

Descriptiveness Refusal under Section 2(e)(1)

The examiner with the U.S. Patent and Trademark Office (“USPTO”) initially refused Applicant’s application on the belief that Applicant’s mark is descriptive of a feature of Applicant’s services. Applicant respectfully submits that its mark BAGS FLY FREE is at most suggestive and not descriptive of the services offered under the mark. Whether a given mark is suggestive or merely descriptive depends on whether the mark “immediately conveys ... knowledge of the ingredients, qualities, or characteristics of the goods ... with which it is used,” or whether “imagination, thought, or perception is required to reach a conclusion on the nature of the goods.” *In re Joseph Gyulay*, 820 F.2d 1216 (Fed. Cir. 1987) (quoting *In re Quik-Print Copy Shops, Inc.*, 616 F.2d 523 (CCPA 1980)).

In determining whether a mark is suggestive or descriptive, there are a number of tests which may be applied. One such test is the “imagination” test, which notes that: “[a] term is suggestive if it requires imagination, thought and perception to reach a conclusion as to the nature of the goods. A term is descriptive if it forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods.” *Stix Prods., Inc. v. United Merchants & Mfrs., Inc.*, 295 F. Supp. 479 (S.D.N.Y. 1968).

Here, Applicant’s mark covers “transportation services, namely transporting passengers by air.” Applicant respectfully disagrees with the examiner’s belief that the mark BAGS FLY FREE that describes a feature that passengers’ luggage can be transported by air for no additional fees.” A “mental leap,” however, is required to understand the relationship between the mark BAGS FLY FREE and Applicant’s services. It is not an “instantaneous” connection, but in fact, requires thought and

imagination to understand the relationship between the two. *See, e.g. Investacorp, Inc. v. Arabian Investment Banking Corp.*, 931 F.2d 1519 (11th Cir. 1991), *cert. denied*, 502 U.S. 1005 (1991). The phrase “bags fly” creates a mental image of flying suitcases. There is, however, no instantaneous association of one specific service to Applicant’s mark because of the literal meaning of “bags fly,” which is nonsensical. For this reason, thought and imagination is required to understand the relationship between the Applicant’s mark and its services. *See, e.g. Investacorp, Inc.*, 931 F.2d 1519.

Common words, which are generic or descriptive, may be used together as a valid registered trademark. *See Ass’n of Co-operative Members, Inc. v. Farmland Indus., Inc.*, 684 F.2d 1134, 1140, 216 U.S.P.Q. 361 (5th Cir. 1982), *cert. denied*, 460 U.S. 1038 (1983); *see also In re Colonial Stores, Inc.*, 394 F.2d 549, 551-52, 157 U.S.P.Q. 382 (C.C.P.A. 1968) (noting that terms “Sugar” and “Spice” individually were descriptive but that the combined use of these terms as SUGAR & SPICE resulted in a composite mark that was not merely descriptive). Furthermore, in the determination of the validity of a mark, the mark is subject to the “anti-dissection” rule and “should be considered in its entirety.” *See Estate of P.D. Beckwith, Inc. v. Comm’r of Patents*, 252 U.S. 538, 545-46 (1920); *see also See 2 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition* § 11:27 (2011). For example, in *Citibank, N.A. v. Citibanc Group, Inc.*, the Eleventh Circuit held that the mark CITIBANC was not descriptive but was suggestive of a “modern or urban bank.” 724 F.2d 1540, 1545, 222 U.S.P.Q. 292 (11th Cir. 1984). Individually, the terms “city” or “citi” and “bank” are quite descriptive. Yet when combined as a single mark, the court construed the combined terms to be suggestive—requiring some degree of imagination to discern the nature of the goods or services

associated with the mark. As applied here, the words “BAGS,” “FLY,” and “FREE” may independently have a descriptive meaning, but when used together are suggestive of Applicant’s services.

Although a mark may impart some information about the physical nature of the goods or services associated with the mark, this alone will not prohibit it from becoming a registered mark. *See In re D.C. Comics, Inc.*, 215 U.S.P.Q. 394, 396 (C.C.P.A. 1982). Furthermore, the determination of whether a mark is merely descriptive when a term suggests a function or attribute is a determination that must be made on a case-by-case basis. *See In re Ampco Foods, Inc.*, 227 U.S.P.Q. 331 (T.T.A.B. 1985). Without more information other than provided in its mark, it is unclear what kinds of services are provided under Applicant’s mark, especially given the fact that the term “bags fly” within the mark could suggest various meanings.

A second test that is often used in determining whether a mark is descriptive or suggestive is the “competitor’s need” test. The analysis under this test is whether “the suggestion made by the mark [is] so remote and subtle that it is really not likely to be needed by competitive sellers to describe their goods.” *See* 2 McCarthy § 11:68; *see also Union Carbide Corp. v. Ever-Ready, Inc.*, 531 F.2d 366 (7th Cir. 1976), *cert. denied*, 429 U.S. 830 (1976). “As the amount of imagination needed increases, the need of [others to use] the mark to describe the product decreases.” 2 McCarthy § 11:68.

As applied here, competitors do not need to use the term “BAGS FLY FREE” to describe their air transportation services. *Miss World (UK), Ltd. v. Mrs. America Pageants, Inc.*, 856 F.2d 1445 (9th Cir. 1988). Even if a competitor provides air transportation services, there are infinite ways to describe such services without using the

term “BAGS FLY FREE”—for example, “no luggage fee,” “fee free luggage,” or “free bag transport.”

Applicant’s mark has acquired distinctiveness

Alternatively, Applicant claims that its BAGS FLY FREE mark has acquired distinctiveness or secondary meaning under § 2(f) of the Trademark Act. Such claim by Applicant “does not constitute a concession that the matter sought to be registered is not inherently distinctive.” *See* TMEP § 1212.02(b) (2011); *see also In re E S Robbins Corp.*, 30 U.S.P.Q.2d 1540 (T.T.A.B. 1992). “To establish secondary meaning, it must be shown that the *primary* significance of the term in the minds of the consuming public is not the product but the producer.” *Ralston Purina Co. v. Thomas J. Lipton, Inc.*, 341 F. Supp. 129, 173 U.S.P.Q. 820 (S.D.N.Y. 1972). With secondary meaning exists a “mental association in buyers’ minds between the alleged mark and a single source of the product.” 2 McCarthy § 15.5; *see also Nat’l Shoe Stores Co. v. Nat’l Shoes of New York, Inc.*, 131 A.2d 909, 913, 113 U.S.P.Q. 380 (Md. 1957).

