



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

Issued by the Department of Transportation
on the 9th day of February, 2022

FlightHub Group Inc., et. al.

**Violations of 49 U.S.C. § 41712 and
14 CFR Part 399**

Docket DOT-OST-2022-0001

Served February 9, 2022

CONSENT ORDER

This consent order concerns violations by FlightHub Group Inc. and its subsidiaries¹ of the Department’s aviation consumer protection requirements in 49 U.S.C. § 41712; 14 CFR 399.80(f); 14 CFR 399.84(a); and 14 CFR 399.85(c). This order directs FlightHub Group to cease and desist from future violations of 49 U.S.C. § 41712 and 14 CFR Part 399 and assesses a compromise civil penalty of \$300,000.

Background and Applicable Law

During the relevant period, FlightHub Group operated as a flight-centric online travel agency business selling and arranging for flights to, from, or within the United States. As a ticket agent, FlightHub Group is subject to 49 U.S.C. § 41712, prohibiting unfair and deceptive practices in the sale of air transportation. It is also subject to the Department’s consumer protection regulations implementing section 41712, codified in 14 CFR Part 399.

For the purposes of section 41712, the Department employs the definitions of “unfair” and “deceptive” set forth in 14 CFR 399.79. Under section 399.79, a practice is “unfair” to consumers if it causes or is likely to cause substantial injury, which is not reasonably avoidable,

¹ Parent company FlightHub Group, Inc. with and through its wholly-owned Canadian and U.S. subsidiary entities operated an online travel agency business. Hereinafter, “FlightHub Group” means FlightHub Group Inc., Justfly Inc., Justfly Corp., and SSFP Corp.

and the harm is not outweighed by benefits to consumers or competition. A practice is “deceptive” to consumers if it is likely to mislead a consumer, acting reasonably under the circumstances, with respect to a material matter. A matter is material if it is likely to have affected the consumer’s conduct or decision with respect to a product or service. Proof of intent is not necessary to establish unfairness or deception for the purposes of 49 U.S.C. § 41712(a).

The Department’s regulations applicable to ticket agents state in 14 CFR 399.80(f) that misrepresentations as to fares and charges for air transportation or services in connection therewith are regarded as unfair or deceptive practices or unfair methods of competition. Under 14 CFR 399.80, misrepresentation includes any statement or representation made in advertising or made orally to members of the public which is false, fraudulent, deceptive or misleading, or which has the tendency or capacity to deceive or mislead. Failure to comply with 14 CFR 399.80 also violates the prohibition of unfair or deceptive practices, or unfair methods of competition, under 49 U.S.C. § 41712.

Under 14 CFR 399.84(a), advertisements or solicitations by tickets agents that state a price for air transportation must state the entire price to be paid to the ticket agent. Sellers of air transportation have long been on notice that as a corollary to the requirement that advertisements state the full price to be paid by the consumer, a seller of air transportation must have a reasonable number of seats available at the advertised price when a fare is advertised.² Failure to have a reasonable number of seats available at the advertised fare violates section 399.84 and constitutes an unfair and deceptive practice under 49 U.S.C. § 41712.

In addition, pursuant to 14 CFR 399.85(c), ticket agents must include information regarding the passenger’s free baggage allowance and/or the applicable fee for a carry-on bag and the first and second checked bag on all e-ticket confirmations for air transportation, within, to or from the United States, including the summary page at the completion of an online purchase and a post-purchase email confirmation. Failure to give the appropriate notice regarding the applicable baggage fees as described in section 399.85(c) is an unfair and deceptive practice within the meaning of 49 U.S.C. § 41712.

Facts and Conclusions

FlightHub Group relied on online platforms for its business including JustFly.com, which served U.S. consumers. Agents representing FlightHub Group brands were available to the public, including users of its online platforms, by phone to book flights or seek customer service. An investigation by the Office of Aviation Consumer Protection (OACP) related to FlightHub Group’s brand “JustFly,” revealed that FlightHub Group engaged in advertising and business practices that violated the Department’s consumer protection rules and the relevant statute regarding unfair and deceptive practices by ticket agents.

