



March 18, 1996

**THE FOLLOWING LETTER WAS SENT TO THE ATTACHED LIST OF 166
U.S. AND FOREIGN AIRLINE AND TRAVEL INDUSTRY CHIEF EXECUTIVES**

There has been a virtual explosion in the availability and use of computer networks as a medium for transmitting information. Indeed, the “information superhighway” is increasingly becoming a vehicle for the promotion and sale of air transportation. Many airlines and other travel industry firms have established sites on the Internet. Computer online services, such as CompuServe, Prodigy, and America Online, offer users access to several airline computer reservations systems (CRSs).

The purpose of this letter—which is being sent to the U.S. major and national carriers and the larger foreign air carriers and travel agents—is to bring to your attention several advertising compliance issues that we have noted recently in our review of these Internet sites as well as the potential pitfalls that can occur as a result of widespread use of airline CRSs by the general public. The message I wish to convey to you is that with this new medium for promotion goes the same responsibility for ensuring the public is not misled that has long been required for all other forms of solicitation in the sale of air transportation.

In the last several months the Department assessed its first civil penalty involving airline advertising on the Internet. In that case the carrier failed to disclose in its fare ad on the Internet’s World Wide Web the full price of flights it promoted between the U.S. and London; see Order 95-11-37. In addition, through the use of consent orders, warning letters, and other informal approaches, we have placed airlines and travel companies directly on notice of their obligation to conform to our price advertising requirements, although not specifically mentioning that those requirements also apply to Internet and online service listings. This letter is to emphasize that applicability and to counsel carriers and travel companies that they will be subject to enforcement action for future fare disclosure violations based on their Internet and online service listings.

Over the past several years we have disseminated a series of Industry Letters addressing a variety of price advertising matters. Here is a brief chronological list of those letters:

- May 1, 1992 - The letter concerned the listing in fare advertisements of government-imposed taxes and fees that are collected by air carriers. It gave examples of how to appropriately disclose the existence of taxes and fees which *may* be stated separately (e.g., customs fees, departure taxes and PFCs) as compared to those which *may not* be stated separately and *must* be included in the advertised fare (e.g., *ad valorem* fuel taxes).
- December 20, 1994 (signed by Secretary Peña) - Among other important consumer issues, it addressed the following advertising topics: “Two-for-one” fares, “percent off” sales, and adequate disclosure of capacity controls and blackout dates.
- March 9, 1995 - It announced that we intended to take enforcement action against any carrier whose “each-way” fare advertising does not comply with our enforcement policy. This policy requires such ads to disclose round-trip purchase requirements clearly and conspicuously (i.e., prominent and proximate to the advertised fare).
- July 14, 1995 - This letter further clarified our policy on advertising “air tour package” fares, and additional charges such as government-imposed taxes and fees. As was done in our earlier letter of May 1, 1992, this letter lists a number of acceptable ways of listing various fees and surcharges which are not included in the advertised price of the total air tour package. The main point of the letter is to reiterate the Department’s position that consumers should be able to determine from a fare advertisement the full price to be paid the seller for the entire tour package being advertised.

We recommend that you review these letters, because they provide both general and specific information related to our concerns regarding Internet and online service advertising.

CRS Displays

Let me emphasize at the outset, the discussion here is limited to public-access CRS displays and not those viewed by airline reservationists and travel agents. Based on information received by this office and our own review of online service listings, there appear to be two areas where air carrier fare information has the potential to be incomplete or where government-imposed taxes and fees assessed and collected on a per-passenger basis may not be adequately disclosed, when the fare information is displayed.

With some public-access CRSs the information displayed and the format used to display material are presented using industry jargon (e.g., unexplained fare codes or phrases such as “no open jaws”) and airline codes only familiar to travel professionals. However, such terminology may be unintelligible to many consumers. Although the intent here is not to criticize the vendors of public-access CRSs, it is important to underscore our concern that sometimes consumer confusion progresses to consumer misinformation, and even deception, which could violate 14 CFR Part 399 and section 41712 of Title 49 of the United States Code, which prohibits unfair and deceptive practices or unfair methods of competition (formerly Section 411 of the Federal Aviation Act). For example, travel agents, airline reservationists, and other every-day users of CRSs understand the mechanics of fare displays, how one way listings may actually be “each way, based on roundtrip purchase,” depending on the fare code identifier. But the inexperienced user may well be misled, because the intended meaning [one way *as* each way] is not easily discernible. Airlines should review their public-access CRS displays and other critical price advertising disclosures to eliminate bewildering or misleading language.