Furthermore, the kinds of evidence submitted to prove acquired distinctiveness depends on both the nature of the mark as well as the unique facts in the case. “No single evidentiary factor is determinative.” TMEP § 1212.06. Circumstantial evidence such as the length of use, amount of advertising, and establishment of the mark in the marketplace may be considered in determining acquired distinctiveness. 2 McCarthy, § 15.30.

Section 2(f) of the Trademark Act, provides that proof of exclusive and continuous use of a mark by an applicant in commerce for five years may be accepted as *prima facie* evidence that the mark has acquired distinctiveness as used with an

applicant's goods/services in commerce. *See* 15 U.S.C. §1052(f); *see also* 37 C.F.R. §2.41(b). Applicant has used its BAGS FLY FREE mark exclusively and continuously since at least as early as 2009, which may be sufficient for establishing acquired distinctiveness. *See Barton v. Rex-Oil Co.*, 2 F.2d 402 (3d Cir. 1924), *appeal after remand*, 29 F.2d 474 (3d Cir. 1928) (holding that secondary meaning was achieved within two or three years of use and that the determination of secondary meaning "was controlled by the fact that such a meaning has been acquired in the mind of the public rather than by the time it has taken for that fact to become established").

An applicant may also submit actual evidence regardless of the length of use of the mark. *See* TMEP § 1212. Such evidence may consist of circumstantial evidence, such as the "amount and manner of advertising," "[e]xclusivity, length and manner of use," and an "[e]stablished place in the marketplace." 2 McCarthy § 15.30. Since commencing use of its mark, Applicant has invested over \$204 million in advertising in 2009, \$202 million in 2010, and \$237 million in 2011, which includes advertising for the BAGS FLY FREE services. *See Exhibit A*, which is page 81 from the 2011 Annual Report; *also available at* <http://southwest.investorroom.com/>. The radio and television advertisements associated with Applicant's BAGS FLY FREE mark have been broadcast thousands of times in large markets nationwide, including Dallas, Chicago, Los Angeles, San Antonio, Boston, and Denver, through various media outlets including network television and cable channels such as ESPN, BET and NFL Network. *See Exhibit B*.

Finally, the exclusive and continuous use of a mark is a factor considered in the acquired distinctiveness determination. "Whether or not [Applicant's] use of the claimed trademark has been exclusive is also material on the issue of secondary

meaning.” 1 Jerome Gilson & Anne Gilson LaLonde, *Trademark Protection and Practice* § 2.09[6][e] (2009). Because Applicant is the exclusive and continuous user of BAGS FLY FREE for air transportation services and because of the extensive marketing efforts of Applicant to promote its mark and the services provided thereunder, the public is likely to associate the BAGS FLY FREE mark with Applicant. Numerous Internet searches on Google and Yahoo of the phrase “BAGS FLY FREE,” conducted on July 22, 2012, show that all hits in at least the first two search pages reference Applicant’s mark. *See Exhibit C.*

In addition to these search results, a Lexis Nexis search also revealed numerous third-party articles that reference Applicant’s mark. These citations of BAGS FLY FREE in association with Applicant suggest that BAGS FLY FREE is mark that is identified with a single source—the Applicant. Attached as Exhibit D are excerpts from these articles and Internet materials. Such pervasive association of this mark with Applicant is strong support in establishing that the mark as acquired distinctiveness.

Conclusion

Applicant respectfully submits that given the above remarks and evidence provided its mark is suggestive and not descriptive of the services recited under the mark, or alternatively, has acquired distinctiveness as shown by the arguments and evidence provided herewith. Accordingly, Applicant requests that the examiner approve its application and allow it to move forward to publication.

EXHIBIT A

Table of Contents

Revenue recognition

Tickets sold are initially deferred as Air traffic liability. Passenger revenue is recognized when transportation is provided. Air traffic liability primarily represents tickets sold for future travel dates and estimated refunds and exchanges of tickets sold for past travel dates. The majority of the Company's tickets sold are nonrefundable. Tickets that are sold but not flown on the travel date (whether refundable or nonrefundable) can be reused for another flight, up to a year from the date of sale, or refunded (if the ticket is refundable). A small percentage of tickets (or partial tickets) expire unused. The Company estimates the amount of tickets that expire unused and recognizes such amounts in Passenger revenue once the scheduled flight date has passed. Amounts collected from passengers for ancillary services such as baggage and other fees are generally recognized as Other revenue when the service is provided, which is typically the flight date.

The Company is also required to collect certain taxes and fees from Customers on behalf of government agencies and remit these back to the applicable governmental entity on a periodic basis. These taxes and fees include U.S. federal transportation taxes, federal security charges, and airport passenger facility charges.

These items are collected from Customers at the time they purchase their tickets, but are not included in Passenger revenue. The Company records a liability upon collection from the Customer and relieves the liability when payments are remitted to the applicable governmental agency.

Frequent flyer programs

The Company records a liability for the estimated incremental cost of providing free travel under its (and AirTran's) frequent flyer program for all amounts earned from flight activity that are expected to be redeemed for future travel. The estimated incremental cost includes direct passenger costs such as fuel, food, and other operational costs, but does not include any contribution to overhead or profit.

Southwest and AirTran also sell frequent flyer points and/or credits and related services to companies participating in their respective frequent flyer programs. Funds received from the sale of these points and/or credits are accounted for using the residual method. Under this method, the Company has determined the portion of funds received that relate to free travel, currently estimated at 92 percent of the amount received under Southwest's Rapid Reward program and 100 percent of amounts received under AirTran's A+ Reward program as of December 31, 2011. These amounts are deferred and recognized as Passenger revenue when the ultimate free travel awards are flown or the amounts expire unused. The remainder of the amount received per points sold (the residual), which is assumed not to be associated with future travel, includes items such as access to the Company's frequent flyer program population for marketing/solicitation purposes on a monthly or quarterly basis, use of the Company's logo on co-branded credit cards, and other trademarks, designs, images, etc. of the Company for use in marketing materials. This residual portion is recognized in Other revenue in the period earned, which the Company has determined is the period in which it has fulfilled its obligation under the contract signed with the particular business partner, which is on a monthly or quarterly basis, upon sale, as the related marketing services are performed or provided.

Advertising

Advertising costs are charged to expense as incurred. Advertising and promotions expense for the years ended December 31, 2011, 2010, and 2009 was \$237 million, \$202 million, and \$204 million, respectively, and was recorded as a component of Other operating expense in the accompanying Consolidated Statement of Income.

EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark: BAGS FLY FREE
Serial No.: 85/559102
Int'l Class: 39
Filing Date: March 2, 2012
Applicant: Southwest Airlines Co.

DECLARATION UNDER 37 C.F.R. §2.20

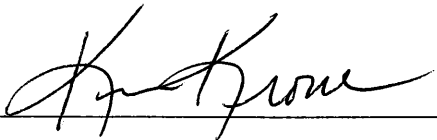
I, Kevin Krone, am authorized to sign this Declaration on behalf of Southwest Airlines Co. in connection with its trademark matters and have personal knowledge to the fact sets forth in this Declaration.

