

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

**GUIDANCE ON THE USE OF THE TERM “FREE” IN AIR FARE ADVERTISEMENTS AND
DISCLOSURE OF CONSUMER COSTS IN AWARD TRAVEL**

NOTICE

This notice provides guidance to airlines and ticket agents on when they may appropriately advertise air fares as “free.” It also provides guidance on disclosure of costs that carriers may assess in connection with the booking of frequent-flyer award travel. The advice on “free” fares applies to all those that market fares for air transportation, air tours, or tour components in connection with air transportation.

Carriers and their agents, we are aware, have held out fares and continue to hold out fares that are described as “free” when in fact the consumer, in order to take advantage of the offer, is liable for the payment of significant additional mandatory charges. These offers usually occur in the context of frequent-flyer award travel or promotions for airline branded credit cards and may be disseminated by e-mail advertisements to award club members. The additional charges assessed consumers, which in some cases have amounted to several hundred dollars, are generally government-imposed fees and taxes, but may include as well a variety of carrier-imposed surcharges and processing fees.¹

The Department’s revised full fare advertising rule, 14 CFR 399.84, which became effective on January 26, 2012, prohibits any advertising or solicitation for passenger air transportation, a tour, or tour component that does not state the entire price to be paid by the consumer for such air transportation, air tour, or tour component. The Office of Aviation Enforcement and Proceedings (Enforcement Office) interprets this requirement as proscribing advertising a fare as “free” if the fare does not include all government-imposed taxes and fees as well as mandatory carrier-imposed charges. If a carrier advertises an air fare as “free,” then the carrier cannot assess the consumer any monetary charge when the consumer attempts to obtain the “free” travel. Advertisements relating

¹ Our enforcement policy has always precluded breaking out of carrier-imposed surcharges from advertised prices in general, and this prohibition has applied to advertisements related to basic frequent flyer award travel. *See* Notices of December 19, 2001 and September 4, 2003.

to mileage awards may not, for example, state or imply that a given mileage amount may be exchanged for a free ticket in a specific market unless the award actually does allow the consumer to travel without any financial cost. It should be noted, however, that nothing in the Department's full fare advertising rule or this guidance would prevent a carrier from truthfully stating that air transportation may be obtained "free of carrier charges" or "without carrier charges," provided that taxes and government fees are properly disclosed.

Government fees and taxes collected in connection with frequent-flyer award travel can be substantial, and a failure to properly disclose them may be highly deceptive to consumers. For example, in the New York-London market, the total government fees and taxes for a round-trip flight, in a recent review, was \$216, consisting of a U.S. Departure Tax of \$33.40, Sept. 11 Security Fee of \$2.50, a U.S. Passenger Facility Charge of \$4.50, U.S. APHIS fee of \$5.00, U.S. Immigration fee of \$7.00, U.S. Customs fee of \$5.50, UK Passenger Duty of \$103.30, and UK Passenger Service Charge of \$54.80. In total, these fees amount to more than 20 percent of the cost of an economy class ticket.

If there are government fees or taxes or mandatory carrier charges such as processing fees that must be paid by consumers in frequent-flyer awards programs, then the respective amounts or a range of those amounts must be shown on carrier websites together with the mileage award levels. They must, moreover, be given the same prominence as the mileage award requirements. It would also be acceptable for a carrier to use the "from" method of displaying the amount of government taxes and mandatory carrier charges. For instance, a carrier or agent may advertise that a certain amount of award miles is enough for a domestic or international flight with at least the minimum amount of government taxes and fees and mandatory carrier imposed fees that could apply to that itinerary.²

We will consider a failure to adhere to this guidance, either with respect to use of the term "free" in advertisements and the disclosure of costs imposed on consumers in connection with frequent-flyer award travel, to constitute an unfair and deceptive trade practice and an unfair method of competition in violation of 49 U.S.C. 41712 and a violation of the full fare advertising rule, as recently amended. We will provide entities covered by this notice 60 days to modify their promotional material after which we will pursue enforcement action in appropriate cases.

² Thus, in a carrier table that shows minimum mileage amounts required for roundtrip award travel within the U.S., it would be acceptable to say "25,000 miles plus from \$5.00 in gov. fees," if in fact those amounts are accurate.

Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), 1200 New Jersey Ave., S.E., Washington, D.C. 20590.

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