

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

**NOTICE REGARDING DAMAGE
TO WHEELS, HANDLES, AND OTHER COMPONENTS OF CHECKED BAGGAGE**

In September 2015, the Office of Aviation Enforcement and Proceedings (Enforcement Office) conducted extensive inspections of U.S. and foreign air carriers' operations at 16 U.S. airports. The Enforcement Office found, among other things, that carriers routinely exclude from liability damage to specific parts of checked baggage, such as wheels, straps, zippers, handles, and protruding parts. Carriers often post signs indicating that they categorically refuse to compensate passengers for such items. In some instances, carrier agents also discouraged or refused to accept reports of such damage.

We remind carriers and the public that for domestic transportation, "an air carrier shall not limit its liability for provable direct or consequential damages resulting from the disappearance of, or damage to, or delay in delivery of a passenger's personal property, including baggage, in its custody to an amount less than \$3,500 for each passenger." 14 CFR 254.4. The Enforcement Office has long interpreted this section as precluding any lower arbitrary limits on the amount of reimbursement for damages resulting from carrier actions. The Montreal Convention, applicable to international transportation, also prohibits lower limits on reimbursement for such damages.¹ Imposing an arbitrary limit on losses within the carrier's control constitutes a violation of Part 254 and the Montreal Convention, and is an unfair practice under 49 U.S.C. § 41712.

The Enforcement Office considers categorical exclusions for damage to specific parts of the checked baggage to be arbitrary limitations of liability in violation of Part 254. Although carriers are not required to cover fair wear and tear, damage to handles, straps, wheels and zippers often extends beyond what is appropriately categorized as fair wear and tear resulting from ordinary handling of baggage. In such cases, carriers should be prepared to reimburse the passenger appropriately.

¹ For international transportation, Article 17 of the Montreal Convention states that carriers are liable for damage to checked baggage "upon condition only" that the damage took place while the bag was in the carrier's custody (unless the damage resulted from the inherent defect, quality or vice of the baggage). Article 26 of the Convention states that any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in the Convention shall be null and void.

In addition to categorically disclaiming liability for certain damage, certain carriers are inappropriately refusing to accept claims or reports of such damage. To avoid an unfair practice of categorically disclaiming liability without proper investigation, all reports of mishandled baggage should be accepted for review, regardless of whether the carrier's agent believes that the claim will result in reimbursement.² The Enforcement Office finds that failure to accept such reports constitutes an unfair and deceptive practice in violation of 49 U.S.C. § 41712. Therefore, carriers should not discourage reports or refuse to accept claims for mishandled baggage on the basis that the underlying claim is not reimbursable.

Carriers should immediately review and revise their baggage policies, including their signage reflecting those policies, to ensure compliance with Part 254, the Montreal Convention, and section 234.6 (for carriers subject to that reporting requirement). Recognizing the time and effort that it will take to make these changes, the Enforcement Office will provide carriers 45 days from the date of this notice to ensure that signage and policies are in compliance before instituting enforcement action related to the issues covered in this notice.

By:

/s/

Blane A. Workie
Assistant General Counsel for
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Dated: November 25, 2015

² The Department's baggage-handling statistics rule, 14 CFR 234.6, states that each reporting carrier shall report monthly to the Department the "total number of mishandled-baggage reports filed with the carrier." This notice is consistent with longstanding reporting requirements of the Bureau of Transportation Statistics (BTS). See BTS Accounting and Reporting Directive 157 (March 27, 1992) (baggage reports include those "which do not result in a claim for compensation.")