Applicant is the owner of U.S. Trademark Application Serial No. 85/559102 for BAGS FLY FREE, filed on March 2, 2012. Applicant has expended a great amount of resources in promoting its mark nationally through all media. Since 2009, the radio and television advertisements associated with Applicant's BAGS FLY FREE mark have been broadcast thousands of times in large markets nationwide, including Dallas, Chicago, Los Angeles, San Antonio, Boston, and Denver, through various media outlets including network television and cable channels such as ESPN, BET and NFL Network.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that the facts set forth in this

application are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Dated this 31st day of August 2012.

By: 

Name: Kevin Krone

Title: VP Marketing, Sales & Distribution

EXHIBIT C

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Did you know that Southwest Airlines does not charge for your first or second checked bag? That's right! Wh fees have become the norm amongst our ...

[www.southwest.com/bagsflyfree](#) - Cached

[At Southwest, Not All Bags Fly Free - Businessweek](#)

Mar 28, 2012... from charges for checking in luggage to levies for changing a ticket. "Bags Fly Free," Southv blares at nearly every advertising opportunity.

[www.businessweek.com/articles/.../at-southwest-not-all-bags-fly-free/](#) - Cached

[Images for "bags fly free"](#)



[Southwest Airlines: Bags Fly Free, But at What Cost? - Technorati ...](#)

May 9, 2011 ... I finally found something I hate more than a minivan.

[technorati.com/business/article/southwest-airlines-bags-fly-free-but/](#) - Cached

[Southwest Airlines' 'bags fly free' strategy pays off - Los Angeles Times](#)

Dec 19, 2009 ... To the frustration of many travelers, the nation's 10 largest airlines have collected about \$74 million in baggage fees in the third quarter of this ...

[articles.latimes.com/2009/dec/.../la-fi-travel-briefcase19-2009dec19](#) - Cached - Similar

[How Southwest Made Hay With "Bags Fly Free" - CBS News](#)

Jul 29, 2010 ... The conventional wisdom in the airline industry is that product differentiation doesn't work wh comes to coach flying. Many airlines have ...

[www.cbsnews.com/.../how-southwest-made-hay-with-bags-fly-free/](#) - Cached

[Videos for "bags fly free"](#)



[Southwest commercial "Bags Fly Free" - YouTube](#)

31 sec - Oct 25, 2009

Uploaded by stanbo87

[www.youtube.com/watch?v=XjsXEBuunzg](#)

v=XjsXEBuunzg



[Southwest - Ba YouTube](#)

31 sec - Jan 2, ;

Uploaded by Ac

[www.youtube.cc](#)

v=Cfy2xUP_zW

[Bags fly free with a little help from credit cards | Dallas-Fort Worth ...](#)

May 25, 2012 ... If you've got the right airline affinity credit card, you can save on airline fees and get nice pe

[www.dallasnews.com/.../20120525-bags-fly-free-with-a-little-help-from-credit-cards.ece](#) - Cached

[Delta Baggage Fees - Bags Fly Free on Delta](#)

Delta to the rescue! Just in time for our flights later this summer, Delta is offering free bags when you use the Platinum Delta SkyMiles American Express.

[www.mydollarplan.com/bags-fly-free-on-delta/](#) - Cached - Similar

[A Happier Holiday When Bags Fly Free! - Video | Nuts About ...](#)

Dec 19, 2011 ... And what could be jollier than your favorite holiday characters reenacting the infamous **Bags Free**® Commercial, complete with exposed ...
www.blogsouthwest.com/video/happier-holiday-when-bags-fly-free - [Cached](#)

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[bags fly free southwest](#) [american airlines](#)
[bags fly free airlines](#) [free luggage airline](#)
[bags fly free commercial](#) [cheap flights](#)
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[Bags Fly Free - Nuts About Southwest](#)

Apr 5, 2012 ... 'Tis the season to be jolly! And what could be jollier than your favorite holiday characters reenacting the infamous **Bags Fly Free**® Commercial, ...
[www.blogsouthwest.com/category/tags/bags-fly-free](#) - [Cached](#)

[Golf Bags Fly Free, Too! - Blog | Nuts About Southwest](#)

Aug 26, 2011 ... Many folks know that **Bags Fly Free** on Southwest Airlines, however what you might not know is that this includes golf bags. With the PGA Tour ...
[www.blogsouthwest.com/blog/golf-bags-fly-free-too](#) - [Cached](#)

[Bags fly free, Not crying babies on Southwest | The Sky Steward](#)

Nov 1, 2009 ... Have you ever been so frustrated by a crying baby on an airplane that you wished you could parachute out of the plane? A Southwest Airlines ...
[www.dearskysteward.com/.../bags-fly-free-on-southwest-not-crying-babies/](#) - [Cached](#)

[Bags Fly Free | Think with Google](#)

Anne Murray, Director of Integrated Marketing at Southwest Airlines, believes that innovation is the marketer responsibility. The "**bags fly free**" program was a ...
[www.thinkwithgoogle.com/insights/library/videos/bags-fly-free/](#) - [Cached](#)

[No Extra Fees - VRBO.com](#)

BAGS FLY FREE - meaning no hidden fees or 'extra baggage' - we don't charge a cleaning or handling fee. Keywords: Condo, beach, townhome, upscale, ...
[www.vrbo.com/285021](#) - [Cached](#)

[Videos for "bags fly free"](#)



[SWA Bags Fly Free Plane - YouTube](#)

30 sec - Jun 16, 2012
Uploaded by Insanegaming2010
[www.youtube.com/watch?v=5mwXJw9sqzc](#)



[Southwest Airlines Commercial - B: YouTube](#)

31 sec - Jan 9, 2012
Uploaded by nvi
[www.youtube.com/watch?v=qyzzfSbz4vw](#)

[Aviation Law Prof Blog: Bags Fly Free](#)

May 12, 2011 ... **Bags Fly Free**. Blog readers interested in the commercial success of Southwest Airlines may want to read Rachel Ang's working paper, Low ...
[lawprofessors.typepad.com/aviation/2011/05/bags-fly-free.html](#)

[Carryon Baggage](#)

Your first two **bags fly free** on Southwest Airlines? Size and weight limitations apply. Did You Know? Did You Know. Your first two **bags fly free** on Southwest ...
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[JetBlue - First Bag Free](#)

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[jetblue.com](#)

[Southwest Airlines - Bags Fly Free. First and Second Checked ...](#)

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[www.southwest.com/html/cs/landing/bags_flyfree.html](#) - [Cached](#)

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[www.southwest.com/...BAGS_FLY_FREE](#) - [Cached](#)

[Delta Baggage Fees - Bags Fly Free on Delta](#)

Delta to the rescue! Just in time for our flights later this summer, Delta is offering free bags when you use their Platinum Delta SkyMiles American Express

[www.mydollarplan.com/bags-fly-free-on-delta](#) - [Cached](#)

[Bags Fly Free - Southwest Vacations](#)

Did you know that Southwest Airlines does not charge for your first or second checked **bag**?

