



**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 December 2007**

**Vantage Travel Service, Inc., d/b/a  
Vantage Deluxe World Travel**

**Violations of 49 U.S.C. § 41712 and  
14 CFR 399.84**

**Docket OST 2007-26781**

**Served December 20, 2007**

**CONSENT ORDER**

This consent order concerns advertisements by Vantage Travel Service, Inc., d/b/a Vantage Deluxe World Travel ("Vantage Deluxe"), that violate the Department's advertising requirements specified in section 399.84 of the Department's regulations (14 CFR 399.84), and constitute unfair and deceptive trade practices and unfair methods of competition in violation of 49 U.S.C. § 41712. This order directs Vantage Deluxe to cease and desist from future violations and assesses the company compromise civil penalties of \$65,000.

Vantage Deluxe, 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.<sup>1</sup> Ticket agents must provide similar notice where airfares are held out as “free,” but government-imposed taxes and fees must be paid by a passenger in order to utilize the “free” fare. 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, Trafalgar Tours West, Order 2007-8-24, 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>).

Vantage Deluxe has specialized for over 20 years in offering comprehensive travel packages that include airfare, hotel, river cruises, guided tours and related amenities, particularly to Russia, other countries in Europe, and the Far East. During 2005, 2006 and virtually all of 2007, Vantage Deluxe promoted air fares and air travel packages through printed brochures and mailers, by means of advertisements that were published on its web site, [www.vantagetravel.com](http://www.vantagetravel.com), and through direct e-mail advertising campaigns.

The airfares and air tours promoted in Vantage Deluxe’s brochures, e-mails and mailers and on its web site, including those touting “free” airfares, did not comply with Department requirements. More specifically, the listed prices for the complete air, land and cruise packages 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. For example, the site included the words “From Only” appended to the tour price on the first page that announced the tour “*Aboard the East Queen*,” with a statement of the “features” of the “Tibet, Shangri-la and China’s Yangtze River” tour, e.g., “From Only US \$3299.” It was not, however, until the reader reached the 2007 Departure Dates and Prices page that there was any notice that certain taxes and fees were not in fact included. Moreover,

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<sup>1</sup> See, e.g., Order 97-11-14.

fuel surcharges, which must be included in the advertised price, were not included, nor were “port charges” or “other surcharges.”<sup>2</sup>

Not including fuel surcharges, port charges, or other surcharges collected by Vantage Deluxe in the advertised price of an air tour package when it is first listed violates the Department’s regulations and enforcement case precedent. Likewise, the failure to provide appropriate notice of, and a link to, a description of the taxes and government fees assessed and their amount, or a range in 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, the firm 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. To preclude there being a deceptive practice issue for brochures, a firm can state in its 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: “Prices in this brochure were effective on [date] and their availability is limited. 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, however, must be current and available.

In addition, Vantage Deluxe failed properly to identify the September 11<sup>th</sup> Security Fee as among the taxes and fees it omitted from the base fare. The Transportation Security Administration (TSA) promulgated a regulation at 49 CFR Part 1510 that requires all direct air carriers to identify the security service fees set by the regulation as the “September 11<sup>th</sup> Security Fee” in advertisements and solicitations for air transportation. The Enforcement Office considers the failure of an airline or its agent to identify the September 11<sup>th</sup> Security Fee as required by section 1510.7, or state the amount of the fee, to be an unfair and deceptive trade practice in violation of 49 U.S.C. §41712.

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<sup>2</sup> These omissions are critical because certain web pages listed the advertised air price as “Free.”

In mitigation and explanation, Vantage Deluxe states that it has always strived to conduct its business in strict compliance with all applicable rules and regulations of the U.S. Department of Transportation and those of other relevant government agencies, both state and federal. When Vantage Deluxe learned of the Enforcement Office's concerns about its advertising, the company declares that it acted promptly to revise and update its web site, [www.vantagetravel.com](http://www.vantagetravel.com), to include all airline fuel surcharges in its base tour prices and to highlight and detail the taxes and other fees that are not required by the Department to be included in the base tour prices. With respect to the latter issue, Vantage Deluxe states that it has included on the "sell" page, immediately after the base tour price, a hyperlink entitled "*plus government taxes and fees*" that takes the customer to a web page that details the amount and type of government taxes and fees. The company adds that its web site also contains in large bold-faced print the statement that "**Prices now include fuel surcharges!**" Vantage Deluxe points out that the reservations page provides an additional opportunity for the customer to obtain a detailed statement of the applicable government taxes and fees, as well the applicable port charges.

