and the advancement in medicine.

33. Thus, Respondents are discriminating against customers, in violation of 49 U.S.C. § 41310(a), by refusing international transport of animals destined for research facilities, while providing the exact same service for customers who are transporting the same animals if destined for other legal uses.

Count II: Refusal to Transport in Violation of 49 U.S.C. § 44902(b)

34. Paragraphs 1 through 33 are incorporated by reference.

35. Section 44902 authorizes a carrier to refuse to transport a person or property under specific, limited circumstances, including safety reasons. 49 U.S.C. § 44902. The statute is violated when the reasons for refusal are “arbitrary and capricious.” *See, e.g., Al-Watan v. Am. Airlines, Inc.*, 658 F. Supp. 2d 816, 824 (E.D. Mich. 2009); *Williams v. Trans World Airlines*, 509 F.2d 942, 948 (2d Cir. 1975).

36. Respondents refuse to accept for carriage live animals destined for research facilities. There is a complex regulatory scheme governing how such transport can be safely effectuated. There is no safety-based reason for such refusal as evidenced by Respondents transporting the same species of animals so long as it is not destined for a research facility. *See* ¶¶ 18–23; IATA Manual at 32–56; 50 C.F.R. pt. 14, subpt. J (1992) (providing standards for the transport of nonhuman primates, marine mammals, elephants and ungulates, sloths, pats, and flying lemurs, other terrestrial mammals, and birds). Because the refusal to transport is completely unrelated to transportation concerns, Respondents’ refusal is necessarily arbitrary and violates 49 U.S.C. § 44902(b).

Count III: Failure to Establish Reasonable Practices in Violation of 49 U.S.C. § 41501

37. Paragraphs 1 through 36 are incorporated by reference.

38. Section 41501 provides in pertinent part that “[e]very air carrier and foreign air carrier shall establish, comply with, and enforce . . . reasonable prices, classifications, rules, and practices related to foreign air transportation. . . .” 49 U.S.C. § 41501. USDA requires all carriers, including Respondents, transporting live animals to register and follow these requirements, regardless of where the animals are being transported. 9 C.F.R. § 2.25.

39. Respondents engage in a practice of refusing transport of animals where the purpose is to conduct research as evidenced by their policies and statements described above, yet transport the same animals if the destination is a zoo or to serve as a pet. This distinction is unreasonable as a matter of law. Therefore, Respondents are violating § 41501 by maintaining arbitrary and unreasonable practices, and failing to implement *reasonable* practices, with respect to the international transportation of research animals.

Count IV: Refusal to Transport Baggage in Violation of 49 U.S.C. § 41704

40. Paragraphs 1 through 39 are incorporated by reference.

41. Section 41704 creates a duty to carry passengers’ baggage that may not be transported in an airline cabin. 49 U.S.C. § 41704. Under this provision, an airline has a statutory duty to carry property that is passenger baggage. Passengers frequently wish to check live animals, and the airline has a duty to accept and carry such animals under this statute.

42. Respondents have refused to accept non-human primates and other animals as baggage if they are destined for research and, thus, are in violation of § 41704.

V. RELIEF REQUESTED

43. Complainants request that the Secretary immediately:

- (a) Find that the above described practices and policies violate 49 U.S.C. §§ 41310(a), 44902(a), 41501, and 41704;
- (b) Order the named airlines to cease and desist from refusing to transport animals intended for live animal research in the United States;
- (c) Order all airlines to cease and desist from having policies contain a prohibition on transporting animals intended for lawful live animal research;
- (d) Order such airlines to establish reasonable practices for the transport of animals intended for live animal research including following the same practices it does for similar animals currently transported for other purposes;
- (e) Impose a penalty appropriate for the cited violations;
- (f) To the extent the named airlines refuse to comply with the Secretary's order and the law, then revoke the permits granted to the named airlines to United Airlines, British Airways, China Southern Airlines, and Qatar Airways.

Respectfully submitted,

A handwritten signature in black ink that reads "Barry M. Hartman" with a long horizontal flourish extending to the right.

K&L Gates LLP
Barry M. Hartman
barry.hartman@klgates.com
1601 K Street, N.W.
Washington, DC 20006
(202) 778-9338

Counsel for Complainant

Attachment A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: K [REDACTED], S [mailto:S [REDACTED]@united.com]
Sent: Wednesday, January 06, 2016 6:27 PM
To: F [REDACTED], G [REDACTED]
Subject: RE: Research Animals

Dogs as pets, or working purposes, non-humans primates only zoo to zoo or wildlife sanctuary, etc.

Regards,

S [REDACTED] K [REDACTED]
Product Development & Marketing Manager
PetSafe
United Airlines Cargo Marketing-WHQVM
233 S Wacker Dr. 17th Floor
Chicago, IL 60606

[REDACTED]

----- Original message -----

From: "F [REDACTED], G [REDACTED]" <G [REDACTED]@ [REDACTED]>
Date: 1/6/2016 5:10 PM (GMT-06:00)
To: "K [REDACTED], N [REDACTED], S [REDACTED]" <S [REDACTED]@united.com>
Subject: Re: Research Animals

Thanks S [REDACTED]. Just to clarify you'll take them for other purposes, but just not for research?