[www.southwestvacations.com/.../BagsFlyFree.aspx](#) - [Cached](#)

[How Southwest Made Hay With "Bags Fly Free" - CBS News](#)

The conventional wisdom in the airline industry is that product differentiation doesn't work when it comes to coach **flying**. Many airlines have used half ...

[www.cbsnews.com/8301-505123_162-43640103/...bags-fly-free](#) - [Cached](#)

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photo by Ground Ops Training Analyst Paul Thompson This photo was taken on May 19, 2010 in Dallas Love Field, TX, US , using a Nikon D90



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[How Southwest Measures the Success of "Bags Fly Free" - CBS News](#)

With Southwest deciding to forgo so much money in **bag** fees, how was it measuring success when the numbers aren't readily available? The VP of Marketing ...

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[Bags fly free, Not crying babies on Southwest | The Sky Steward](#)

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www.dearskysteward.com/1229/bags-fly-free-on-soutwest... - [Cached](#)

[Which airline do bags fly free? | ChaCha - Questions ...](#)

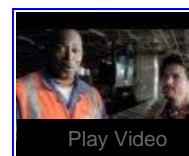
Which airline do **bags fly free**? ChaCha Answer: Southwest airlines doesn't charge for the first or second checked **bag**. However, you wi...

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[Southwest - Bags Fly Free - YouTube](#)

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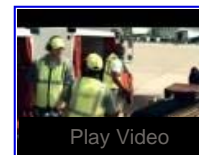
Also try: [southwest airlines bags fly free commercials](#), [more...](#)

[Southwest Airlines Baggage Commercial - Bags fly FREE - YouTube](#)

<http://www.advancebaggage.com/edit-article.do?id=114> Southwest now allow two (2) checked pieces of baggage per ticketed for **FREE** OF Charge.

www.youtube.com/watch?v=qyzzfSbz4vw - [Cached](#)

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[Southwest Airlines' 'bags fly free' strategy pays off - Los ...](#)

Southwest Airlines' 'bags fly free' strategy pays off TRAVEL BRIEFCASE [articles.latimes.com/2009/dec/19/business/la-fi-travel...](#) - [Cached](#)

[Video | Nuts About Southwest](#)

Why do they hate your bags so much? Remember at Southwest Airlines, **Bags Fly Free** so Grab Your **Bag**, It's On!

www.blogsouthwest.com/...airlines-bags-fly-free-commercial - [Cached](#)

[Southwest Planes Get "Bags Fly Free" Tattoo To Prove the ...](#)

When it comes to **bag** fees, Southwest is always fighting an uphill battle. Yes, customers love the fact that they don't charge fees for the first two checked bags ... crankyflier.com/2010/...bags-fly-free-tattoo-to-prove-the... - [Cached](#)

[Southwest Airlines...Bags Fly Free | The Luggage Blog](#)

Good news from the airlines today? The only airline we're hearing good news from is Southwest Airlines, headquartered in Dallas, Texas, flies over 104 theluggageblog.com/.../southwest-airlinesbags-fly-free - [Cached](#)

[At Southwest, Not All Bags Fly Free - Businessweek](#)

Southwest Airlines (LUV) has made a virtual art of skewering rivals over their fondness for fees, from charges for checking in luggage to levies for ...

www.businessweek.com/.../at-southwest-not-all-bags-fly-free - [Cached](#)

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[Why Southwest Airlines Rocks | BrandMill](#)

Southwest's 'bags fly free' marketing strategy is pure genius and is proving to be another major success for them.

www.brandmill.com/featured/southwest-airlines-rocks - [Cached](#)

[Southwest Airlines: Bags Fly Free | Snapshots | All MKC ...](#)

Sandra Howard, director of advertising, Southwest Airlines Co., discussed the strategy behind the airline's "bags fly free" messaging.

www.ana.net/michome2/miccontent/3349 - [Cached](#)



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[Southwest thrives on policy of free checked bags - USATODAY.com](#)

"Our low-fare brand, which has been underscored this year by the immensely successful '**bags fly free**' campaign, has driven traffic growth at Southwest in a time ...

[www.usatoday.com/travel/flights/2009-12-13-southwest...](#) - [Cached](#)

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[Southwest's "bags Fly Free" Campaign. Effective? — Civil ...](#)

I was wondering if anyone had any idea as to weather or not the WN marketing campaign to raise awareness that WN is the only U.S. carrier to allow two free bags ...

[www.airliners.net/aviation-forums/general_aviation/read...](#) - [Cached](#)

Ads related to "**bags fly free**"

[Jet Blue Baggage Rules](#)

Get Answers & References On Ask.com. Try Asking Now!

[Ask.com](#)

[Airline Exit Row Seats](#)

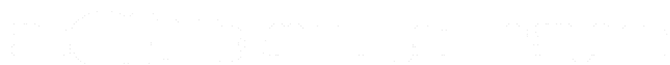
Do You Think Airlines Should Charge A Fee For Exit Row Seating?

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"bags fly free"

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EXHIBIT D

Southwest Planes Get “Bags Fly Free” Tattoo To Prove the Airline is Serious

When it comes to bag fees, Southwest is always fighting an uphill battle. Yes, customers love the fact that they don't charge fees for the first two checked bags, but those pesky Wall Street-types have long believed that they're leaving money on the table. Now, [Southwest is committing itself even more by getting a tattoo](#). Seriously. (Sort of.)

The rumors have long been out there that Southwest would have to give in and start charging bag fees. For the first time, Southwest could not resist the idea of making its commitment to the more affordable, more and cost-effective and couldn't really show any gain. In recent months, the marketing team has really ramped up the Bags Fly Free Fly Free campaign to beat it into people, and it's worked. Southwest now says it has gained share, and its stellar unit revenue gains shows some real strength. Much of this is not being scrubbing, but, I think the halo off the marketing campaign has undoubtedly helped.

Now, like a teenager who wants to prove his commitment to something, Southwest has decided to get a tattoo showing that it remains even more committed than ever. Take a look:



That's right. At least 50 airplanes will get this decal (ok, so it's not really permanent) with an arrow pointing to the belly promoting free bags. There will also be 1,000 bag carts to remind people that bags fly free. (Fortunately, the shirtless dudes will not be deployed to every airport.)

