

73 F.R. 28854, May 19, 2008

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

**GUIDANCE ON DISCLOSURE OF POLICIES AND CHARGES
ASSOCIATED WITH CHECKED BAGGAGE**

NOTICE

This notice is intended to give guidance to air carriers and foreign air carriers on disclosure of carrier baggage policies and associated fees in connection with checked baggage. The general industry practice until recently has been to allow passengers two free checked bags, generally of up to 50 or 70 pounds each. Several air carriers have recently adopted policies of charging passengers an amount, in addition to the fare already paid, for any checked baggage or for more than one checked bag. Some of these policies imposing charges for checking a second bag add \$25 to the cost of a passenger's trip while others may add far greater amounts for checking a single bag, either because it is overweight or because the carrier has different fares based on whether a passenger checks bags and the number he or she checks. A number of others have announced plans to implement similar policies.

The Department's long-standing policy has been to require carriers to clearly disclose significant conditions applicable to air fares. Failure to disclose such conditions has been

considered an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712 and where warranted the Aviation Enforcement Office has taken enforcement action against carriers who engage in such practices. The Aviation Enforcement Office considers such significant conditions to include limiting passengers to fewer than two free checked bags of the size and weight that have generally been free on the carrier in the past and to assessing passengers a charge in addition to the air fare for such checked baggage. Therefore, it is important that carriers provide prominent and timely notice of these baggage policies and such charges.

To meet the requirements implicit in 49 U.S.C. § 41712 with respect to internet advertisements, air carriers and foreign air carriers should place a notice regarding the above-described additional baggage charges on the first screen in which the carrier offers a fare quotation of a specific itinerary selected by a consumer. This notice should appear if the carrier imposes an additional baggage charge for one or two checked bags. The notice may consist of either (1) an asterisk or similar character in close proximity to the fare quotation referring to a statement on the same screen that “additional baggage charge may apply,” or (2) a more detailed summary of the baggage charges on the same screen as the fare quotation. In either case, the text should contain a hyperlink to a full description of the carrier’s baggage policies.

In print advertisements, an asterisk or similar character in close proximity to the fare quotation should refer the reader to a succinct statement of the baggage policies and

charges. This statement may appear in typeface smaller than the rest of the advertisement and be placed, for example, along with the summary of other significant conditions and all fees and taxes which currently may be separated out from the base fare. Furthermore, in order to ensure compliance with 49 U.S.C. § 41712, airline reservations agents should disclose these baggage charges and limitations during telephone or counter sales prior to completing a sale.

Internet displays and airline agents should also make clear when the added charges or revised policies are to take effect. In no case should more restrictive baggage policies or additional charges be applied retroactively to a consumer who purchased his or her ticket at a time when the charges did not apply, or when a lower charge applied. Whatever the contract of carriage provides regarding free baggage as of the date of each ticket sale is binding on the carrier. The Aviation Enforcement Office considers any carrier practice that violates its contract of carriage provisions to constitute an unfair and deceptive trade practice in violation of 49 U.S.C. § 41712.

With respect to fares that are purchased at the time of an advertisement for future travel after new baggage policies and charges are planned to take effect, carriers should place a notice on their home website screen highlighting the new policies and charges. Similar notices should appear in print advertisements relating to fare offerings applicable to future travel that is subject to new baggage policies and charges.

This disclosure guidance's applicability, it should be noted, extends to ticket agents.

Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), U.S. Department of Transportation, 1200 New Jersey Ave., SE, Washington, D.C. 20590.

By:

Samuel Podberesky
*Assistant General Counsel for
Aviation Enforcement and Proceedings*

Dated: May 13, 2008

(SEAL)

An electronic version of this document is available at <http://www.regulations.gov>