



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

**Issued by the Department of Transportation
On the Twentieth Day of November 2007**

**Group Voyagers, Inc., d/b/a Globus,
Cosmos, Brennan Vacations,
Monograms, and
Avalon Waterways**

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

Docket OST 2007-26781

Served November 20, 2007

CONSENT ORDER

This consent order concerns advertisements by Group Voyagers, Inc., d/b/a Globus, Cosmos, Brennan Vacations, Monograms and Avalon Waterways (collectively "Group Voyagers") that violate the Department's advertising requirements specified in Part 399 of the Department's regulations (14 CFR Part 399), and constitute unfair and deceptive trade practices and unfair methods of competition in violation of 49 U.S.C. § 41712. This order directs Group Voyagers to cease and desist from future violations and assesses the company compromise civil penalties of \$70,000.

Group Voyagers, as a seller of air travel, is subject to the advertising requirements of Part 399 of the Department's rules. Under 14 CFR 399.84, any advertising that states a price for air transportation or an air tour is considered to be an unfair or deceptive practice in violation of 49 U.S.C. § 41712 unless the price stated is the entire price to be paid by the customer to the air carrier or ticket agent for such air transportation, tour or tour component. However, as a

matter of enforcement policy, the Department has permitted air carriers and agents to state separately from the advertised price taxes and fees imposed by a government on a per-passenger basis, such as passenger facility charges, so long as their amounts appear or are indicated clearly in the advertisement so that the consumer can determine the full price to be paid.¹ Taxes and fees imposed on an *ad valorem* basis, however, must be included in the advertised price, lest consumers be seriously confused about the total amount that must be paid. Carrier- or agent-imposed surcharges, e.g., fuel, insurance, and service charges, or other such costs, must be included in the advertised price. With respect to airfares and air tours advertised on the Internet, taxes and fees that are permitted to be excluded from the advertised price may be noted in a prominent link, placed proximately to the stated price, that takes the viewer to the bottom of the screen, or to a separate screen, where the nature and amount of such fees are displayed. (See, e.g., *JetBlue Airways, Inc.*, Order 2004-2-4, *Grand Circle Travel Corp.*, Order 2006-7-23, and orders cited therein, and the notice entitled: *Disclosure of Additional Fees, Charges and Restrictions on Air Fares in Advertisements, Including "Free" Airfares*, which is dated September 4, 2003, as well as guidance letters to the industry which can be found at: <http://airconsumer.ost.dot.gov/rules/guidance.htm>.)

Group Voyagers has offered for many years comprehensive travel packages that include airfare, hotel, river cruises, guided tours and other amenities. During 2005 and 2006, Group Voyagers promoted air travel packages through printed brochures, mailers and by means of advertisements that were published on its web site and through direct e-mail advertising campaigns. The airfares and air tours promoted in *Globus*, *Cosmos* and *Avalon Waterways* brochures, e-mails and mailers and on Group Voyagers' web sites did not comply with Department requirements. Specifically, the listed prices for the complete air and cruise packages did not include airline fuel surcharges and they lacked an appropriate notice or hyperlink prominent and proximate to the price that disclosed to the viewer that taxes and fees that are permitted to be listed separately from the advertised price were not included.²

Not including fuel surcharges in the advertised price when it is first listed violates the Department's regulations and enforcement case precedent. Moreover, the failure to provide appropriate notice of, and a link to, a description of the taxes and fees assessed and their amount, or a range in

¹ See, e.g., Order 97-11-14.

² Certain advertisements did mention in the fine print the existence of certain taxes and fees or that the final price may differ from the advertised price, but failed to state their amounts or offer a range.

amounts, also violates the Department's full-fare advertising rule and related case precedent. In addition to violating the requirements of section 399.84 and related Department precedent and enforcement policies, such practices constitute an unfair and deceptive trade practice in violation of 49 U.S.C. § 41712.

Moreover, once a firm quotes through its advertising a specific price for a flight, tour or tour component, it must charge that price to the consumer. When a firm advertises a specific price for a flight, tour or tour component, it must have available a reasonable inventory at the advertised price for a reasonable time period. This includes fare advertisements published on the Internet. To preclude there being a deceptive practice issue for brochures, a firm can state in those brochures that the prices it is advertising are good as of or until a date certain, and advise the consumer that availability of the advertised fares may be limited and current fares may be higher, with notice as to where current prices can be obtained. For example, the following language would suffice if conspicuous to a reader: "Availability of prices in this brochure is limited, and at the time you purchase your tour, prices may be higher. For current prices, please see our website." Fares held out on the Internet or in newspapers, or orally, must be current and available.