I like this move. It's cheap and easy advertising that hits people right when they're angriest. Sure, at places like Dallas Love and Chicago Midway where Southwest nearly has a monopoly, there won't be very many people on other airlines who will see this, but at all the other airports in the system, it will target anyone who looks out the terminal window or the window from their airplane.

March 29, 2012 Category: Advertising, B2B, Marketing Communications, Marketing Tips, Messaging

NO CHANGE FEES and BAGS FLY FREE: How clear is your value proposition?

Posted: Brad Dodge

Southwest Airlines works hard to differentiate itself from other airlines, using campaigns that establish a we're-on-your-side approach to consumers that often seems absent with other carriers. From sporting airplanes to taxi courtroom scenes to the single billboard message I see on my way to the airport, it's a smart message that conjures up many positive images in three short words.

[Read](#)

We don't represent airlines. We work with **B2B healthcare companies** of all sizes that are developing exciting products and services to enable seismic changes in the way the healthcare system operates. And these companies face tough challenges in communicating their message to their audience. Why?



No billboards. B2B healthcare companies do a limited amount of **advertising**, so the chance of a potential buyer seeing a key message on the way to the airport is about zero. Advertising is expensive, and unless you can be assured you're reaching your target market at an acceptable cost, it often doesn't make sense. A better use of ad dollars is on websites, industry sponsorships, and targeted outreach.

No pain points. Innovators often need to educate the market that their product category actually exists and will solve a problem they have—even though they don't know it. To grab a simple message as powerful as "no change fees," healthcare companies would have to use messages like "healthy is better" or "don't make patients wait" or "reduce IT costs" but you can see that it's just not the same. Pain points in B2B healthcare are complex, nuanced, and evolving.

No key outlets. Karl Rove gets his op-ed picked up by the *Wall Street Journal* every day because the general consumer is intrigued by the subjects he's discussing. But a B2B healthcare company isn't so fortunate. Unless the outlet's readership would be interested in the story, it's not going to get picked up. And even that health systems or payers use to improve operational efficiency aren't making it onto the Today Show. The solution is to establish a wide variety of outlets that are read by the target audience, and execute a comprehensive plan to get covered in them. Then develop messaging that reaches the widest audience.

No awareness. Companies often tell us "everyone knows us." Research always shows otherwise. **Brand awareness** for B2B healthcare companies is lower than you'd think. And if you're audience IS aware of you, are you sure your latest product and service innovations fall under that awareness umbrella? Consumers know about cars because they already drive one, and are bombarded with ads to encourage them to buy a different one. Consumers know Mitt Romney because he blankets the airwaves with ads and his communication strategy is to be on national news every day. B2B healthcare companies don't have that opportunity. Awareness comes from PR, social media, thought leadership, direct sales, trade shows, speaking engagements, and word of mouth resulting from exemplary execution.

No audience. The real target audience for B2B healthcare is small. If you sell to payers, you can do a 1,000 piece direct mail and you're all done. In order to get your target market to see your message over and over again until it's second nature, you have to be very diligent, creative, and careful. You don't want to take the AOL approach from the 90s and send them a new CD every 20 minutes. A comprehensive, integrated PR and marketing strategy will enable your company to reach even the micro-set of audiences effectively and profitably.

We don't know airlines. We know B2B healthcare. And I'm pleased to say we will NOT charge you change fees when you switch to our agency from the one you may be currently using.

MONDAY, NOVEMBER 8, 2010

Southwest: Bags Fly Free



BAG FLY FREE

This campaign coming from agency [GSD&M Idea City](#) out of Austin Texas, they seem to have laid the golden egg. They've been [Southwest's](#) agency of reference for quite a while now but people are now taking notice their dedicated work. Last year, Idea City launched a "Bags Fly Free" campaign in which they comically

November 1, 2010 12:51 PM

How Southwest Measures the Success of "Bags Fly Free"

By
Brett Snyder



... spent last week at Southwest Airlines (LUV) Media Day and one of the most memorable was in the first session. With Southwest deciding to drop its much-missed bag fee, how can airlines such as Southwest be successful? Kevin Korman, VP of marketing, sales, and distribution took us through it.

The proposition is that customers hate bag fees and Southwest does what's right by the customer. It would reduce why a new customer or was more business from an existing customer than push them away by charging hotel fees. But it's hard for Southwest to measure exactly how much business it gets directly because of bag fees, so it has to rely on carrying the a lot of its analysis.

Korman walked us through some survey results that were directly tied to the kickoff of the Southwest Bags Fly Free campaign. For example, two free bags have always been allowed, but it was only in the last couple years or so that the marketing really stepped up to take full advantage of the differentiation in other airlines added fees.

After the first TV ad went up, Southwest did some testing. The surveys were concentrated in cities where Southwest flew, but responses were from a mix of Southwest customers and non-customers. The results would make any marketer proud.

- 91 percent liked the ad
- 51 percent agreed that "It tells me the brand is not like other brands"
- 71 percent agreed that "It motivates me to choose this brand over other ones"
- 51 percent had a higher perception of Southwest brand as a result of the ad

Not too shabby, but how important was it to the decision-making process? Southwest surveyed people on what matters most when buying a ticket, and the top results weren't surprising. Everyone put safety first, but then business travelers put the usual schedule and price next. But before that was "does not charge unreasonable fees." For leisure travelers, price came second but then it was the the thing again, ahead of schedule. In parsing the results here we started seeing "unreasonable" already known results, but clearly fees are top of mind these days, so Southwest went to capitalize even further. The results continued to improve.

In one survey, Southwest was chosen to be the airline people consider flying first by 28 percent of respondents in Q3 2009. By Q3 2010, that had risen steadily up to 37 percent.

Another interesting comparison is to look at a survey that's been given over several years. Looking at this from 2006 to 2008 and then 2010, the increases are remarkable.

- "It's my favorite airline and I'd go out of my way to fly with them one of the first 10 consider flying" went from 42 percent to 58 percent with all of the gains coming from the created business travelers.
- "It's the best airline out there one of the better ones" went from 54 percent to 70 percent.
- "Really like and have a lot/ something to commend with" went from 54 percent to 68 percent.

The increase in brand identification was phenomenal and it does show there from a qualitative standpoint, that Southwest is doing things right.

Southwest Airlines Pricing Strategy: Creating a Unique Value Proposition via Upfront Pricing

Posted on June 5, 2011



*Not all round-trip fares. Round-trip fares include Southwest Airlines Co.

One month ago I was in Atlanta listening to a panel on trends in the travel industry. During the Q&A, the Delta representative was asked for their opinion of the Southwest acquisition of AirTran and if Delta thought the merger threatened to undercut them on current price points. While the representative first pointed out that Delta competes with Southwest on more than price (e.g., Delta offers a first class cabin, assigned seats, a large international network), she also said something very peculiar: Southwest's entry into Atlanta may actually help increase the prices for some routes.

