



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

**Issued by the Department of Transportation  
On the Fourth day of August, 2011**

**United Air Lines, Inc.**

**Violations of 49 U.S.C. § 41712**

**Docket OST 2011-0003**

**Served August 4, 2011**

**CONSENT ORDER**

This consent order concerns inaccurate information provided by United Air Lines, Inc., (United) to consumers regarding its liability limit for lost, damaged, or delayed baggage on flights covered by the Montreal Convention (Convention) in violation of 49 U.S.C. § 41712. The order directs United to cease and desist from future similar violations of section 41712, and assesses the carrier a compromise civil penalty of \$20,000.

**Applicable Law**

Article 24 of the Montreal Convention (Convention) authorizes the International Civil Aviation Organization (ICAO) to adjust for inflation the carrier liability limit under the Convention for *inter alia* loss, damage, or delay of baggage. Accordingly, on June 30, 2009, ICAO notified State Parties that, effective December 30, 2009, the baggage liability limit in Article 22 would increase from 1,000 to 1,131 Special Drawing Rights (SDR). On November 9, 2009, the Office of Aviation Enforcement and Proceedings (Enforcement Office) published a notice alerting U.S. and foreign air carriers to revise their contracts of carriage, tariffs, required notices, and practices to reflect the increase. The notice also warned carriers that the Enforcement Office would consider failure to do so by the effective date to be an unfair or deceptive business practice in violation of 49 U.S.C. § 41712.<sup>1</sup>

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<sup>1</sup> See *Inflation Adjustments to Liability Limits Governed by the Montreal Convention Effective December 30, 2009, Notice of the Assistant General Counsel for Aviation Enforcement and Proceedings*, 74 FR 59017 (Nov. 9, 2009).

## **Background**

In January 2011, the Enforcement Office learned that, notwithstanding our notice, United was distributing ticket wallets printed after the effective date of the increase in the liability limit that stated that the carrier's baggage liability limit per ticketed passenger for flights covered by the Convention was still 1,000 SDRs. An Enforcement Office investigation subsequently found that a significant number of these ticket wallets were given to a small group of customers who checked in at United ticket counters. However, the investigation found no evidence that United had applied the old 1,000 SDR limit when handling baggage-related complaints arising out of transportation that it provided after the effective date of the new 1,131 SDR limit. Further, there was no evidence that any passenger who had traveled after the effective date of the limit increase had unilaterally adjusted downward the amount of his or her claim based on the erroneous information in the ticket wallets.

## **Mitigation**

In mitigation, United states that it is strongly committed to providing proper disclosures of all information that its customers need to receive, including notices concerning the Montreal Convention. United further states that the ticket wallet in question came from a single batch of erroneous wallets printed in June 2010, a time long after its nearly 30 different documents, tariffs webpages and other publications had all been properly updated to reflect the otherwise fully implemented Montreal Convention baggage liability limit at United. Importantly, United notes that it fully complied with the Montreal Convention by applying the proper baggage liability limitation which was listed on its more widely utilized and referenced passenger ticket receipts, its contract of carriage, and its passenger claims forms. United believes that no consumers were misled by this isolated batch of ticket wallets, which were distributed to less than one half of one percent of its passengers in 2010. Nevertheless, promptly upon notification of the issue, United states that all such remaining outdated wallets anywhere in its worldwide system were removed and destroyed.

## **Decision**

The Enforcement Office has carefully considered the information provided by United, but continues to believe that enforcement action is warranted. The Enforcement Office and United have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, United consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. § 41712, and to the assessment of \$20,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

This compromise assessment is appropriate considering the nature and extent of the violations described herein and the size and sophistication of the carrier and serves the public interest. It represents a strong deterrent to future noncompliance with notice

requirements related to the Montreal Convention by United, as well as by other air carriers.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

**ACCORDINGLY,**

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that United Air Lines, Inc., engaged in unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712 by failing to accurately inform consumers of the liability limits under the Montreal Convention for lost, damaged, and delayed baggage;
4. We order United Air Lines, Inc., and all other entities owned or controlled by or under common ownership with United Air Lines, Inc., and their successors and assignees, to cease and desist from violations of 49 U.S.C. § 41712. Failure to comply with this cease and desist provision shall subject United Air Lines, Inc., and their successors and assignees to further enforcement action;
5. We assess United Air Lines, Inc., a compromise civil penalty of \$20,000 in lieu of civil penalties that might otherwise be assessed for the violations described in ordering paragraph 2, above. Of this total penalty amount, \$10,000 shall be due and payable within fifteen (15) days of the date of issuance of this order. The remaining \$10,000 shall be due and payable immediately if United Air Lines, Inc., violates this order's cease and desist or payment provisions during the twelve (12) months following the service date of this order; and
6. We order United Air Lines, Inc., to remit the payment ordered in paragraph 5 above, by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," to the account of the U.S. Treasury in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject United Air Lines, Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

**BY:**

**ROSALIND A. KNAPP**  
**Deputy General Counsel**

**(SEAL)**

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