I. Fare Advertising Violations

² See, e.g. *Orbitz Worldwide, LLC.*, Order 2011-10-5 (October 17, 2011) (“advertising a fare that is no longer available or failing to have a reasonable number of seats available at the advertised fare violates 14 CFR 399.84 and 49 U.S.C. §41712”).

Banner advertisements for JustFly.com presented fares as available that consumers were not able to book on the website. During its initial investigation, OACP observed that after clicking through the banner advertisement to JustFly.com, the “cheapest fare” available for the advertised trip could be 30% more expensive than initially advertised in the banner. OACP monitored websites that frequently display banner advertisements for JustFly.com and observed the same trip advertised for a period of more than 24 hours. For that entire period of time, only a higher priced fare was available on JustFly.com for the advertised trip. FlightHub Group violated 14 CFR 399.84(a) and 49 U.S.C. § 41712 when it failed to ensure that a reasonable number of fares were available at the time banner advertisements were made, advertising a fare that was no longer available, therefore failing to display the entire price to be paid for air transportation. FlightHub Group has since added the language “fares found yesterday” to banner advertisements.

Fares advertised on JustFly.com were also not available for booking, which was the subject of consumer complaints reviewed by the Department. During its investigation, OACP investigators observed fares advertised on JustFly.com that it discovered were not available to consumers. Specifically, JustFly.com displayed “Phone-only Fares” as the cheapest fare in a potential customer’s trip search results. Advertisements for “Phone-only Fares” informed the potential customer that the deal was only available over the phone and to call JustFly.com immediately to take advantage of the advertised price. Frequently language would specify the number of tickets available, for example, “Only 2 tickets left at this price!” OACP learned that when web-users would immediately call the number provided on JustFly.com and ask for the advertised price, JustFly.com representatives sometimes told callers that the fare advertised was limited and offered air transportation at a higher price. At times, only after the caller indicated he or she would not accept that price did the representative eventually offer the “Phone-only Fare” or a lower price if the caller would proceed to purchase the ticket on the call. This response was consistent with a procedure described in a training document for FlightHub Group phone representatives reviewed by OACP.

FlightHub Group violated 14 CFR 399.84(a) and 49 U.S.C. § 41712 when it advertised fares that were not available for booking and, therefore, did not state the entire price to be paid for air transportation. FlightHub Group violated 14 CFR 399.80(f) when representatives holding out air transportation on its behalf made misleading statements regarding the availability of fares. FlightHub Group’s violations of section 399.80(f) are also unfair and deceptive practices in violation of 49 U.S.C. § 41712.

II. Misrepresentations Regarding Cancellation and Refund Charges

Booking pages on JustFly.com prominently displayed “free cancellations” or “free 24 hour cancellation,” above itineraries before purchase. Despite these displays, some customers were charged for cancellation. If a potential customer hovered his or her cursor over the text “free cancellations,” during booking, he or she would see a small “pop-up” that stated “*JustFly’s standard cancellation fees apply. If you’d like extra time to change your mind, opt-in to our Extended Cancellation Policy, for \$19.99 per passenger, this allows you the option to cancel your reservation for a full 24-hour period without having to pay JustFly’s standard cancellation fees.*” JustFly.com customers that had viewed the claim “free cancellations” were subject to a standard cancellation fee, or a \$19.99 charge at booking, to cancel within 24 hours. Complaints

reviewed by the Department show that customers incurred a fee to cancel their reservation within 24 hours of booking, despite the prominent claim of free cancellations.

In addition, JustFly.com's terms and conditions stated "*even if your ticket is nonrefundable.... within 24 hours of purchase, you may cancel your booking and receive a full refund, subject to our cancellation fees.*" (emphasis added). However, depending on the fare rules of the ticket, some customers would be subject to airline penalties for cancelling within 24 hours and would only be able to receive airline credit for the cancellation.

These statements made on JustFly.com were misleading to consumers regarding charges for cancellations, and thus were misrepresentations as to charges for services in connection with air transportation in violation of 14 CFR 399.80(f) and 49 U.S.C. §41712.