But isn't Southwest a "low-cost discount airline"? Perhaps it carries that perception for consumers, but its ticket prices are no longer the lowest in the market. In fact, the average Southwest ticket price has jumped 25% in the past five years while the average ticket price for the domestic industry was up only 12% (Source: [WU's "Can't Call Southwest a Discount Airline These Days"](#)).

So how has Southwest raised prices but still maintained its reputation as a discount airline? Some of its marketing, but a lot of it is due with Southwest's pricing strategy.

In its marketing campaigns, Southwest proudly proclaims that "Bags Fly Free" and customers love "No-Change Fees". Other carriers charge \$25 per bag checked and change fees are typically \$200 on major carriers like Delta and United. While consumers complain that bag fees are petty charges, the dollars add up for the airlines ([last year checked bag revenue totaled \\$1.1 billion and was 1.4% of United's total revenue](#)). Airlines have subsidized their ticket prices (i.e., they charge for bags) in order to keep ticket price points low. Southwest on the other hand has chosen not to participate in this pricing strategy, and instead, it uses an upfront pricing strategy that presents a transparent and single-value proposition to the consumer.

One major reason that Southwest has higher prices than other airlines is that bag fees are baked into the ticket price. This means a round-trip ticket on Southwest that is slightly more expensive can still be worth the extra cash for a passenger checking bags. With that said, Southwest makes it very difficult to comparison shop, and that is the beauty of its pricing strategy.

Southwest does not make its tickets available on popular travel sites like [Expedia.com](#), [Hotels.com](#), and [Lastminute.com](#). This means to buy or view the price of a Southwest ticket, a customer must go to [Southwest.com](#).

While this sales tactic limits its potential audience, it also makes it a little bit more difficult for its potential customers to comparison shop (it also allows Southwest to reduce its base price as it pays no booking fees).

« [How Meaningful Marketing Can Help a Non-innovative Brand Linking Happiness and Meaning at Work and Home](#) »
 Tuesday 01.12.10

Southwest Airlines Profits from Free Bags

Bob Gilbreath

Did you know that Southwest Airlines does not charge for your first or second checked bag? That's right. While long lines have become the norm amongst our competitors, we don't believe in carrying unpleasant surprises on our Customers. That's right to our reputation on the forefront of the airline industry, that's just another way that we dare to be different.

At Southwest Airlines, we continue to put the Customer First. So what are you waiting for? It's time to get going. Time to get out there and take care of business – so you have a stress-free.

*Take a round-trip ticket (either "bag free" or "bag fee") on a Southwest flight today, and save up to \$100 round-trip when your **Bags Fly Free**™.

| CHECKED BAGGAGE FEE COMPARISON CHART | | |
|--------------------------------------|-----------|------------------|
| | SOUTHWEST | "THE OTHER GUYS" |
| 1ST BAG | FREE | \$30 (or more) |
| 2ND BAG | FREE | \$40 (or more) |
| 3RD BAG | FREE | \$150 (or more) |

Source: Southwest.com

My friend Matt Carson is one of the key leaders at P&G charged with helping the company move to "Purpose-Based Branding." If you haven't read about this before, the central idea is that brands must turn their equities and marketing toward the pursuit of higher-level goals. In his book on the topic, [22 Things You Sell, It's What You Stand For](#), Ray Spence writes that brands must challenge themselves to wholeheartedly focus on this purpose for existence. At P&G, people such as Matt Carson and Jim Stengel helped Pampers, for example, shift toward a Purpose of improving babies' development. Over the holidays, Matt shared a story of how Southwest Airlines—one of the central case studies in Spence's book—is continuing to profit from its purpose.

In his book, Spence tells the story of how Southwest Airlines rose to leadership in the late 1970s and 1980s on the heels of the government's deregulation of the airline industry. As the skies opened up to new competitors, Southwest took an underdog mentality up against the big, entrenched, oligopolistic players such as American, Pan Am, and TWA. The company's entire employee base embraced the underdog label, and rallied around their Purpose: to democratize air travel. This mentality drove the company to embrace shorter, point-to-point flights, enabled it to expand without unionization, and even showed in the high-quality, high-fun flight attendants and pilots. Southwest was not just another airline; it was a company on a mission to make flying more affordable and accessible. Today, Southwest is just behind Delta in total market capitalization, and did it without major mergers or dips into bankruptcy. The company was profitable again in 2008, while Delta felt a 40% net loss.

Based on Southwest's purpose, it is no surprise that the company decided *not* to go along with the rest of the industry crowd and add baggage fees to the price of a ticket. According to its CEO, Gary Kelly, Southwest was going up \$300 million in revenue by not simply joining its competitors in charging a fee that flies high, but can do little about. But the underlying, democratic blood still pumps through Southwest's veins, and it bucked the trend and asked ongoing shareholders by just saying "no."

What's more, Southwest saw the opportunity to promote the hell out of its commitment to "Bags Fly

At Southwest, Not All Bags Fly Free

By [Justin Bachman](#) on March 28, 2012

Southwest Airlines ([LUV](#)) has made a virtual art of skewering rivals over their fondness for fees, from charges for checking in luggage to levies for changing a ticket. “Bags Fly Free,” Southwest blares at nearly every advertising opportunity.

Free, that is, except when you fly on Southwest’s wholly owned subsidiary, AirTiem Airways, which charges \$20 to check one bag, \$25 for a second, and \$75 to change a ticket. (“We don’t charge you for changing your mind,” Southwest says on its [site](#).)

Southwest closed its AirTiem Holdings purchase on May 2, 2011, and received a [single operating certificate](#) from the Federal Aviation Administration on March 1, 2012. The first AirTiem Boeing 737 went into the paint shop earlier this month to get the Southwest livery. The two units have begun transferring domestic passengers and luggage to each other, and the first combined airport check-in areas will be introduced this summer.

AirTiem’s bag fees will outlast all those milestones—and could endure into the marriage’s third anniversary—as Southwest works to integrate its technology and other platforms. So when will the fees disappear, as Southwest has long pledged?

“It’s definitely something that’s up toward the top of the list,” Southwest spokeswoman Whitney Eichinger said Tuesday about aligning the brands’ fees. “You can’t say it’s something that in the next year it will be completed but it’s something we want to do.” In response to a question about whether the fees would dilute Southwest’s “Bags Fly Free” campaign, Eichinger cited Akron, Ohio, as an example: AirTiem flies there and Southwest does not.

