Aviation Regulatory Update

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DOT SEEKS TO AMEND FARE ADVERTISING RULES

On July 1, 2026, the U.S. Department of Transportation published a Notice of Proposed Rulemaking ("NPRM") proposing several changes which would provide U.S. and foreign air carriers with greater freedom in advertising air fare prices. First, DOT seeks to revise the Full Fare Advertising Rule by eliminating the font size requirement for fare components (such as taxes and fees) and allowing fare components to be displayed with as much prominence as the fare price. Second, DOT plans to rescind nine (9) air fare price advertising guidance documents which have become outdated and unnecessary according to U.S. regulators.

The Full Fare Rule Advertising currently states that fare components "may not be displayed prominently, [and] may not be presented in the same or larger size as the total price." As currently proposed, the NPRM would amend 14 C.F.R. 399.84(a) by eliminating the font size requirement and permitting fare components to be as prominent as the total fare. In defining "prominence", DOT proposes that it will match the Internal Revenue Code's requirement that the total price be listed "at least as prominently" as any component. 26 U.S.C. 7275(b)(2). DOT explained that the font rule was unnecessarily prescriptive and that "there is nothing inherently unfair or deceptive in having components of a fare be displayed 'prominently,' so long as the total price is just as prominent." DOT reasons that the current requirements are unnecessarily specific and may raise First Amendment concerns by burdening commercial speech (citing *Spirit Airlines, Inc. v. U.S. Dept of Transp*., 687 F.3d 403 (D.C. Cir. 2012)). Even if the font-size restriction is eliminated and the prominence rule is reframed, DOT trusts that the core objective of prohibiting false or misleading advertising will nevertheless be preserved.

DOT REINFORCES DUE PROCESS RIGHTS DURING FORMAL HEARINGS

On July 1, 2026, DOT issued a final rule amending the regulations related to formal hearing procedures to ensure that regulated entities have notice and an opportunity for a hearing before DOT determines something to be unfair or deceptive. The final rule revises the current Procedures in Regulating Unfair or Deceptive Practices ("2022 UDP Rule") to better align with the due process protections set forth in the prior rule ("2020 UDP Rule") which was previously in place during the first Trump administration. By reversing the hearing procedures outlined within the 2022 UDP Rule back to those contained within the 2020 UDP Rule, DOT believes that regulated entities will now be afforded greater due process protections. Those protections include, but are not limited to, a neutral officer who will preside over any such hearing and the issuance of formal findings of fact so that U.S.

and foreign air carriers can better understand the evidence and arguments presented during formal hearings. Considering President Trump's deregulatory agenda, the final rule seeks to ensure that DOT will only declare practices "unfair or deceptive" under 49 U.S.C. 41712 when supported by clear and convincing evidence and after regulated entities had sufficient opportunity to voice their concerns. This final rule becomes effective on **July 31, 2026**.

ENFORCEMENT DISCRETION EXTENDED AS APPLIED TO SPECIFIC REFUND REGULATIONS

On July 7, 2026, DOT declared that it would continue to not enforce the refund requirements in 14 C.F.R. 260.6, 14 C.F.R. 260.9 and 14 C.F.R. 399.80(l) for cancelled flights when flights are renumbered so long as passengers are rebooked on a flight with a new number and the flight operates without any "significant change or delay" as defined by current DOT regulations. If a flight number change is nevertheless accompanied by a "significant change or delay" (e.g., changes to departure/arrival times by three (3) or more hours domestically, changes in departure/arrival airports, or downgrades in class of service), it is important to note that all refund mandates remain fully enforceable and will not be impacted by DOT's temporary extension of its limited enforcement discretion. As our readers may recall, DOT first exercised enforcement discretion over this topic in December 2025 and will extend its enforcement discretion until **July 7, 2027**.