It is also important that consumers be able to calculate the full price to be paid for the prospective air transportation prior to completing the transaction. Some public-access CRSs do not incorporate the *ad valorem* taxes or other administrative fees on the screen displaying the fare, as has long been required of all other advertising media. In certain systems, it is not until the sale is closed, i.e., when the consumer accepts the reservations by striking the Enter key, that this additional and sometimes substantial expense is included in the total price displayed. Some examples include: (1) the 10% federal excise tax imposed on flights to Canadian points within the 225 mile buffer zone of the U.S. border (a tax now awaiting Congressional action on renewal); and (2) a fuel surcharge some carriers impose to reflect *ad valorem* fuel taxes levied by the state of Florida and the city of Chicago, for flights originating there. Those charges must be included in the price presented to the consumer before a fare is booked.

Internet Displays

Promotion of air transportation on the Internet, like print media advertising, affords the consumer the advantage of being able to read and digest the displayed information. However, the Internet sites place the same level of responsibility on the party making the offer electronically to refrain from deceptiveness as is incumbent on those using print media advertising.

Airlines promoting new markets or new service on the Internet frequently display deep-discount, introductory fares. Adherence to the DOT advertising requirements in this medium is essential, including the requirement to prominently display critical purchase requirements. These include the prominent and proximate display of the phrase “each way—based on roundtrip purchase,” and, where necessary, other material elements of the advertised fare, such as nonrefundability or other refund constraints, advance purchase requirements, dates of travel restrictions and blackout dates, fare validity periods, as well as any permissible additional charges, e.g., government-imposed, per-passenger taxes and fees. Failure to adhere to these requirements could violate 49 U.S.C. 41712 and section 399.84 of the Department’s regulations governing full price advertising.

Certain carriers are offering interactive features on the Internet, such as schedule and fare information, which allow consumers to select market pairs and display date-specific flight lists and/or an array of fares applicable to the selected itinerary. While this service may appear more informational than promotional, it nevertheless is a representation to the general public. Therefore, it carries with it the obligation to ensure that the information is portrayed adequately and accurately. For instance, it is important that fare information contain required price advertising elements, such as PFC disclosures. Also, fare listings shown as one way must be available for purchase as such, unless there is a prominent disclosure proximate to the advertised fare that it is actually “each way, based on roundtrip purchase.” To avoid consumer confusion, a prefatory statement emphasizing to Internet users that the fare listings are for general information only and not a reflection of current seat availability, where such is the case, is also an important

consideration. However, this does not relieve carriers from the formatting and disclosure requirements described above and clearly does not allow a carrier to list fares that were never available or have expired.

As a final point, our code-share disclosure rule, 14 CFR 399.88, also applies to Internet and airline service listings. Briefly, flight listings must disclose code shared flights and fare listings must provide code-share disclosures in a manner required of print-media fare ads.

We will immediately pursue enforcement action for these types of disclosure problems against any carrier or travel company that has been the subject of a prior consent order for advertising violations, as well as any carrier or travel company that has already been warned that its future advertising violations would be subject to enforcement action. With respect to other parties, commencing with promotional displays that appear three weeks after the date of this letter, the Enforcement Office may take enforcement action, without further warning, against any company that receives this letter or should otherwise be on notice of its contents and whose Internet or public-access (online service) CRS displays do not comply with our enforcement policy as discussed above.

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

Samuel Podberesky

Assistant General Counsel for Aviation Enforcement and Proceedings

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Mr. Robert Swenson	President	AirTran Airways, Inc.	6280 Hazeltine National Dr.	Suite 100	Orlando	FL	32822	Mr. Swenson
Mr. Izad Djahanshahi	President	Airways International	P.O. Box 1244		Miami Springs	FL	33266-1244	Mr. Djahansh
Mr. Steven G. Hamilton	V P-Legal and General Counsel	Alaska Airlines, Inc.		P.O. Box 68900	Seattle	WA	98168	Mr. Hamilton
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Ms. Anne H. McNamara	Sr V P-Administration & General Counsel	American Airlines, Inc.	Mail Drop 5618	Post Office Box 619616	DFW Airport	TX	75261-9616	Ms. McNamara
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Mr. Jonathan Batchelor	President	Arrow Air, Inc.	Box 026062	Miami International Airport	Miami	FL	33103	Mr. Batchelor
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Mr. Roy McQuillen	President	Buffalo Airways, Inc.	301 E. 51st St.		Kansas City	MO	64112	Mr. McQuille
Mr. John Catsimatidis	President	Capitol Air Express, Inc.	823 Eleventh Ave.		New York	NY	10019	Mr. Catsimati
Mr. Daniel Ratti	President	Carnival Air Lines, Inc.	1815 Griffin Road, Suite 205		Dania	FL	33004	Mr. Ratti
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Mr. Jeffery Smisek	Vice President and General Counsel	Continental Airlines	2929 Allen Parkway, Suite 2010		Houston	TX	77019	Mr. Smise
Mr. Robert S. Harkey	Sr V P, General Counsel, and Secretary	Delta Airlines, Inc.		Hartsfield Atlanta International Airport	Atlanta	GA	30320	Mr. Hark
Mr. Donald Rhoads	General Manager	Eagle Airlines	175 East Reno Ave., Suite C9		Las Vegas	NV	89119	Mr. Rhoads
Mr. Steven Davis	VP-Operations, Inc.	Eastwind Airlines	Trenton-Mercer Airport	Building 1 Scotch Rd.	W. Trenton	NJ	08628	Mr. Davis
Mr. Mel Spelde	President	Empire Airlines, Inc.	11101 Airport Drive		Hayden Lake	ID	83835	Mr. Speld
Mr. Larry K. Lane	President	Evergreen International Airlines, Inc.	3850 Three Mile Lane		McMinnville	OR	97128	Mr. Lane
Mr. James Wikert	Chief Executive Officer	Express One International, Inc.	3890 West NW Highway, #700		Dallas	TX	75220	Mr. Wike
Mr. Frank Fine	President	Fine Airlines, Inc.	Box 523726		Miami	FL	33152	Mr. Fine
Mr. Richard Haverley		Florida West Airlines	Box 522207		Miami	FL	33152	Mr. Haverley
Mr. Sam Addoms	President & CFO	Frontier Airlines, Inc.	12015 East 46th Ave.		Denver	CO	80239	Mr. Addoms