The Dallas-based airline says AirTiem remains an independent operation for now, with a unique onboard experience (a business class, for one) and separate marketing and advertising campaigns. The airlines also maintain separate websites and transfer buyers from one to the other to complete certain itineraries, based on the carriers’ still-distinct networks. In the 2011 release announcing the deal’s closing, Southwest executives said they would need “several years to fully transition AirTiem into Southwest Airlines to become one airline.” Collecting baggage and other fees—or not collecting them—is also a technology matter, Southwest says. “You can’t just turn (a fee) off because you want to, because you have to figure how it works within the overall system,” Eichinger said.

There’s also a financial consideration: Bags and the other fees contribute to revenue. In the first quarter of 2011, the last period AirTiem reported results, that airline had “other revenues” of \$65.3 million, up nearly \$2 million from a year earlier. That category includes things such as baggage fees, better sent

Posted: February 06, 2012

Bags fly free (sort of)

Southwest has struck gold with three little words:

By David Street

For one, am susceptible to advertising, and this embarrassing fact is proven by the number of Southwest's I have at home. As a business owner without a marketing education, I try to learn the tricks by watching what other companies do.

most effective campaign of recent times has to be Southwest Airline's. I think about what their message is. It isn't low fares, it isn't transportation, and it isn't their service. Their marketing genius is summed up in three words: Bags Fly Free!

It is a great advertisement, one that, emphasizing what you cannot do means more about what you can do. The weight of baggage into their fare.

Is it a false statement? Not really, considering they don't break out the cost for luggage as a line item. But the veracity of the message isn't what we focus on, we focus on Southwest's message of fairness.

Their marketing aligns perfectly with their sales strategy though. Southwest doesn't sell tickets on Travelocity for a reason. If they did they'd be competing on price and, in order to appear on the first page of results, they'd use the same tactic the other airlines do: break out costs to be on the first page. Bag "free" are a direct result of the filters that sort fares by price, and Southwest has found a way to compete by not competing.

You don't really think airlines charge for bags, do you? A flight to Phoenix costs \$230 whether its \$175 plus a \$25 bag fee like Frontier and United, or \$230 with no fee like Southwest. In fact, of the flights I checked, Frontier with the bag fee is less expensive than Southwest without a fee 6 out of 12 times. But it's hard to find that out when the two fares are never side-by-side.

Southwest doesn't want them to be, either. Notice their ad campaign. It never says "Fly Southwest, we have lower fares." They know that is our faulty reasoning. They have a perfect message that leads us to make an assumption. They never said they were cheaper, they just said bags are free.

Southwest has also struck gold with the number of lines one commercial can use three words. Magellan, as we know, is the key to advertising, and most companies assume that means more

Table of Contents

Revenue recognition

Tickets sold are initially deferred as Air traffic liability. Passenger revenue is recognized when transportation is provided. Air traffic liability primarily represents tickets sold for future travel dates and estimated refunds and exchanges of tickets sold for past travel dates. The majority of the Company's tickets sold are nonrefundable. Tickets that are sold but not flown on the travel date (whether refundable or nonrefundable) can be reused for another flight, up to a year from the date of sale, or refunded (if the ticket is refundable). A small percentage of tickets (or partial tickets) expire unused. The Company estimates the amount of tickets that expire unused and recognizes such amounts in Passenger revenue once the scheduled flight date has passed. Amounts collected from passengers for ancillary services such as baggage and other fees are generally recognized as Other revenue when the service is provided, which is typically the flight date.

The Company is also required to collect certain taxes and fees from Customers on behalf of government agencies and remit these back to the applicable governmental entity on a periodic basis. These taxes and fees include U.S. federal transportation taxes, federal security charges, and airport passenger facility charges.

These items are collected from Customers at the time they purchase their tickets, but are not included in Passenger revenue. The Company records a liability upon collection from the Customer and relieves the liability when payments are remitted to the applicable governmental agency.

Frequent flyer programs

The Company records a liability for the estimated incremental cost of providing free travel under its (and AirTran's) frequent flyer program for all amounts earned from flight activity that are expected to be redeemed for future travel. The estimated incremental cost includes direct passenger costs such as fuel, food, and other operational costs, but does not include any contribution to overhead or profit.

Southwest and AirTran also sell frequent flyer points and/or credits and related services to companies participating in their respective frequent flyer programs. Funds received from the sale of these points and/or credits are accounted for using the residual method. Under this method, the Company has determined the portion of funds received that relate to free travel, currently estimated at 92 percent of the amount received under Southwest's Rapid Reward program and 100 percent of amounts received under AirTran's A+ Reward program as of December 31, 2011. These amounts are deferred and recognized as Passenger revenue when the ultimate free travel awards are flown or the amounts expire unused. The remainder of the amount received per points sold (the residual), which is assumed not to be associated with future travel, includes items such as access to the Company's frequent flyer program population for marketing/solicitation purposes on a monthly or quarterly basis, use of the Company's logo on co-branded credit cards, and other trademarks, designs, images, etc. of the Company for use in marketing materials. This residual portion is recognized in Other revenue in the period earned, which the Company has determined is the period in which it has fulfilled its obligation under the contract signed with the particular business partner, which is on a monthly or quarterly basis, upon sale, as the related marketing services are performed or provided.

Advertising

Advertising costs are charged to expense as incurred. Advertising and promotions expense for the years ended December 31, 2011, 2010, and 2009 was \$237 million, \$202 million, and \$204 million, respectively, and was recorded as a component of Other operating expense in the accompanying Consolidated Statement of Income.

These 4 Things Happen Right Before a Heart Attack.

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Roundup: Let consumers reject baggage fees

Updated 4/15/2012 5:01 PM | Comments: 3 | Recommend

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USA TODAY OPINION

Letters to the editor

USA TODAY receives about 300 letters each day. Most arrive via email, but we also receive submissions by postal mail and fax. We publish about 20 letters each week.

We often select comments that respond directly to USA TODAY articles or opinion pieces. Letters that are concise and make one or two good points have the best chance of being selected, as do letters that reflect the vibrant debate around the nation on a particular subject.

We aim to make the letters platform a place where readers, not just writers representing institutions or interest groups, have their say.

- [How to submit letters](#)

It seems odd that Sen. Charles Schumer is proposing legislation to express his outrage over Spirit Airlines' goofy decision to charge people up to \$45 for carryon bags ("Spirit's \$45 carryon fee meets resistance," Money, Tuesday).

READ ARTICLE: Spirit's \$45 carryon fee meets resistance

Are we all so in need of Big Brother that we can't make purchasing decisions related to airline travel without governmental assistance? Schumer and Transportation Secretary Ray LaHood, who also has vowed to address the issue, should recognize this for what it is: a consumer protection spin. Southwest may have great fares and "outrageous" carryon fees, while Spirit may spend millions touting that "bags fly free." For an industry that has lost billions in the past decade, changes are necessary for survival, and consumers will help them by voting with their pocketbooks.

