



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

Issued by the Department of Transportation  
on the 2nd day of July, 2008,

**Flight Centre USA, Inc.**

**Violations of 49 U.S.C. § 41712**

**and 14 CFR 399.84**

**Docket OST 2008-0031**

**Served July 2, 2008**

**CONSENT ORDER**

This consent order concerns fare displays by Flight Centre USA, Inc. ("Flight Centre") on its website ([www.flightcentre.us](http://www.flightcentre.us)) and in newspaper advertisements the company published in the *Los Angeles Times* and the *Chicago Sun Times* that failed to comply with the Department's rule on full fare advertising, 14 CFR 399.84. Flight Centre's website and newspaper advertisements did not properly disclose government fees and taxes applicable to its advertised fares, and did not include fuel surcharges applicable to fares in certain markets in the advertised fare. These advertising practices, in addition, constituted an unfair and deceptive trade practice and an unfair method of competition in violation of 49 U.S.C. § 41712. This order directs the company to cease and desist from future similar violations and assesses a compromise civil penalty of \$40,000.

To ensure that consumers receive accurate and complete information on available air fares, section 399.84 of the Department's rules (14 CFR 399.84) requires that fare advertisements by air carriers or their agents state the full price to be charged the consumer. These requirements extend to advertisements on Internet sites and in written publications. Under its enforcement case precedent, the Department has allowed certain taxes and fees to be stated separately in fare advertisements provided that the consumer is informed of the existence, nature and amount of these taxes and fees in conveniently accessible text. However, carrier- or agent-imposed fees and charges, such as fuel, service or insurance surcharges, must be included in the advertised fare.

Taxes and fees may be listed separately, under Department precedent, provided that they are levied by a government entity, are not *ad valorem* in nature, are collected on a per-passenger basis, and their existence and amount are clearly indicated in the advertisement so that the consumer can determine the full fare to be paid. Examples of such additional fees are passenger facility charges (PFCs) and international departure taxes. These

charges may be noted in Internet fare advertisements through a prominent link or asterisk, placed adjacent to the stated fare that takes or refers the viewer to the bottom of the screen or page, or to a separate screen, where the nature and amount of such fees are displayed.<sup>1</sup> For print advertisements, the asterisk or other symbol may refer the reader to the bottom of the advertisement where the nature and amount of the fees are shown.

The Flight Centre website, from at least June 1, 2007, through February 29, 2008, displayed certain fares which did not include a fuel surcharge and proper disclosure of additional taxes and fees. The website offered fares on its initial screen without noting that additional taxes, fees and surcharges applied; instead it disclosed these charges in a subsequent screen only after a consumer selected a specific itinerary. Information on applicable fuel surcharges was similarly deferred to secondary screens; such surcharges must be included in the base advertised fare.

Flight Centre, in response to the inquiries of the Department's Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office), has revised its site to include fuel surcharges in all base fares and to provide a boldfaced statement adjacent to the taxes, fees and advertised sale fares on its initial website screen with a link to an explanation that states that other charges apply and describes the nature and amount of those charges.

Further, Flight Centre also published advertisements from at least January 2007 through February 2008 in the *Los Angeles Times*' weekend travel section and in the *Chicago Sun-Times*' weekend travel section, which advertised round trip air fares, but stated that "Prices do not include Insurance, Taxes and other Surcharges." These newspaper advertisements, which did not state the amount of government taxes and fees and omitted insurance and other surcharges from the base advertised air fares, also violated section 399.84 and 49 U.S.C. § 41712.

Flight Centre, in response to the request of the Enforcement Office, has revised its newspaper advertisements to include all surcharges in the base price and to disclose the nature and amount of taxes and fees by means of a prominent statement placed in proximity to the advertised price.

In mitigation and explanation, Flight Centre states that it takes the Department's rule on full fare advertising very seriously and has never before been the subject of enforcement action. Additionally, Flight Centre maintains that it is committed to full price transparency, and has always provided consumers with full and accurate fare information so that they are aware of the full price to be paid for air transportation before booking air travel with Flight Centre. Accordingly, the company believes that no consumers were

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<sup>1</sup> See, e.g., *JetBlue Airways, Inc.*, Order 2004-2-4, *Grand Circle Corporation*, Order 2006-7-23, and *AHI Travel International Corp.*, Order 2008-3-5 and orders cited therein, and the notice entitled, "Disclosure of Additional Fees, Charges and Restrictions on Airfares in Advertisements, Including 'Free' Airfares," which is dated September 4, 2003, as well as guidance letters to the industry which can be found at the following site: <http://airconsumer.ost.dot.gov/rules/guidance.htm>.

harm by the advertisements identified by the Department during its investigation. Moreover, the company notes that, as soon as it was contacted by the Department, it took immediate and decisive steps to address the Department's concerns, including modifying its print and electronic advertisements as more fully described above.

We acknowledge that Flight Centre has cooperated fully in our investigation, and took prompt corrective action. However, we believe that enforcement action is nonetheless warranted in this instance. Flight Centre USA, Inc., for its part, in order to avoid litigation and without admitting or denying the alleged violations, agrees to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41712 and 14 CFR 399.84 and to an assessment of \$40,000 in compromise of potential civil penalties, of which one-half will be payable according to the payment schedule described below. This compromise assessment is appropriate in view of the nature and extent of the violations in question and serves the public interest. This settlement, moreover, represents a deterrent to future noncompliance with the Department's advertising regulations and section 41712 by Flight Centre USA, Inc., as well as by other sellers of air transportation.

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

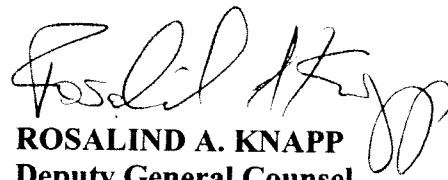
ACCORDINGLY,

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 Flight Centre USA, Inc. violated 14 CFR 399.84 by advertising fares on its Internet site and in newspapers without proper disclosure of additional fees and taxes, and by separately listing fuel surcharges on certain sale fares, as described above;
3. We find that by engaging in the conduct described in paragraph 2 above, Flight Centre USA, Inc. has engaged in unfair and deceptive trade practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. Flight Centre USA, Inc., and all entities owned and controlled by, or under common ownership and control with Flight Centre USA, Inc., their successors, affiliates, and assigns, are ordered to cease and desist from further violations of 14 CFR 399.84 and 49 U.S.C. § 41712;
5. Flight Centre USA, Inc. is assessed \$40,000 in a compromise of civil penalties that might otherwise be assessed for the violations described in ordering paragraph 2 and 3, of which \$20,000 shall be due and payable within 30 days of the service date of this order. In addition, if Flight Centre USA, Inc. violates the provisions of this order within the one-year period following the service date of this order, the carrier shall pay an additional amount of \$20,000 within 15 days of being notified of the violation by the Office of Aviation Enforcement Proceedings; and

6. 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. Failure to pay the compromise penalty assessment as ordered will subject Flight Centre USA, Inc. to an 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. We order Flight Centre USA, Inc. to submit to the Office of Aviation Enforcement and Proceedings a list of all published advertisements it has placed in any printed media, including the date and name of the publication, during the sixth and twelfth months of the one-year period following the issuance of this order; this list should be submitted within 15 days of the conclusion of the referenced one-year period.

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

**BY:**

  
**ROSALIND A. KNAPP**  
**Deputy General Counsel**

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