III. Inaccurate Baggage Fee Information

A review by the Department of customer complaints filed against FlightHub Group's JustFly.com brand show several instances where it provided customers inaccurate information on the applicable fee for baggage in e-ticket confirmations. After booking, customers received e-confirmations stating that their first checked bag was free. However, subsequently customers were informed of a fee and charged a fee by the airline when checking the bag. FlightHub Group violated 14 CFR 399.85(c) when it provided inaccurate fee information for the first checked bag. In doing so, FlightHub Group also violated 49 U.S.C. § 41712.

Response

FlightHub Group reaffirms that its cooperation with the Department of Transportation and its efforts to address the Department's concerns reflects the Company's deep commitment to providing its customers with a great shopping experience and complying with all regulatory obligations. FlightHub Group further states that it did not intentionally engage in any unfair or deceptive practices, and does not admit the violations.

In response to the Department's investigation, FlightHub Group states that it moved quickly and voluntarily to implement a broad set of changes to its platform and business practices. FlightHub Group states that it proactively made the following changes:

- FlightHub Group implemented new sales and post-booking services policies and training standards for all its agents.
- FlightHub Group improved the transparency of its cancellation and refund policy and associated fees for the 24-hour period after purchase.
- FlightHub Group enhanced its interface to accurately and more clearly reflect the airlines' baggage fees and policies, both by providing a hyperlink alongside displayed itineraries and by displaying this information in the confirmation emails.

FlightHub Group believes that all of these actions demonstrate its good-faith commitment to ensuring full compliance with all applicable laws and regulations, and to transparency and fair dealing with its customers.

Decision

OACP views seriously FlightHub Group’s violations of 14 CFR Part 399 and 49 U.S.C. § 41712. After carefully considering the facts and findings set forth above, OACP believes that enforcement action is warranted. In order to avoid litigation and without admitting or denying the violations, FlightHub Group consents to the issuance of this order to cease and desist from future violations of 14 CFR Part 399 and 49 U.S.C. § 41712, and to the assessment of \$300,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. §46301 concerning violations that occurred before the Determination Dates of April 30, 2020³ and May 8, 2020⁴, related to the *Matter of the Plan of Arrangement and Compromise of FlightHub Group Inc., FlightHub Service Inc., SSFP Corp., JustFly Inc., JustFly Corp. and 11644670 Canada Inc.*, in the Court file of the Superior Court of Quebec (Commercial Division), District of Montreal, bearing number 500-11-058645-207, pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36 (the “Canadian CCAA Proceedings”). This consent order resolves those violations specifically described above that occurred before the service date of this order. This settlement is appropriate considering the nature and extent of the violations described above and serves the public interest. It establishes a strong deterrent to future similar unlawful practices by FlightHub Group and other ticket agents and sellers of air transportation.

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

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find FlightHub Group violated 14 CFR 399.84(a) by advertising prices for air transportation that were not available, thus failing to state the entire price to be paid for air transportation in advertisements;
3. We find that FlightHub Group violated 14 CFR 399.80(f) by making misrepresentations regarding fares, cancellation charges, and ticket refunds in connection with air transportation;
4. We find that FlightHub Group violated 14 CFR 399.85(c) by providing inaccurate information on the applicable fee for checked baggage in e-ticket confirmations;
5. We find that FlightHub Group, by engaging in the conduct and violations described in ordering paragraphs 2 through 4, above, violated 49 U.S.C. § 41712, which prohibits unfair and deceptive practices;

³ With regards to Justfly Inc.

⁴ With regards to FlightHub Group Inc., Justfly Corp., and SSFP Corp.

6. We order each FlightHub Group entity and all other entities under common ownership and control of any FlightHub Group entity, and any successors and assigns to cease and desist from future violations of 14 CFR Part 399 and 49 U.S.C. § 41712.
7. We assess FlightHub Group an amount of USD\$300,000 in compromise civil penalties that might otherwise be assessed for the violations described above. The total penalty amount of USD\$300,000 is subject to proof of claims filed by the United States of America, as an unsecured creditor, with respect to FlightHub Group on July 30, 2020, in the context of the Canadian CCAA Proceedings. The total penalty amount of USD\$300,000 shall be treated as a proven claim in the Canadian CCAA Proceedings.

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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