



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

Issued by the Department of Transportation
On the Thirtieth day of August, 2012

Travel Today, Inc.

**Violations of 14 CFR 399.84 and
49 U.S.C. § 41712**

Docket OST 2012-0002

Served August 30, 2012

CONSENT ORDER

This order concerns advertisements by Travel Today, Inc., that violated the advertising requirements specified in 14 CFR 399.84 and the statutory prohibition against unfair and deceptive practices and unfair methods of competition, 49 U.S.C. § 41712. It directs Travel Today to cease and desist from future similar violations and assesses the ticket agent a compromise civil penalty of \$10,000.

Applicable Law

As a ticket agent, Travel Today is subject to the advertising requirements of Part 399 of the Department's rules. Pursuant to 14 CFR 399.84, airlines and ticket agents advertising airfares must state the full price to be paid by the consumer. Prior to January 26, 2012, the Department allowed taxes and fees collected by carriers and ticket agents, such as passenger facility charges and departure taxes, to be stated separately from base fares in advertisements, so long as such taxes and fees were levied by a government entity, were not *ad valorem* in nature, i.e., not assessed as a percentage of the fare price, were collected on a per-passenger basis, and their existence and amounts were clearly indicated at the first point in the advertisements where a fare was presented so that consumers could immediately determine the full fare to be paid. In print advertisements, it was permissible to place an asterisk or other symbol proximate to the

advertised fare that referred the reader to the bottom of the advertisement where the nature and amount of those taxes and fees that could properly be stated separately were shown.¹

The Department's post-January 26, 2012, interpretation of the full-fare advertising rule requires that advertisements specifying airfares and tour package prices with an air component include in the advertised prices all taxes and government-imposed fees and all mandatory airline- and ticket agent-imposed fees. Although an advertised price must now include all mandatory taxes and fees, air carriers and ticket agents are still free to provide consumers with a description of taxes and government-imposed fees and carrier-imposed fees.² However, such descriptions may not be false or misleading, may not be displayed as prominently as the total price, may not be presented in the same or larger size as the total price, and must provide cost information on a per-passenger basis that accurately reflects the cost of the item covered by the charge. Violations of section 399.84, both before and after January 26, 2012, constitute unfair and deceptive practices and unfair methods of competition in violation of section 41712.

Facts

Travel Today failed to meet the requirements of section 399.84 by advertising fares that did not include taxes and fees in its print advertisements and on its website. Specifically, in the fall of 2011, in *Express India*, Travel Today advertised fares from Washington, D.C., to India that impermissibly separated a carrier-imposed fuel surcharge from those fares, identifying it, as well as certain taxes that were also excluded, simply as being "extra".

In addition, for a period of time after January 26, 2012, Travel Today's website failed to comply with the Department's current full-fare advertising rule. The "special offers" section of Travel Today's website advertised fares that did not include additional taxes and fees. Furthermore, for a longer period of time after January 26, 2012, in response to consumer searches using the main booking path on its website, Travel Today displayed a fare matrix that did not include all taxes.

Mitigation

In mitigation, Travel Today states that it takes seriously compliance with DOT rules and its obligations to advertise and sell airfares to consumers in a transparent and lawful manner, that it in no way intended to mislead customers, and that it at all times cooperated with the Department in resolving this matter. Upon notice of the non-conforming fare advertisements, Travel Today further states that it pulled the advertisements from publication and removed them from its website.

¹ See, e.g., *Nuevo Mundo Travel Agency, Inc., Violations of 49 U.S.C. § 41712 and 14 CFR 399.80(f) and 399.84*, Order 2010-7-17 (July 22, 2010).

² Such descriptions, if accurate, can serve the public interest by allowing consumers to discern the portion of the total cost that is attributable to government sources.

Decision

The Department views compliance with the Federal aviation statutes and regulations very seriously. The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered the information provided by Travel Today and continues to believe that enforcement action is warranted. The Enforcement Office and Travel Today have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, Travel Today consents to the issuance of this order to cease and desist from future violation of 49 U.S.C. § 41712 and 14 CFR 399.84, and to the assessment of \$10,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

This compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest.

This order is issued under the authority contained in 49 CFR Part 1.

ACCORDINGLY,

1. Based on the above information, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Travel Today, Inc., violated 14 CFR 399.84 by advertising fares that did not state the full price to be paid for the air transportation;
3. We find that by engaging in the conduct described in ordering paragraph 2, Travel Today, Inc., engaged in unfair and deceptive trade practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order Travel Today, Inc., and all other entities owned or controlled by, or under common ownership and control with Travel Today, its successors and assigns, to cease and desist from further similar violations of 49 U.S.C. § 41712 and 14 CFR 399.84;
5. We assess Travel Today, Inc., a compromise civil penalty of \$10,000 in lieu of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3. Of this total penalty amount, \$5,000 shall be due and payable in ten equal installments of \$500 each. The first payment of \$500 shall be due and payable on or before October 1, 2012, the second installment due and payable on or before November 1, 2012, the third installment due and payable on or before December 1, 2012, the fourth installment due and payable on or before January 1, 2013, the fifth installment due and payable on or before February 1, 2013, the sixth installment due and payable on or before March 1, 2013, the seventh installment due and payable on or before April 1, 2013, the eighth installment due and payable on or before May 1, 2013, the ninth installment due and payable on or before June 1, 2013, and the last installment due and payable on or before July 1, 2013. The remaining portion of the civil penalty amount, \$5,000 shall become due and payable immediately if Travel Today, Inc., violates this order's cease and

desist provision within one year following the date of issuance of this order or fails to comply with this order's payment provisions; and

6. Payments shall be made through Pay.gov to the account of the U.S. Treasury. Payments shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Travel Today, Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.

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

BY:

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Assistant General Counsel for
Aviation Enforcement and Proceedings

(SEAL)

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