G [REDACTED]

On Jan 6, 2016, at 5:37 PM, K [REDACTED], S [REDACTED] <S [REDACTED]@united.com> wrote:

Hi G [REDACTED],

I'm doing well, very busy as usual ☺. I Hope you had a great holiday season.

We will not accept dogs or primates for biomedical research. Sorry about that, but I don't expect us to change our policy on that anytime soon.

I am planning on going to DXB and am not yet sure how I am getting there yet. ☺ See you there!

S [REDACTED]
S [REDACTED] K [REDACTED]
PetSafe Product Development & Marketing Manager

United | 233 S. Wacker Drive, 17th Floor Chicago, IL 60606
[REDACTED] | S [REDACTED]@united.com
united.com

From: P [REDACTED], G [REDACTED] [mailto:G [REDACTED]@ [REDACTED]]
Sent: Wednesday, January 06, 2016 9:26 AM
To: K [REDACTED], [REDACTED], S [REDACTED]
Subject: Research Animals

Hi S [REDACTED]

I hope you're well! I'm in the process of setting up my transporters for 2016. I know United will accept laboratory rabbits. Will United also accept dogs and non-human primates destined for biomedical research?

Will I see you in Dubai? One thing for sure, you won't get there on United and I won't get there on Delta!

G F [REDACTED]

[REDACTED]

Confidentiality Notice: In accordance with [REDACTED], this email, including attachment(s), is classified as Confidential or Highly Confidential. This e-mail transmission may contain confidential or legally privileged information that is intended only for the individual or entity named in the e-mail address. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or dissemination of the content of this e-mail is strictly prohibited.

If you have received this e-mail transmission in error or this email is not intended for you, please delete or destroy all copies of this message in your possession and inform the sender. Thank you.

Attachment B

[REDACTED]

[REDACTED]

----- Original Message -----

From: "P [REDACTED], G [REDACTED]" <[REDACTED]>
Date: Mon, August 13, 2018 8:45 AM -0700
To: "L [REDACTED], [REDACTED]" >, "H [REDACTED]. [REDACTED]" >, "M [REDACTED] M [REDACTED]" >
Subject: FW: United Cargo

FYI.

G [REDACTED] F [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: K [REDACTED] A [REDACTED]
Sent: Monday, August 13, 2018 10:44 AM
To: P [REDACTED], G [REDACTED]
Subject: [External] RE: United Cargo

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

G [REDACTED]

United confirmed back to me, they have not removed any embargos for NHP's.

I'll check with [REDACTED] and see if she has any options.

Thanks,

[REDACTED]

[REDACTED]

[REDACTED]

Attachment C

[Redacted]

From: G [Redacted] T [Redacted] <g [Redacted]@iagcargo.com>
Sent: Wednesday, July 18, 2018 3:43 AM
To: L [Redacted] M [Redacted]
Subject: RE: Carriage of NHPs?

Hi [Redacted],

The relevant restriction is published in the LAR and we do not accept NHPs on any IAG carrier for research.

I am sorry we were not able to assist you on this occasion and hope you find an alternative solution.

Best regards,
G [Redacted] T [Redacted]
Technical Standards Executive
Network Safety, Security & Conformance

IAG Cargo S122, PO Box 99, Hounslow, Middlesex, TW6 2JS,
United Kingdom

[Redacted]

iagcargo.com



From: L [Redacted] M [Redacted]
Sent: 17 July 2018 14:57
To: G [Redacted] T [Redacted] <g [Redacted]@iagcargo.com>
Cc: L [Redacted] M [Redacted]
Subject: Carriage of NHPs?

Can you please advise me whether any of the IAG carriers (but specifically British Airways) can accept and carry Non-Human Primates for research? I have pending shipments and customers inquiring from different parts of the world and am looking for a solution. I await your reply.

Thank you,

[Redacted]



CONFIDENTIALITY NOTICE This e-mail message, including any attachments, is for the sole use of the intended recipient(s). The information contained in this message is private and confidential, may contain legally protected health information and may be subject to one or more non-disclosure agreements, HIPAA privacy regulations and other laws. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by replying to this e-mail and destroy all copies of the original message.

This message is private and confidential and may also be legally privileged. If you have received this message in error, please email it back to the sender and immediately permanently delete it from your computer system. Please do not read, print, re-transmit, store or act in reliance on it or any attachments. IAG Cargo Limited may monitor email traffic data and also the content of emails, where permitted by law, for the purposes of security and staff training and in order to prevent or detect unauthorised use of the IAG Cargo Limited email system. Virus checking of emails (including attachments) is the responsibility of the recipient. Any personal information, including sensitive personal information, you provide us with will be handled in accordance with our Privacy Policy available on our website: www.iagcargo.com. You may manage your preferences at any time. IAG Cargo Limited is a company registered in England and Wales. Registered number: 8075326. Registered office: Carrus Cargo Centre, PO Box 99, Sealand Road, London Heathrow Airport, Hounslow, Middlesex, TW6 2JS. Additional terms and conditions are available on our website: www.iagcargo.com.