Mr. Robert Stephan	President	Great American Airways	Box 10165 Reno-Cannon Int'l Airport		Reno	NV	89510	Mr. Steph
Mr. Bruce Nobles	Chairman & CEO	Hawaiian Airlines, Inc.	PO Box 30008		Honolulu	HI	96820	Mr. Noble
Ms. Cathy Iskra	Chairman, President & CEO	Horizon Air	PO Box 48309		Seattle	WA	98148	Ms. Iskra
Mr. David Clark	President	International Charter Xpress	3800 Rodney Parham Rd.		Little Rock	AR	72212	Mr. Clark
Mr. Jerry Murphy	President & CEO	KIWI International Airlines	Hemisphere Center	U.S. Route 1-9 South	Newark	NJ	07114	Mr. Murp
Mr. Dennis Berry	Vice President-Customer Service	Mesa Airlines, Inc.	2325 E. 30th Street		Farmington	NM	87401	Mr. Berry
Mr. Robert Gould	President	MGM Grand Air, Inc.	1500 Rosencrans Ave.	Suite 350	Manhattan Beach	CA	90266	Mr. Goul
Mr. Ross Fischer	President	Miami Air International, Inc.	PO Box 660880		Miami Springs	FL	33266-0880	Mr. Fisch
Mr. John Selvaggio	President	Midway Airlines	300 W. Morgan St.		Durham	NC	27701	Mr. Selvaggi
Mr. Timothy E. Hoeksema	Chairman, President & CEO	Midwest Express Airlines, Inc.	6744 S. Howell Ave.		Oak Creek	WI	53154	Mr. Hoeksem
Mr. Daniel McKinnon	President	North American Airlines, Inc.	Building 75, JFK Int'l Airport	Suite 250	Jamaica	NY	11430	Mr. McKinno
Mr. Douglas M. Steenland	Sr V P, General Counsel, & Secretary	Northwest Airlines	5101 Northwest Drive		St. Paul	MN	55111-3034	Mr. Steenland
Mr. Clay Barnett	President	Presidential Air	17422 Pullman St.		Irvine	CA	92714	Mr. Barne
Mr. Richard Reeve	President	Reeve Aleutian Airways, Inc.	4700 West International Airport Rd.		Anchorage	AK	99502	Mr. Reeve
Mr. Robert Redding	President	Reno Air, Inc.	PO Box 30059		Reno	NV	89520-3059	Mr. Redding
Mr. Larry Sullivan	President	Renown Aviation, Inc.	3940 Mitchell Road		Santa Maria	CA	93455	Mr. Sulliv
Mr. William Meenan	President	Rich International Airways,	5400 NW 36th St.		Miami	FL	33152	Mr. Meen

		Inc.						
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Mr. Gregg Lukenbill	President	Sky King, Inc.	3600 Power Inn Rd., Suite H		Sacramento	CA	95826	Mr. Lukenbill
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Mr. Robert McAdoo	Chief Executive	Vanguard Airlines, Inc.	30 NW Rome Circle	Terminal B Mezzanine Level	Kansas City	MO	64153	Mr. McAdoo
Mr. George Travis	President	Viscount Air Service, Inc.	1000 E. Valencia Rd.		Tucson	AZ	85706	Mr. Travi
Mr. Larry Risley	Chief Executive Officer	Westair, Inc.	5570 Air Terminal Dr.		Fresno	CA	93727	Mr. Risley
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