In mitigation and explanation, Group Voyagers states that it has never received a single complaint regarding its price advertising during the period in question. Moreover, the firm states that that it takes its obligations under the Department's full fare advertising rule very seriously. When, for example, Group Voyagers learned that the Enforcement Office was concerned about its advertising, the firm declares that it took prompt and thorough action to address those concerns. In addition, Group Voyagers recounts that it immediately modified its web site to show a figure for air-related taxes, fees and charges adjacent to its base cruise plus air pricing for the balance of its 2007 season. Group Voyagers attests that advertising for the 2008 season will be redone to comply with Department requirements.

Group Voyagers further explains that consumers could not, for example, book an Avalon cruise plus air package online; rather, most of its cruises have always been booked through travel agents and tour operators, or Group Voyagers' own agents. Therefore, the firm states, it is confident that consumers have always been advised of additional charges and the total price during the booking process, before purchasing a cruise plus air package. In addition to the steps described above, Group Voyagers declares that it has instructed reservations agents to provide specific information on changes in displayed prices, and added to its existing brochures and subsequent mailings a new information sheet/letter that explains the alterations it has made in its fare advertising to customers.

The Enforcement Office has carefully considered all of the information available to it, including that provided by Group Voyagers, but continues to believe that enforcement action is warranted. In this connection and in order to avoid litigation, the Enforcement Office and Group Voyagers have reached a settlement in this matter. While neither admitting nor denying the above allegations, Group Voyagers accepts the findings and conclusions stated herein in order to avoid potential litigation. Under this order, Group Voyagers is assessed \$70,000 in compromise of potential penalties otherwise assessable under the provisions of 49 U.S.C. § 46301. Of the total penalty amount, \$35,000 shall be due and payable within 15 days of the date of issuance of this order. The remaining \$35,000 shall be suspended for twelve months after the date of issuance of this order, and then forgiven, unless Group Voyagers violates this order's cease and desist or payment provisions, in which case the entire sum will become due and payable. The Enforcement Office believes that the assessment of a civil penalty of \$70,000 is appropriate in light of the nature and extent of the violations in question and will provide an effective deterrent to unlawful conduct in the future by Group Voyagers and other sellers of air transportation.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

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 that Group Voyagers, Inc., d/b/a Globus, Cosmos, Brennan Vacations, Monograms and Avalon Waterways, violated 14 CFR 399.84, as described above, by causing to be published advertisements that failed to state the entire price to be paid by the passenger to the firm for certain air transportation;
3. We find that by engaging in the conduct described in paragraph 2, above, Group Voyagers, Inc., d/b/a Globus, Cosmos, Brennan Vacations, Monograms and Avalon Waterways, engaged in an unfair and deceptive

practice and an unfair method of competition in violation of 49 U.S.C. § 41712;

4. Group Voyagers, Inc., d/b/a Globus, Cosmos, Brennan Vacations, Monograms and Avalon Waterways, and all other entities owned and controlled by, or under common ownership and control with Group Voyagers, Inc., d/b/a Globus, Cosmos, Brennan Vacations, Monograms and Avalon Waterways, and their successors and assignees, are ordered to cease and desist from future violations of 14 CFR 399.84 and 49 U.S.C. § 41712;

5. Group Voyagers, Inc., d/b/a Globus, Cosmos, Brennan Vacations, Monograms and Avalon Waterways, is assessed \$70,000 in compromise of civil penalties that might otherwise be assessed for the violations found in paragraphs 2 and 3 of this order. Of the total penalty amount, \$35,000 shall be due and payable within 15 days of the date of issuance of this order. The remaining \$35,000 shall be suspended for twelve months after the date of issuance of this order, and then forgiven, unless Group Voyagers violates this order's cease and desist or payment provisions, in which case the entire sum will become due and payable immediately. Failure to pay the compromise assessment as ordered will subject Group Voyagers, Inc., d/b/a Globus, Cosmos, Brennan Vacations, Monograms and Avalon Waterways, to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order;

6. Group Voyagers, Inc., d/b/a Globus, Cosmos, Brennan Vacations, Monograms and Avalon Waterways shall submit to the Office of Aviation Enforcement and Proceedings copies of (a) all advertisements of air tours it causes to be published in any printed format or it circulates as current during the last 30 days of the one-year period following the issuance of this order; and (b) printouts of screen displays advertising air tour prices on its Internet sites for the 15th day of each month during the one year period following issuance of this order. This material shall be submitted within 15 days of the conclusion of the referenced one-year period; and

7. Payment of the penalty shall be made by wire transfer through the Federal Reserve Communications System, commonly known as

"Fed Wire," to the account of the U.S. Treasury. The wire transfer shall be executed in accordance with the instructions contained in the Attachment to this order.

This order will become a final order of the Department 10 days after its service unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

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