



March 9, 1995

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

[THE FOLLOWING LETTER WAS SENT TO U.S. MAJOR, NATIONAL AND REGIONAL AIR CARRIERS, AND OVER 50 FOREIGN AIR CARRIERS.]

A short time ago, Secretary Peña sent a letter to larger U.S. carriers which, in part, discussed certain kinds of misleading advertising. More recently, our Aviation Consumer Protection Division--during its heightened monitoring of airline print advertisements--has noted a large number of each-way fare advertisements that do not comply with the disclosure provisions of our regulations and, thereby, Title 49 of the U.S. Code. The purpose of this letter--which is being sent to the U.S. major and national carriers and the larger foreign carriers which may advertise in the U.S.--is to reiterate the Department's position on how each-way fares may be advertised and to warn carriers that they will be subject to enforcement action for future each-way fare disclosure violations.

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. My office has, as a matter of enforcement policy, permitted carriers to advertise each-way fares that are available only when bought for roundtrip travel so long as the disclosure of the roundtrip purchase requirement in the advertisement is clear and conspicuous (*i.e.*, prominent and proximate to the advertised fares). This office considers advertisements which do not comply with this policy to violate section 399.84 of the Department's regulations, as well as 49 U.S.C. § 41712, which prohibits "unfair or deceptive practices or unfair methods of competition."

This long-standing position is the subject of a pending rulemaking. (54 Fed. Reg. 31,052 (July 26, 1989)). Furthermore, we have repeatedly pursued enforcement action against carriers that have failed to comply with those requirements. (*E.g.*, Order 88-8-3 (notice that "substantial [or "significant"] restrictions apply" found to be insufficient notice in poster and billboard advertising), Order 93-3-24 (round-trip requirement in fine print below and outside fare box found to be insufficient notice in a newspaper advertisement)).

We will immediately pursue enforcement action for each-way fare advertising violations against any carrier that has been the subject of a consent order for such violations, as well as any carrier that has already been warned that its future each-way fare advertising violations would be subject to enforcement action. With respect to other carriers, commencing with advertisements that appear two weeks after the date of this letter, the Enforcement Office intends to take enforcement action, without further warning, against any carrier that receives this letter whose each-way fare advertising does not comply with our enforcement policy as discussed above.

If you have questions or desire additional information about our policies, please contact my office at (202) 366-9342 or Hoyte Decker, our Assistant Director for Aviation Consumer Protection, at (202) 366-5957. Our FAX number is (202) 366-7152.

Sincerely,

Samuel Podberesky

Assistant General Counsel for Aviation Enforcement and Proceedings