

National Transportation Safety Board

Office of Aviation Safety

Washington, DC 20594



June 27, 2024

Mr. David L. Calhoun
President and Chief Executive Officer
The Boeing Company

Re: NTSB Investigation No. DCA24MA063
Boeing 737-9 (N704AL) Accident
January 5, 2024
Portland, Oregon

Dear Mr. Calhoun:

Given Boeing's unauthorized release on Tuesday, June 25th of investigative information, I am imposing restrictions on Boeing's participation in the investigation and once again reminding you of Boeing's obligations as a party to the National Transportation Safety Board (NTSB) investigation. In my March 13, 2024, letter to Ms. Elizabeth Martin, I reminded Boeing that as a party to the NTSB investigation, Boeing must take all reasonable steps to ensure that investigative information is protected from public release. Further infractions may lead to the loss of party status.

As I previously stated, the NTSB has used a party system for decades because we have found that it is the most effective investigative process for major transportation accidents and incidents in all modes. Although we rely on parties to help expedite the fact-finding phase of an investigation, no outside entities participate in our analysis. *Only* the NTSB may determine the probable cause of an accident and issue safety recommendations designed to prevent future accidents. Boeing was designated as a party to this investigation, as it has been for several other investigations over the years and is familiar with our rules and investigation process, perhaps more so than most other entities.

As Boeing is well aware, under title 49 *Code of Federal Regulations (CFR)* 831.13 and as referred to in the Certification of Party Representative (hereafter referred to as the "party agreement"), which Boeing signed on January 7, 2024 (attached), parties to an NTSB investigation are restricted from releasing any investigative information without the NTSB's express approval. This includes both on- and off-the-record statements and interviews.

Before the NTSB's adoption of the final report regarding this accident, only appropriate NTSB personnel are authorized to publicly disclose investigative information and, even then, the disclosure is limited to factual information verified during the course of the investigation. The party agreement and the guidance to which it refers prohibit party participants or their respective organizations from providing opinions or analysis of the accident outside of the participants in the investigation.

Notwithstanding these requirements, we learned that on June 25, 2024, Ms. Elizabeth Lund, Senior Vice President, Quality, Boeing Commercial Airplanes, gave a long-planned media briefing without the knowledge or consent of the NTSB at which she released non-public investigative information and made unsubstantiated speculations about possible causes of the Jan. 5 door-plug blowout, which is directly at issue in the ongoing investigation. We have verified that part of the released information was either inaccurate or unknown to the NTSB while other parts were not previously disclosed to the public. Such a release or withholding of critical information from our investigators are blatant violations of NTSB's regulations and the party agreement. This disregard of the federal regulations and rules governing NTSB investigations cannot be tolerated.

We are also aware of statements that Boeing Chief Engineer, Howard McKenzie, made on June 18, 2024, concerning the Dutch roll that a Southwest Airlines 737 Max 8 recently experienced. Specifically, Mr. McKenzie stated that the event "has nothing to do with design or manufacturing." The NTSB is currently investigating that accident and therefore, parties are prohibited from making any comments regarding the cause of the event or otherwise conveying investigative information. The NTSB has not made any such determination, and our investigators have not yet ruled out design or manufacturing issues as contributing to this event.

This is the second warning we have issued to Boeing in just this year regarding its flagrant violation of the NTSB rules. It is crucial that the investigation speaks with one voice – that of the NTSB – to prevent the release of inaccurate, misleading, unconfirmed, and out-of-context investigative information to the media, public, and lawmakers, which is exactly what occurred during Boeing's media briefing. In the briefing, Boeing also portrayed the NTSB investigation as a search to locate the individual responsible for the door plug work. This is false and misleads the public regarding the purpose and scope of the NTSB's purposes. The NTSB is instead focused on the probable cause of the accident, not placing blame on any individual or assessing liability. When incorrect information is released, we must correct the record, leading to confusion among our stakeholders.

As our party agreement permits, we considered removing Boeing as a party to the investigation in response to the continued failure to comply with our regulations and the party agreement. However, we decided that Boeing will remain a party, but no longer have access to the investigative information the NTSB produces as it develops the factual record of the accident.

Moreover, we will also subpoena company witnesses to appear at an investigative hearing into the case scheduled for August 6 and 7, 2024, in Washington, DC. Boeing will not be a party to the hearing and therefore will not be allowed to ask questions of other participants. We plan to interview Ms. Lund and will expect her to appear at the August hearing. We look forward to hearing from her.

Despite the additional restrictions being placed on Boeing, the company must still comply with NTSB's regulations and the party agreement. As a party, Boeing must take all reasonable steps to ensure that investigative information is protected from public release. As explained above, failure to abide by these requirements will lead to removal of Boeing's status as a party to the investigation or further restrictions on participation with the NTSB investigation.

Further, we have notified the Department of Justice regarding the unauthorized investigative information release, in violation of our regulations and the party agreement.

Any questions on the party agreement, 49 *CFR* 831.13, or the restrictions described above may be directed either to Mr. John Lovell, the NTSB's investigator-in-charge of this investigation, or to the NTSB's Media Relations Office at 202-314-6100.

Sincerely,

Timothy J. LeBaron
Director Office of Aviation Safety

Encl.