FAA EXTENDS FLIGHT LIMITS AT ORD THROUGH SUMMER 2027 SEASON

On July 10, 2026, the Federal Aviation Administration extended an earlier order limiting the number of scheduled aircraft operations at Chicago O'Hare International Airport ("ORD"). While the earlier order was set to expire on October 24, 2026, the FAA's latest action extends operating limits at ORD through **October 30, 2027** (i.e., the end of the IATA Summer 2027 season) to avoid chronic congestion and minimize delays caused by ongoing airfield construction. As background, in April 2026, the FAA finalized plans to cap daily ORD operations at 2,708 flights which was 300 flights fewer than ORD had originally planned. The initial order required all U.S. air carriers operating at ORD to reduce their operations in compliance with the FAA's operating limits, which resulted in schedule adjustments that affected the impacted U.S. air carriers as well as foreign air carrier partners on certain codeshare operation. Due to their significant presence at ORD, both American and United could be forced to further modify existing schedules through October 30, 2027, meaning that foreign codeshare partners should monitor this situation closely and coordinate with applicable U.S. air carrier partners as needed to minimize passenger disruptions on affected itineraries. On July 10, 2026, the Federal Aviation Administration extended an earlier order limiting the number of scheduled aircraft operations at Chicago O'Hare International Airport ("ORD"). While the earlier order was set to expire on October 24, 2026, the FAA's latest action extends operating limits at ORD through October 30, 2027 (i.e., the end of the IATA Summer 2027 season) to avoid chronic congestion and minimize delays caused by ongoing airfield construction. As background, in April 2026, the FAA finalized plans to cap daily ORD operations at 2,708 flights which was 300 flights fewer than ORD had originally planned. The initial order required all U.S. air carriers operating at ORD to reduce their operations in compliance with the FAA's operating limits, which resulted in schedule adjustments that affected the impacted U.S. air carriers as well as foreign air carrier partners on certain codeshare operation. Due to their significant presence at ORD, both American and United could be forced to further modify existing schedules through October 30, 2027, meaning that foreign codeshare partners should monitor this situation closely and coordinate with applicable U.S. air carrier partners as needed to minimize passenger disruptions on affected itineraries.

FAA REQUIRES AIRCRAFT EQUIPMENT UPGRADES TO WITHSTAND 5G INTERFERENCE

In light of the next generation of 5G wireless networks, the FAA implemented a new rule on **July 24, 2026**, that commercial aircraft are required to upgrade instrumentation to resist interference from nearby wireless signals. Having worked in close coordination with the Federal Communications Commission, the FAA published the final rulemaking language requiring all altimeters on commercial aircraft to meet certain next-generation performance standards for aircraft operating within the United States. Concerns that new 5G wireless technology could interfere with aircraft altimeters and other interconnected avionics prompted action in this regard, especially as 5G signal strength intensifies near major U.S. airports. Those within the aviation industry are expected to spend approximately $7 billion retrofitting aircraft to withstand 5G wireless signals. As mentioned in the FAA's Requirements for Interference-Tolerant Radio Altimeter Systems NPRM issued in January 2026, covered U.S. and foreign air carriers are required to install upgraded radio altimeters on a phased timeline. Carriers operating pursuant to 14 C.F.R. 121 and 14 C.F.R. 129 should anticipate the earliest compliance date as compared to other operators given that Part 121 and 129 operations account for the vast majority of flights within the United States. The FAA final rule is available here.

APHIS MOVING TO ELECTRONIC PAYMENTS ONLY

On July 13, 2026, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service ("APHIS") informed U.S. and foreign air carriers that all payments made in connection with the Agricultural Quarantine and Inspection ("AQI") program must be processed electronically effective August 2026. As the federal agency responsible for protecting against invasive plant pests and animal diseases at all U.S. ports of entry, APHIS administers the AQI program and charges user fees to cover the costs associated with intercepting foreign agricultural pests and diseases that could adversely affect U.S. agriculture, trade, and the environment. The Commercial Aircraft fee under the AQI program is currently $300.78 while the International Air Passenger fee is $3.84. Both amounts are scheduled to increase beginning **October 1, 2026**. Acceptable forms of electronic payment beginning **August 1, 2026**, will include ACH, debit card, credit card, or PayPal payments through www.pay.gov.

