

Continental Airlines



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July 10, 2003

Dockets Management Branch (HFA-305)
U.S. Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, Maryland 20852

RE: Docket Number 02N-0277

Dear Sir or Madam:

The following comments are being submitted on behalf of Continental Airlines / Chelsea Food Service in response to the FDA proposal of May 9, 2003 titled "Establishment and Maintenance of Records Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

Chelsea Food Service is a division of Continental Airlines. Chelsea provides food catering services for Continental Airlines, Continental Express, and Continental Micronesia (hereinafter referred to collectively as Continental), as well as providing those services on a contract basis to various other airlines. To put this information and these comments into an operational context, Continental conducts over 1000 flights every day. While the majority of Continental flights are within the United States, we literally fly throughout the world including flights to and from Tokyo, Guam and Hawaii in the Pacific, to and from various locations in Europe including London, Paris, Rome, Madrid and Tel Aviv, as well as various locations in Latin America including Mexico, Panama, Lima, Caracas, and Rio de Janeiro.

First, Continental / Chelsea supports the comments submitted to the FDA by the International Inflight Food Service Association. We participated in the development of those comments and expressly endorse them. The following comments should be considered to be supportive and supplemental to those of the IFSA. They are intended to provide the FDA with specific information from our perspective as an air carrier / inflight food service provider.

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While we are aware of the fact that some other carriers have elected to not provide food service to customers on some flights, because we believe our food service enhances the overall air transportation service that we provide, Continental continues to provide this service despite the economic burden and increased costs associated with providing that service. In particular we would point out that food service is provided on our international flights both from and to the U.S., as well as on most of our domestic flights.

Safety is and always has been primary for Continental, and we consider security to be an integral part of our safety program. Since the tragic events of September 11th we have initiated and implemented extensive additional measures to provide for the safety and security of every aspect of the air transportation service that we provide, including the security and safety of the food that we prepare and provide to our customers.

As noted above, Chelsea is a division of Continental; the employees of Chelsea are covered by the various rules and regulations which are applicable to other Continental employees, particularly those employees who in the course of performing their job are required to have access to our airplanes or materials and products that are placed on our airplanes. What that means is that these individuals are subject to various security related regulatory requirements established by both the FAA and the TSA (Transportation Security Administration.) I will not here go through these various requirements except to note that they include extensive security background checks, both criminal and employment history, as well as both drug testing and alcohol testing. (see 49 CFR Part 1544; 14 CFR Part 121, Appendices I, J.)

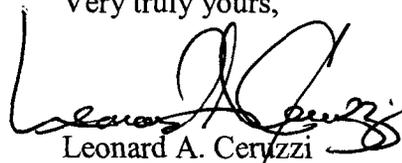
With respect to more specific comments, Continental / Chelsea believes the FDA has substantial discretion in terms of the scope of these regulations. As noted by IFSA, the statutory language provides this discretion to FDA by the use of the word "may"; if regulatory action was required by Congress one would expect to see the word "shall" in the statute, but it is not there. The FDA recognizes this distinction by its own action in excluding 'retail facilities' from the requirements of these regulations.

We submit that not only does the FDA have the legal authority to exempt in-flight air transportation catering services from these regulations, as cogently presented by the IFSA, we believe that such an exemption should be provided for in-flight food service providers. Fundamentally, apart from the fact that we provide food service at 30,000 feet, as an in-flight food service provider Continental / Chelsea is not different from a restaurant. Since FDA has exempted restaurants from these regulations, we believe the same exemption should be provided to in-flight food service providers.

The record-keeping requirements that would be mandated by these regulations are extremely onerous if even feasible, particularly given the fact that air transportation is international in scope. Continental is not the largest U.S. air carrier, but even our modest system ranges throughout the United States, into Europe, Latin America, and Asia.

We appreciate the opportunity to provide you with our views on this subject, and appreciate your consideration. For all of the foregoing reasons we respectfully request that these proposed regulations be withdrawn, and this matter be carefully reconsidered.

Very truly yours,

A handwritten signature in black ink, appearing to read "Leonard A. Ceruzzi". The signature is fluid and cursive, with a large initial "L" and "C".

Leonard A. Ceruzzi
Managing Attorney / Regulatory Affairs