

As Agent For Airline?

In our Chans advice/14 dated 28/2/2002, we discussed the improper practice of stating the Non-Vessel Owning Carrier ("NVO") as the agent for the shipping company under the NVO's Bill of Lading. We are pleased to note the latest development that lesser and lesser NVOs are stating themselves "as agent for the Carrier: XXX Shipping Company" under their own Bills of Lading. It appears most of the NVOs are back to the correct position by stating themselves "as the Carrier" under their own Bills of Lading.

However, there is still a similar problem in the air freight industry. It is not uncommon to find that air freight forwarders sign off themselves "as the agent for the Carrier: XXX Airline Ltd." under their House Air Waybills ("HAWB"). In fact, the air freight forwarders have not obtained the authorisation from the concerned airlines that allows them to name the airlines as the Carriers under the HAWBs. The airlines will not be bound by such remarks unilaterally put down by the air freight forwarders on their own HAWBs. Effectively speaking, this is a deliberate misrepresentation. The airlines may take action against the air freight forwarders for damages.

The airlines will only be the Carriers under their own Master Air Waybills ("MAWB"). If the air freight forwarders are really appointed by the airlines as their agents, the air freight forwarders should only issue the airlines' MAWBs but not their own HAWBs. The airlines would never agree to act as the Carriers under the contracts of carriage as evidenced by the air freight forwarders' HAWBs.

There are also other potential problems resulted from the improper issue of HAWBs by signing off the air freight forwarders as the agents for the airlines. The HAWBs are the best evidence of the contracts of carriage between the air freight forwarders and the cargo interests. If the air freight forwarders even deny themselves as the Carriers under the contracts, they would probably lose their rights to rely on the HAWB terms to claim the Shippers for payment of outstanding freight charges. In the cargo loss or damage claim cases, the air freight forwarders would even not able to rely on the HAWB terms to limit their liability to say US\$20/kg of the gross weight of the goods lost or damaged.

All in all, we recommend the air freight forwarders sign off themselves as the Carriers when they issue their own HAWBs.

Please feel free to call us if you have any questions.

Simon Chan and Richard Chan

Coming from a strong shipping and air transport background, Richard and Simon have ample experience in designing liability and property insurance for forwarders, logistic service providers, shipping companies, feeder operators, air cargo terminals, container terminals, and container lessors in Asia Pacific. Richard and Simon are independent risk management advisors able to offer full array of risk management services, including full-scale professional claims handling, loss prevention advice and prudent sourcing of insurance for your ease of mind. Their blended transport and insurance expertise are unique in the market. They are eager to answer whatever claims handling and insurance needs you may have as a transport operator.