FAA CONTINUES TO PENALIZE U.S. AIR CARRIERS FOR DRUG AND ALCOHOL VIOLATIONS

On July 9, 2026, the FAA proposed a $65,000 civil penalty against Eastern Air Express over concerns that Eastern allowed several dozen employees to perform safety-sensitive functions without subjecting them to FAA-required random drug and alcohol testing. Pursuant to FAA regulations, carriers are required to conduct random drug and alcohol testing of all safety-sensitive employees—including pilots, flight attendants, aircraft dispatchers, and maintenance personnel. The minimum annual random drug testing rate is set at 50 percent of covered aviation employees. According to the FAA, Eastern Air Express permitted fourteen pilots, seven flight attendants, and five aircraft maintenance personnel to perform safety-sensitive functions between June and November 2024 even though those employees were not subject to required random drug and alcohol testing. In recent months, we have reported several other FAA enforcement actions undertaken for alleged noncompliance with drug and alcohol testing requirements so U.S. and foreign air carriers should be aware that this seems to be an issue of interest for regulators.

FAA MOVES TO PERMIT SUPERSONIC FLIGHTS OVER UNITED STATES

On July 2, 2026, the FAA published a Notice of Proposed Rulemaking which would permit civil supersonic flight over the continental United States for the first time in more than fifty (50) years. As currently drafted, the NPRM would replace the existing categorical prohibition on overland civil supersonic flight—in effect since 1973—with a noise-based certification framework. By moving away from the current categorical overland supersonic-speed prohibition to the FAA's proposed noise-based certification, aircraft capable of demonstrating acceptably low community noise levels would be authorized for supersonic overland operations which could lead to aircraft fleet modernization efforts among major U.S. air carriers. Given that several U.S. air carriers are already discussing purchase orders with supersonic aircraft manufacturers (e.g., Boom Supersonic), foreign air carriers with codeshare arrangements with U.S. partners should be generally aware of this NPRM due to the potential impact on codeshare passengers traveling to, from, or within the United States. If current FAA regulations prohibiting civil supersonic flight are indeed rescinded, major U.S. airports will also be tasked with analyzing noise-affected areas with potential legal challenges on the horizon from environmental groups and/or affected property owners who oppose commercial supersonic service in or around metropolitan areas within the United States. Following President Trump's "Leading the World in Supersonic Flight" order last year, the NPRM takes an important step towards enabling supersonic flights over the continental United States with the FAA planning to finalize noise certification standards by **June 6, 2027**.

AIR SAFETY DEBATE OVER THE ALERT ACT CONTINUES

The FAA recently took issue with a specific provision in the Airspace Location and Enhanced Risk Transparency ("ALERT") Act as applied to military flights. While U.S. lawmakers broadly support the ALERT Act to bolster aviation safety at airports nationwide by increasing requirements for aircraft tracking and communication using Automatic Dependent Surveillance-Broadcast ("ADS-B") technology, the FAA cautions that a loophole granting certain federal agencies, including the U.S. Department of Defense ("DoD"), broad leeway to switch off ADS-B equipment fails to ensure that all military aircraft are equipped with collision prevention technologies. If DoD aircraft are permitted to play by their own rules, the FAA worries that another fatal incident like the one that occurred at Ronald Reagan Washington National Airport last year could happen again. The FAA continues to urge House and Senate lawmakers to reconsider any legislative language which would permit DoD, in its sole discretion, to decide what anti-midair crash technology to install on its fleet.