If consumers are as outraged as the senator and the Transportation secretary, then no legislation will be necessary. Spirit will see travelers decrease and either drop the fee or their fares to get them back.

Either way, it seems we already have the most powerful regulatory tool available: consumers with other options available and a choice.

Steven L. Patterson, McMinnville, Ore.

Driving etiquette

After reading USA TODAY's article "A drive toward zero road deaths," I was struck by what was not stated. The main behavior we were taught, which was left out of the article and needs to be reinforced, is courtesy (News, Tuesday).

The behaviors that cause traffic fatalities mentioned in the article, including speeding, drunken or distracted driving, have all been belted around for years. However, no one addresses the main problem of drivers today. Drivers today often move around the roads erratically. They behave as if they are entitled to the roads and as if traffic lights are for everyone else.

Remember that drivers are not entitled to cut across three lanes of traffic to an exit. Drivers are not entitled to run a red light just because they don't feel like stopping. Drivers do not own the road; they share it.

What is needed to achieve zero road deaths is for common sense and courtesy to prevail.

David Henderson, Galloway, Ohio

You might also be interested in:

Ask Matt: What stock can I buy to make me \$50,000 richer? [\(USA TODAY.com in Money\)](#)

Aggressive "helicopter" parents force egg hunt cancellation [\(USA TODAY.com in News\)](#)

NCAA college basketball coaches' salary database [\(USA TODAY.com in Sports\)](#)

S.C. mom pleads guilty to murder in toddler sons' deaths [\(USA TODAY.com in News\)](#)

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UP TO \$120 ROUNDTrip**

RIDICULOUS



**ON SOUTHWEST AIRLINES
BAGS FLY FREE®!**

**RIDICULOUSLY
AWESOME**



Did you know that Southwest Airlines does not charge for your first or second checked bag? That's right! While bag fees have become the norm amongst our competitors, we've stayed true to our reputation as the maverick of the airline industry by not charging for bags. Your skis and golf bags fly free too!

So what are you waiting for? It's time to get going. Time to get out there and take care of business—or just have a little fun.

Take a stand against other airlines' bag fees. Book a Southwest flight today and **save up to \$120** roundtrip when your Bags Fly Free®.



CHECKED BAGGAGE FEE COMPARISON CHART

| | SOUTHWEST | "THE OTHER GUYS" |
|---------|-------------|---------------------------------|
| 1st Bag | FREE | \$25/one-way |
| 2nd Bag | FREE | \$35/one-way |
| 2 Bags | FREE | \$60/one-way \$120/roundtrip |

Source: farecompare.com

Southwest Baggage Policies

Terms & Conditions: *First and second checked bags. Baggage weight and size limits apply.

OTHER AIRLINES
CHARGE UP TO

\$120
ROUNDTrip



SOUTHWEST
AIRLINES

\$0

**BAGS FLY
FREE**

How Southwest Made Hay With "Bags Fly Free"

[illegible]

The problem with offering bags for free is that most people don't take that into account when they buy their tickets. When travelers go to buy tickets, there is nothing that talks about checked bag costs. A traveler might see a Southwest ticket for \$400 roundtrip and a ticket on any other airline for \$380, so he'll take the cheaper one, right? Often, yes, that's what happens. But it fails to take

As the largest sports league sponsor in the U.S., Southwest began plastering the country with its no bag fee mantra. According to the airline, this has paid off and customers are switching to Southwest more often. It fits quite well with the airline's customer-friendly brand, and it has created

Southwest's "bags fly free" policy is landing new customers

Southwest Airlines is luring new customers with its policy of not charging fees for checked bags.

By Julie Johnson
Chicago Tribune

CHICAGO — Southwest Airlines is landing new customers with its "bags fly free" strategy, even as passenger volume declines at other airlines.

The carrier's no-fee ad blitz persuaded Jen Berzer and her brother and sister, Aaron and Robin Hapwood, to fly Southwest.

They arrived at Chicago's Midway Airport on Thursday from Dallas with six large suitcases, including an empty one they planned to fill with Chicago Bears merchandise.

"It would have cost \$300 to check all these bags (on another carrier)," said Berzer, 31.

Southwest is the lone U.S. carrier to buck the trend of introducing fees to make up for ticket prices that have fallen to historic lows, and some analysts and investors remain skeptical of that contrarian course charted by Southwest CEO Gary Kelly.

For them, the \$500 million question is whether the Dallas-based discount carrier can attract a sufficient number of passengers to offset the money it is forgoing as other airlines roll out charges for everything from luggage to access to shorter security lines.

Southwest would gain \$450 million to \$500 million per year if it charged for the first and second checked bags, estimated AirlineForecasts LLC, a Virginia-based market research firm.

"There's no way Southwest is going to pick up enough traffic to compensate for the amount of revenue that the other airlines are garnering because of the baggage fees," said Robert Mertes, a commercial airline pilot and founder of AirlineForecasts.com.

Yet Southwest is confident its strategy is paying off. It believes about 2 percent to 3 percent of its customers are defectors from other carriers because of fees, said Kevin Krone, the carrier's vice president of marketing, sales and distribution.

"When you step back and look at the whole picture," Krone said, "to me it shows we're winning here, and winning new customers. To us, that's much more profitable than charging an existing customer to bring along their luggage."

Vaughn Cordie, a former airline pilot who is managing director and chief analyst at AirlineForecasts, calls Southwest's moves "a smart strategy." The discount carrier is gaining market share, even as it reduces its overall flying, by exploiting a competitive weakness at other airlines: the perception they are out to "nickel and dime" passengers with fees for services that were once part of the base airfare.

For Southwest, the bags-fly-free campaign caps a long history of moving aggressively during industry turmoil. This decade the discount carrier has emerged as the nation's largest domestic carrier by one measure, carrying about 20 percent of people who fly within the U.S. each year. Delta Air Lines, the world's largest carrier, still holds a slight lead over Southwest in domestic capacity measured by available seat miles, according to AirlineForecasts.



Taking advantage of fuel hedges, tight debt and high employee-productivity rates that kept its costs low, Southwest added planes and kept prices low. That pressure forced other airlines to also reduce pricing, to outsource domestic flying and shift resources to more lucrative international routes where low-cost carriers have little or no presence.

Since 1995, Southwest's domestic market share has increased by 45 percent, while the five network carriers have seen their combined passenger base shrink 25 percent. This year, Southwest will fly about 25 million more people than it did in 1995, while its rivals will haul a total of 62 million fewer passengers.

"It's indicative of Southwest winning the war of attrition in the domestic marketplace," Cordie said.

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