Attachment D

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

From: M [Redacted] D [Redacted] [mailto:m [Redacted]@us.qatarairways.com]
Sent: Thursday, July 26, 2018 9:14 AM
To: Ask Cargo; L [Redacted], J [Redacted]
Cc: Y [Redacted] R [Redacted]
Subject: RE: Cargo Request

Dear [Redacted]:

As QR policy we not handle any animals for medical research.

Thank you for choosing Qatar Airways Cargo and have a nice day!

M [Redacted] L [Redacted]

Senior Sales Executive

Cargo Bldg 76
JFK International Airport
Jamaica , NY 11430

Tel [Redacted]
Cell [Redacted]

Moved by people. qrcargo.com



[Click Here for OutStation Drop Off](#)
[Click here for Tracing and Schedule](#)

****Qatar Customs Authority has given strict directives that original certificate of origin must be attached to all shipments destined to DOH, Qatar. ****

From: S [Redacted] A [Redacted] M [Redacted] **On Behalf Of** Ask Cargo
Sent: Thursday, July 26, 2018 11:43 AM

To: L [REDACTED], J [REDACTED] <[REDACTED]@k[REDACTED]>

Cc: Y [REDACTED] R [REDACTED] <y[REDACTED]@us.qatarairways.com>; M [REDACTED] D [REDACTED] <m[REDACTED]@us.qatarairways.com>

Subject: RE: Cargo Request

Dear Mr. J [REDACTED].

Thank you for your email.

Kindly be advised we have copied in our sales team in JFK for further assistance.

Dear JFK Sales Team,

Please advise on below.

Should you require further assistance please don't hesitate to contact us.

Best Regards

S [REDACTED] A. M [REDACTED]
Global Service Recovery Team – Cargo

[REDACTED]

Moved by people. qrcargo.com



To track your shipment please visit <http://www.qrcargo.com/trackshipment>

From: L [REDACTED], J [REDACTED] <[mailto:[REDACTED]@k[REDACTED]]>

Sent: 26 July 2018 6:18 PM

To: Ask Cargo <askcargo@qatarairways.com.qa>

Subject: Cargo Request

Hello, my name is [REDACTED], and I am based in the United States. A client is interested in your live animal transportation services for animals used in medical research. Could you confirm if you offer this service into and out Europe and China? Thank you.

This electronic message contains information [REDACTED]. The contents may be privileged and confidential and are intended for the use of the intended addressee(s) only. If you are not an intended addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please contact me at [REDACTED]

This electronic message contains information [REDACTED]. The contents may be privileged and confidential and are intended for the use of the intended addressee(s) only. If you are not an intended addressee, note that any disclosure, copying,

distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please reply to me with this message.

Qatar Airways - Going Places Together



Disclaimer:- This message (including attachments) is intended solely for the addressee named above. It may be confidential, privileged, subject to copyright, trade secret, or other legal rules and may not be forwarded without the author's permission. If you are not the addressee you must not read, copy or disseminate this message. If you have received it in error please notify the sender immediately and delete the message from all storage devices. Any opinions expressed in this message do not necessarily represent the official positions of Qatar Airways. Any agreements (including any warranties, representations, or offers) concluded with Qatar Airways by using electronic correspondence shall only come into existence if an authorized representative of Qatar Airways has explicitly approved such contract formation. To the fullest extent permissible by law, Qatar Airways disclaim all liability for loss or damage to person or property arising from this message being infected by computer virus or other contamination.

Important Note: Effective 9th July 2018, Qatar Airways shall not accept any emails that do not meet the Payment Card Industry Data Security Standard (PCI DSS) compliance requirement of TLS 1.2 encryption protocols. For more information on the change and probable impact kindly [click here](#).

Certificate of Service

I certify that a copy of the attached Formal Complaint was served on the following parties by certified mail, return receipt on the 21st day of August, 2018:

British Airways, PLC
James B. Blaney
2 Park Ave., Suite 1100
New York, NY 10016

China Southern Airlines Co., Ltd.
c/o Charles F. Donley II
Pillsbury Winthrop Shaw Pittman, LLP
1200 17 Street, NW
Washington, DC
20036-3006

Qatar Airways Company, Q.C.S.C.
c/o Anita Mosner
Holland & Knight LLP
2099 Pennsylvania Avenue, NW, Suite 100
Washington, DC, 20006

United Airlines, Inc.
Hershel I. Kamen, Senior Vice President
Alliance, Regulatory, & Policy
1225 New York Avenue, Suite 1100
Washington, DC 20005

Judith S. Kaleta
Deputy General Counsel,
James C. Owens
Deputy General Counsel,
Blane A. Workie
Assistant General Counsel for
Aviation Enforcement Proceedings
United States Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, DC 20590



Barry M. Hartman