AIR SAFETY LEGISLATION REMAINS KEY FOCUS ON CAPITOL HILL

On July 16, 2026, U.S. Senators Jeff Merkley (D-OR) and John Curtis (R-UT) introduced the bipartisan McCarty and Heideman Air Safety Enhancement Act which would, among other things, instruct the FAA to address urgent aviation safety issues by reviewing and updating existing safeguards for temporary obstructions in low-altitude airspace (e.g., slacklines). Following the fatal crash at Ronald Reagan Washington National Airport last year, House and Senate lawmakers are introducing more legislation aimed at improving air safety. Similar to the well-publicized Airspace Location and Enhanced Risk Transparency ("ALERT") Act which was introduced in response to the DCA crash and would require most commercial aircraft to be equipped with integrated Automatic Dependent Broadcast-In technology by **December 31, 2031**, this Act functions as a response to a fatal aviation incident last year where a helicopter collided with a slackline in Oregon killing four individuals onboard. If enacted into law, the Act seeks to improve pilot awareness, hazard markings, and reports for low-altitude obstructions while also requiring the FAA to modernize regulations concerning low-altitude airspace hazards.

DOT AND FAA SEEK ADDITIONAL $20 BILLION FOR AIR TRAFFIC CONTROL OVERHAUL

In recent weeks, DOT and FAA leadership are advocating for U.S. lawmakers to appropriate an additional $20 billion to continue modernizing air traffic control systems at major U.S. airports nationwide. While Transportation Secretary Duffy obtained some $12.5 billion in funding last year via the One Big Beautiful Bill Act, DOT and FAA are urging key House and Senate lawmakers to allocate additional funding to improve aging systems at major airports, including at Los Angeles International Airport, Washington Reagan National Airport, John F. Kennedy International Airport, among others. In addition to keeping passengers safe while flying through the skies, Transportation Secretary Duffy and FAA Administrator Bedford view the additional $20 billion in funding as critical to reducing congestion around major airports and mitigating chronic flight delays. A recent letter signed by Boeing, Airbus, Airlines for America, the U.S. Travel Association, and the Air Line Pilots Association echoed much of the same message and called on federal lawmakers to approve additional funding in the spirit of bipartisanship given that airport congestion, flight delays, and staffing shortages at air traffic control towers negatively impact millions of travelers regardless of political affiliation. While federal lawmakers ponder whether to allocate additional monies, DOT and FAA leaders continue to make progress on the so-called Brand-New Air Traffic Control System with plans to complete the project by the end of 2028.

APPEALING USDA ANIMAL CARE INSPECTION REPORTS

If you are a regulated facility or operator and are registered under the Animal Welfare Act ("AWA"), USDA Animal Care conducts inspections to determine whether such entities are compliant with AWA regulations and standards. To ensure fairness and accuracy in inspection reports, USDA Animal Care allows such entities to submit appeals on any inspection report before it becomes final. At the end of every inspection, the USDA Animal Care inspector will review results in an exit briefing with the facility. You may submit additional information beyond what is required to be available during an inspection, within 48 hours of the exit briefing. If concerns about the inspection report remain, meaning you believe the inspection report is incorrect, incomplete, or inconsistent with the AWA regulations, you may submit an appeal. You have 21 days from receipt of the report for routine, focused, and attempted inspections, and seven (7) days from receipt of the report for licensing inspections to submit your appeal. Once an appeal is submitted, USDA Animal Care will usually respond to routine inspection appeals within 30 days and to licensing inspection appeals within seven (7) days. USDA Animal Care's appeal decisions are final.

USDA ANIMAL CARE LAUNCHES TEXT MESSAGE FEATURE

On July 29, 2026, USDA Animal Care launched its new text message feature for licensees and registrants. The new feature allows Animal Care to send important notifications such as expiration reminders and annual report submissions directly to a mobile device. The new feature aims to improve convenience and will be one-way communication. To sign up you can submit a request online here or call Animal Care at (970) 494-7478. Up to three (3) mobile numbers can be designated for the new feature. Opting into the text message feature is optional.

USDA CONFIRMS PRESENCE OF NEW WORLD SCREWWORM IN THE U.S.