Vantage Deluxe also notes that starting in April 2006, it effected a policy of reimbursing any fuel surcharge that was the subject of a customer complaint. These reimbursements have amounted to \$39,750 for 2006 departures and \$33,938 for 2007 departures, a total of \$73,688. In addition, the firm explains that it made other reimbursements in the form of travel certificates and accommodations as good will gestures. Moreover, Vantage Deluxe instituted and maintains a policy under which once a customer pays the initial deposit, the cost of the trip is guaranteed.

In addition, Vantage Deluxe states that it has prepared new training materials that enable its Telesales and Customer Service departments to explain fully to the customer the differences between the base tour prices on the updated web site and those stated in the firm's catalogs. The company further avers that supervisors, directors and agents of the Telesales and Customer Service departments have received training covering the reasons for the changes, the issues involved, directions as to how prices are to be quoted in the future, and the components of the revised script. To ensure that all customers' questions regarding the changes are addressed effectively, the company states that supervisors and directors, along with the company's corporate trainer, will brief new agents and will oversee the monitoring of telephone calls with customers.

Vantage Deluxe reports that beginning with 2008 trips, the firm will be utilizing a new invoicing system that permits a breakdown of all government fees and taxes and the inclusion of fuel surcharges in the base tour prices. Vantage Deluxe also recounts that its revised catalogs now indicate that the base tour

prices are valid as of the date of publication, and current prices can be found on its web site. The company declares that it has made these changes as quickly as feasible to reach the largest number of members of the public.

The Enforcement Office has carefully considered all of the information available to it, including that provided by Vantage Deluxe, but continues to believe that enforcement action is warranted. In this connection and in order to avoid litigation, the Enforcement Office and Vantage Deluxe have reached a settlement in this matter. While neither admitting nor denying the above allegations, Vantage Deluxe accepts the findings and conclusions stated herein in order to avoid potential litigation. Under this order, Vantage Deluxe is assessed \$65,000 in compromise of potential penalties otherwise assessable under the provisions of 49 U.S.C. § 46301. Of this penalty amount, \$32,500 shall be due and payable within 15 days of the date of issuance of this order. The remaining \$32,500 shall be suspended for one year from the date of issuance of this order, and then forgiven unless Vantage Deluxe violates this order's cease and desist provisions or otherwise fails to comply with the order's provisions, in which case the unpaid portion of the penalty shall become due and payable immediately. The Enforcement Office believes that the assessment of a civil penalty of \$65,000 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 Vantage Deluxe 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 Vantage Travel Service, Inc., d/b/a Vantage Deluxe World Travel 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, Vantage Travel Service, Inc., d/b/a Vantage Deluxe World Travel

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

4. Vantage Travel Service, Inc., d/b/a Vantage Deluxe World Travel and all other entities owned and controlled by, or under common ownership and control with Vantage Travel Service, Inc., d/b/a Vantage Deluxe World Travel 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. We order Vantage Travel Service, Inc., d/b/a Vantage Deluxe World Travel to submit to the Office of Aviation Enforcement and Proceedings copies of (a) all advertisements of air tours it plans to publish in printed format or circulate as current during the last 60 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 site for the 15<sup>th</sup> day of each month during the first ten months of the one year period following issuance of this order. This material shall be submitted no later than 45 days prior to the conclusion of the referenced one-year period;

6. Vantage Travel Service, Inc., d/b/a Vantage Deluxe World Travel is assessed \$65,000 in compromise of civil penalties that might otherwise be assessed for the violations found in paragraphs 2 and 3 of this order. Of this penalty amount, \$32,500 shall be due and payable within 15 days of the date of issuance of this order. The remaining \$32,500 shall be suspended for one year from the date of issuance of this order, and then forgiven unless Vantage Travel Service, Inc., d/b/a Vantage Deluxe World Travel violates this order's cease and desist provisions or otherwise fails to comply with the order's provisions, in which case the unpaid portion of the penalty shall become due and payable immediately. Failure to pay the compromise assessment as ordered will subject Vantage Travel Service, Inc., d/b/a Vantage Deluxe World Travel 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; and

7. Payment 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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