



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

Issued by the Department of Transportation  
On the Eleventh day of October, 2012

**Qantas Airways Limited**

**Violations of 14 CFR 399.85(b)  
and 49 U.S.C. § 41712**

**Docket OST 2012-0002  
Served October 11, 2012**

**CONSENT ORDER**

This order concerns violations by Qantas Airways Limited (Qantas) of 14 CFR 399.85(b) and the statutory prohibition against unfair and deceptive practices, 49 U.S.C. § 41712. It directs Qantas to cease and desist from future similar violations and assesses the carrier \$100,000 in civil penalties.

**Applicable Law**

Pursuant to 14 CFR 399.85(b), a covered carrier is required to clearly and prominently disclose on the first screen in which the carrier offers a fare quotation for a specific itinerary selected by a consumer that additional fees for baggage may apply and where consumers can view the applicable baggage fees. This rule ensures that consumers are not deceived and are given accurate and complete information on which to base their travel purchase decisions. Violations of section 399.85(b) constitute unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712.

### **Facts**

As a foreign air carrier, Qantas is subject to the prohibition on engaging in unfair and deceptive practices set forth in 49 U.S.C. § 41712 and to the baggage fee disclosure requirements of 14 CFR 399.85(b). For a period of time after January 24, 2012, Qantas violated section 399.85(b) by failing to disclose on the first screen in which it offers a fare quotation for a specific itinerary that additional airline fees for baggage may apply and where consumers could see those fees. By violating section 399.85(b), Qantas also engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.

### **Mitigation**

Qantas states that it includes the carriage of carry-on baggage and two pieces of checked baggage in its fares to and from the United States at no additional charge. Qantas further states that it has at all times provided baggage information on its website in a manner that is accurate and complete and readily accessible to customers, including on its “Review Your Flights” page.

Qantas states that when it first became aware that the Enforcement Office did not consider its baggage fee disclosure to be compliant on February 2, 2012, it moved promptly to clarify the required changes and implement them through its outsourced service provider as quickly as possible, while keeping the Enforcement Office informed of its efforts. Working through its service provider, Qantas states that it placed the required new link on the “Select Your Flights” page on April 3, 2012, in addition to the disclosures already provided on the website.

Qantas has at all times shown a willingness to comply with the requirements specified by the Department and states that it has not received any consumer complaints regarding the placement of the baggage information prior to the implementation of the link on the “Select Your Flights” page on April 3, 2012.

### **Decision**

The Enforcement Office has carefully considered the information provided by Qantas Airways Limited, but continues to believe enforcement action is warranted. The Enforcement Office and Qantas Airways Limited have reached a settlement of this matter in order to avoid litigation. Without admitting the violations described above, Qantas Airways Limited consents to the issuance of this order to cease and desist from future violations of 14 CFR 399.85(b), and 49 U.S.C. § 41712 and to the assessment of \$100,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent

to future similar unlawful practices by Qantas Airways Limited and other sellers of air transportation.

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 Qantas Airways Limited violated 14 CFR 399.85(b) by failing to clearly and prominently disclose on the first screen in which the carrier offers a fare quotation for a specific itinerary selected by a consumer that additional airline fees for baggage may apply and where consumers can view the applicable fees;
3. We find that by engaging in the conduct described in ordering paragraph 2, above, Qantas Airways Limited engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712;
4. We order Qantas Airways Limited and all other entities owned or controlled by, or under common ownership and control with Qantas Airways Limited, its successors, affiliates, and assignees, to cease and desist from further violations of 14 CFR 399.85(b) and 49 U.S.C. § 41712;
5. We assess Qantas Airways Limited \$100,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total penalty amount, \$50,000 shall be due and payable within thirty (30) days of the date of the issuance of this order. The remaining portion of the civil penalty amount, \$50,000, shall become due and payable immediately if, within one year of the date of issuance of this order, Qantas Airways Limited violates this order's cease and desist provisions or fails to comply with this order's payment provisions, in which case Qantas Airways Limited may be subject to additional enforcement action for violation of this order; and
6. We order Qantas Airways Limited to pay the penalty 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 Qantas Airways Limited 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:**

**SAMUEL PODBERESKY**  
**Assistant General Counsel for**  
**Aviation Enforcement and Proceedings**

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