



May 1, 1992

To all U.S. ‘Major’ and ‘National’ passenger carriers, and larger foreign air carriers

This letter concerns the listing in fare advertisements of government-imposed taxes and fees that are collected by air carriers. We have recently noted a wide variety of methods by which carriers have listed government-imposed taxes and fees in advertisements, some of which have conflicted with our full-fare advertising rule and long-standing enforcement policies. The purpose of this letter is to provide guidance on how these charges should be advertised. To accomplish that purpose, it is being sent to the U.S. major and national carriers and the larger foreign carriers which may advertise in the U.S.

Section 411 of the Federal Aviation Act (Act) prohibits “unfair or deceptive practices or unfair methods of competition.” (49 U.S.C. app. § 1381(a)). Section 399.84 of the Department’s regulations (14 CFR 399.84) requires that any advertising or solicitation for air transportation that states a price for such air transportation must state the entire price to be paid. Our office has, as a matter of enforcement policy, permitted carriers to state separately government-imposed and approved, per-passenger taxes and fees, such as customs fees and departure taxes, so long as their existence and amount are clearly indicated in the advertisement. This office considers advertisements which do not comply with this policy to violate both section 411 of the Act and section 399.84 of the Department’s regulations, and we have pursued enforcement action against carriers that have failed to comply with those requirements.

Recently, two new types of taxes and surcharges collected by carriers have come into existence: airport/security /departure fees imposed by foreign governments and Passenger Facility Charges imposed by domestic airports. As with our policy on the listing of U.S. government fees, foreign government-imposed fees that are collected by carriers and are imposed on a per-passenger basis may also be listed separately in air fare advertisements. Where multiple destinations are listed in one advertisement, a maximum fee amount may be stated, a fee may be listed for each destination, or the fees may be listed as a range. The word “approximately” or a range of amounts may be used to account for minor currency exchange fluctuations. The following examples illustrate acceptable ways of listing foreign government per-passenger fees collected by a carrier:

1. Does not include foreign departure/security charges of up to approximately \$(amount), depending on destination.
2. Approximate foreign departure/security charges also not included: (city), \$(amount); (city), \$(amount); etc.
3. Does not include foreign departure/security charges of approximately \$(amount) to \$(amount), depending on destination.

If a carrier desires to disclose the existence of fees imposed by foreign governments which are not collected by the carrier it may do so by using a phrase such as “additional taxes and surcharges may be collected by foreign governments.” However, section 399.84 requires disclosure of the amounts of the taxes/surcharges if the carrier collects them.

Passenger Facility Charges (PFC’s), public agency-imposed fees charged on a per-passenger basis that are beginning to be collected by carriers, may also be stated separately from the advertised price. PFC’s can vary from \$1 to \$3 depending on the airport, and can total up to \$12 per passenger itinerary. PFC’s may be stated in advertisements either through a listing of the PFC for each airport or, for multiple destination advertisements, by including the phrase “Does not include Passenger Facility Charges of up to \$12, depending on itinerary.” However, where a PFC is being collected for a particular airport and the advertisement is location-specific, the PFC must be noted specifically. For example, an air fare advertisement in Savannah, Georgia, where a PFC has already been approved, must contain a statement such as the following:

“Does not include Savannah Passenger Facility Charge of \$3 and additional Passenger Facility Charges of up to \$9, depending on itinerary.”

As a reminder of information that has been disseminated widely in the past (See, e.g. 54 Fed. Reg. 31,052; July 26, 1989), fees imposed by government entities on other than a per passenger basis, such as an *ad valorem* fuel tax, must be included in the advertised total price and may not be stated separately. Furthermore, general phrases that preclude

consumers from calculating an actual, maximum, or range of fees, such as “additional taxes and surcharges may apply” are not permitted, except where, as noted above, they are collected by someone other than the carrier and the advertisement so states.

Please bear in mind that the examples set forth above are intended as guidance only. We recognize that other methods by which carriers disclose per-passenger government fees and taxes in advertisements may be acceptable and we do not intend to limit carriers in their use of appropriate alternatives. However, it is essential that a consumer be able to easily determine from a fare advertisement the full price to be paid for the air transportation advertised, recognizing that certain of the relatively *de minimis* charges mentioned above may have to be presented in terms of approximations or ranges.

If you have questions or desire additional information about our policies, please contact us at (202) 366-9342. Our FAX number is (202) 366-7152.

Sincerely,

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Aviation Enforcement and Proceedings