



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

Issued by the Department of Transportation
On the 10th day of August, 2009

US Airways, Inc.

**Violations of 49 U.S.C. § 41712 and
14 CFR Part 257**

**Docket OST 2009-0001
Served: August 10, 2009**

CONSENT ORDER

This consent order concerns violations by US Airways, Inc., of the Department's code-share disclosure rule, 14 CFR Part 257, and the statutory prohibition against unfair and deceptive practices, 49 U.S.C. § 41712. The order directs US Airways to cease and desist from future violations of Part 257 and section 41712 and assesses the carrier \$70,000 in civil penalties.

Section 257.4 of the code-share disclosure rule states that the holding out or sale of scheduled passenger air transportation involving a code-sharing arrangement is an unfair and deceptive trade practice in violation of 49 U.S.C. § 41712 unless, in conjunction with that holding out or sale, carriers follow certain requirements, including those of 14 CFR 257.5(b). With regard to oral communications concerning a flight that is part of a code-sharing arrangement, section 257.5(b) states that a ticket agent or carrier must disclose to prospective consumers before they book the flight the existence of the code-share arrangement, the corporate name of the transporting carrier, and any other name under which the flight is held out to the public. Violations of section 257.5 constitute unfair and deceptive trade practices and unfair methods of competition in violation of 49 U.S.C. § 41712.

An investigation by the Aviation Consumer Protection Division (ACPD) of the Office of Aviation Enforcement and Proceedings (Enforcement Office) revealed a significant lack of compliance by US Airways with section 257.5. In January and March 2009, Enforcement Office staff made a number of telephone calls to US Airways' reservations line to determine if US Airways employees were advising consumers of the code-share status of US Airways flights operated by other carriers as required by section 257.5(b). The US Airways reservations agents answering those calls failed to disclose the code-share status of the flights in question during a substantial number of those calls.

In mitigation, US Airways states that it takes seriously its section 257.5(b) obligations, and continually trains its reservations agents to make all required code-share disclosures. US Airways further asserts that refunds and no-fee exchanges are available to any US Airways customer who elects not to take a flight because it is a code-share. US Airways states that it has implemented a “zero-tolerance” policy for code-share disclosures during monthly quality review call evaluations, with progressive discipline for agents failing to make required disclosures.

We view seriously the failure of US Airways, Inc., to disclose code-sharing arrangements as required by 14 CFR Part 257. Accordingly, after carefully considering all of the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. In order to avoid litigation, US Airways, Inc., agrees to the issuance of this order to cease and desist from future similar violations of Part 257 and 49 U.S.C. § 41712 and to the assessment of \$70,000 in compromise of potential civil penalties otherwise assessable against it. We believe that this compromise assessment is appropriate in view of the nature and extent of the violations in question, serves the public interest, and provides a strong incentive to all airlines to comply with the Department’s code-share disclosure rule.

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 US Airways, Inc., violated 14 CFR 257.5(b) by failing to disclose code-sharing arrangements as required;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2, above, US Airways, Inc., engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order US Airways, Inc., and all other entities owned or controlled by or under common ownership with US Airways, Inc., its successors and assignees to cease and desist from further violations of 14 CFR Part 257 and 49 U.S.C. § 41712;
5. We assess US Airways, Inc., \$70,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3, above. Of this total penalty amount, \$35,000 shall be due and payable within 15 days from the date of issuance of this order. The remaining \$35,000 shall become due and payable if, within one year following the date of issuance of this order, US Airways, Inc., violates this order’s cease an desist or payment provisions, in which case the entire unpaid portion of

the civil penalty shall become due and payable immediately, and US Airways, Inc., may be subject to additional enforcement action for failure to comply with this order; 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 in accordance with the instructions contained in the Attachment to this order. Failure to pay any portion of the penalty as ordered shall subject US Airways, Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act.

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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