On June 3, 2026, the USDA confirmed the presence of New World Screwworm ("NWS") in the United States. NWS poses a significant threat to the well-being of any warm-blooded animal and, in rare cases, humans. NWS is the larvae (maggots) of the fly species *Cochliomyia hominivorax*. NWS enters animals through any break in the skin, such as surgical sites or tick bites. As you monitor the animals under your care, it is crucial to continue monitoring daily changes and documenting them to catch any problems early. Signs of infestation include visible maggots in wounds or body openings, blood discharge or a foul odor from wounds, and behavioral changes such as pain, distress, irritability, depression, head shaking, reduced appetite, and/or isolation. To reduce the risk of an NWS infestation, USDA recommends avoiding non-essential veterinary or husbandry procedures that cause wounds or breaks in the skin. USDA also recommends that all staff be trained to recognize the early signs of NWS. If you suspect you have an animal affected by NWS, you should immediately contact your veterinarian. While awaiting your veterinarian, it is important to isolate the affected animal(s) and reduce stress to minimize the risk of further injury. NWS is treatable but must be caught early enough to be treated. Visit screwworm.gov for more information.

DOT SIDES WITH CARRIERS ON THREE COMPLAINTS

On July 2, 2026, the Department of Transportation dismissed two complaints filed by Mike Borsetti.

The first complaint, dating back to April 2015, was filed against American Airlines. Borsetti alleged that American Airlines overcharged certain taxes for rewards flights, specifically claiming that the Italian Embarkation Tax should be 50 percent lower for children ages 2-12, yet he was charged the full adult rate. DOT found his claim regarding the tax discrepancy correct. However, the agency dismissed the complaint, citing "corrective measures" already taken by the airline and the "significant amount of time that has passed" since the incident.

The second complaint was filed on September 1, 2022, against JetBlue Airways. Borsetti alleged that JetBlue's Schedule Change Policy was unfair and deceptive, arguing that the policy gave "zero weight" to preserving the originally ticketed time. JetBlue countered, stating that his claim lacked merit and support. Additionally, because Borsetti's travel agent was able to reschedule his flight to a more desirable time at no extra cost, the DOT determined the complaint was moot. The agency sided with JetBlue, noting that the airline's policies were "readily available and accessible to consumers" and that no deceptive practices had occurred. Ultimately, DOT found no enforcement actions were warranted in either Borsetti case.

Finally, on July 29, 2026, DOT sided with Avianca dismissing Nicholas Brown's claim that the carrier engaged in unfair and deceptive practices by failing to honor its COVID-19 special provisions allowing penalty-free changes for award tickets. Brown claimed that in 2020, while attempting to reschedule an award ticket he had purchased through LifeMiles, Avianca failed to honor its penalty-free cancellation provision that was posted on its website. Avianca provided an Answer to Brown's claim stating the matter was resolved privately to the satisfaction of Brown. The DOT dismissal stated that Avianca was unable to make the change because the award ticket was purchased through LifeMiles. Avianca encouraged Brown to reach out to LifeMiles, however Brown filed a formal complaint instead. In response to the formal complaint, LifeMiles made the requested schedule change and waived additional taxes as a show of goodwill. The DOT found, based on the totality of the circumstances, that Brown's claim lacked evidence of unfair and deceptive practices because of "the parties' resolution, and the significant amount of time that has passed since the incident occured." Accordingly, no enforcement actions were taken.

***Editor's Note: Special thanks to Summer Associate Christine Gaab for her contribution to this Aviation Regulatory Update.**

ECKERT SEAMANS ATTORNEYS AT LAW

This Aviation Regulatory Update is intended to keep readers current on developments in the law. It is not intended to be legal advice. If you have any questions or require additional information, please contact Evelyn D. Sahr at 202.659.6622 or esahr@eckertseamans.com; Drew M. Derco at 202.659.6665 or dderco@eckertseamans.com; Tyler R. Myers at 202.659.6642 or trmyers@eckertseamans.com; Xander B. Silva at 412.566.6069 or xsilva@eckertseamans.com, or any other attorney at Eckert Seamans with whom you have been working.