



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

**Issued by the Department of Transportation
on the seventh day of April, 2010**

**Prestige Cruise Holdings, Inc.,
Oceania Cruises, Inc., and Seven
Seas Cruises S. de R.L. d/b/a
Regent Seven Seas Cruises**

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

Docket DOT-OST 2010-0005

Served April 7, 2010

CONSENT ORDER

This consent order concerns advertisements by Prestige Cruise Holdings, Inc., through its subsidiaries, Oceania Cruises, Inc., ("Oceania Cruises") and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises ("Regent Cruises")¹, (collectively "Prestige Cruises") 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 Prestige Cruises to cease and desist from future violations and assesses the company compromise civil penalties of \$75,000.

Prestige Cruises, as a ticket agent selling air tour packages, including air and cruise package tours, 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

¹ Prestige Cruise Holdings, Inc. is a Panamanian corporation. It is the owner of Regent Cruises and Oceania Cruises, which sell and market the air cruise package tours and operate the cruise vessels.

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 ticket 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.² Taxes and fees imposed on an *ad valorem* basis, however, must be included in the advertised price, lest consumers be confused about the total amount that must be paid. Similar notice must be provided when air fares are held out as "free," but government-imposed taxes and fees must be paid by a passenger in order to utilize the "free" fare. On the other hand, 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.³

Prestige Cruises specializes in offering ocean cruises, along with cruise travel packages, which include airfares, guided tours, and related amenities, throughout the world. Prestige Cruises has promoted its airfares and air travel packages in the United States through printed advertisements, brochures and other mailers, and by means of e-mail solicitations and advertisements that are published on Oceania Cruises' and Regent Cruises' web sites, www.Oceaniacruises.com and www.Rssc.com, respectively.

An investigation by the Department's Office of Aviation Enforcement and Proceeding ("Enforcement Office") disclosed that the air fares and cruise and air tours promoted by Prestige Cruises in its brochures, flyers and other print advertisements, and on its web sites did not comply with Department requirements. Specifically, the listed prices for the complete air and cruise packages failed to include air-related fuel and service surcharges, which must be included in the advertised price, and failed to include an appropriate notice of the amount or nature of government taxes and fees that are not included in

² See, e.g., Costa Cruise Lines N.V., Order 2009-9-3.

³ See, e.g., JTB Corporation, Order 2008-12-24, Trafalgar Tours West, Order 2007-8-24, Grand Circle Travel Corp, Order 2006-7-23, JetBlue Airways, Inc., Order 2004-2-4, 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>.

the overall air plus cruise package price. In addition, the "free" air fares, as advertised, do not provide adequate notice that certain taxes and fees, which properly may be stated separately from the advertised fare, must be paid by the traveler in order to obtain the "free" air fare, nor of the amount of such taxes and fees. Moreover, certain Oceania Cruises advertisements stated that the "free" fare does not include air fuel surcharges, and that "an air ticketing fee," that is, a service charge, will apply.⁴

By failing to provide appropriate notice that government-imposed taxes and fees must be paid by a passenger in order to utilize air fares advertised as "free," and by failing to include fuel surcharges imposed by carriers, or other surcharges such as a ticketing fee, collected by Prestige Cruises, in the advertised price of an air ticket or air tour package or a "free" air fare when the fare is first listed, Prestige Cruises violated the Department's regulations and enforcement 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.

We recognize the difficulties faced by some companies who may themselves be subject to "fuel surcharges" by airlines in their contracts with carriers in order to secure seats in advance. However, 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 an air tour seller 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 flyers or brochures, a firm can state in its flyers and 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 the current prices can be obtained. Fares held out on the Internet or in newspapers, or orally, however, must be current and available.

In mitigation and explanation, Prestige Cruises states that it takes its obligations under the Department's full fare advertising rule very seriously and that it has established an exemplary record in this regard. Prestige Cruises points out that it has never previously been the subject of a Department investigation or enforcement action. Prestige Cruises asserts that it takes great pride in advertising its products in a transparent manner and places the utmost importance not only on complying with the Department's rules and policies, but on marketing and selling its products in a clear and straightforward way.

⁴ Two other promotions featured by Oceania Cruises in its brochures and on its web site in June 2009 stated that the promotional offers do not include "air taxes and air fuel surcharges."

Prestige Cruises further states that consumers have always been advised of additional charges in its advertising before making a purchase. The overwhelming majority of Prestige Cruises' customers booked their travel not online, but with the assistance of a trained and experienced travel professional. Regent's website contains no consumer booking engine. Thus, Regent Cruises could only be booked with the assistance of a travel professional, whether it be a travel agent or a call center representative. Likewise, although Oceania Cruises' web site does contain an online booking engine, according to Prestige Cruises, only a small number of Oceania Cruises' customers booked their cruise itineraries online. Prestige Cruises adds that, as with Regent Cruises, these customers were informed of all fees, taxes, and surcharges by an experienced travel professional, almost always of their own choosing. Prestige Cruises further explains that the consumer was always informed of the total price to be paid during that process and again when the consumer received his or her invoice. As a result, according to Prestige Cruises, at no time were consumers misled as to the final price to be paid for air-inclusive packages. Prestige Cruises maintains that no consumers were harmed as a result of its advertising practices.

Additionally, when Prestige Cruises learned that the Enforcement Office was concerned about its advertising, the company contends that it took swift and comprehensive actions to address those concerns. The company also states that it immediately briefed all senior marketing executives on the Department's advertising rules and policies and revised the Oceania Cruises and Regent Cruises web sites. Prestige Cruises declares that, as soon as it was possible to do so, it informed its printing vendors immediately to discontinue all printings of 2009 and 2010 company-issued advertisements inconsistent with the Department's policy. In some cases, Prestige Cruises recounts, printing was stopped only a few hours prior to the advertisements going to press at significant cost to Prestige Cruises. As soon as one week after it received notice of the Department's concerns about its advertising, Prestige Cruises says that it contacted all major travel agent partners to inform them of modifications to its advertising policies (discussed below) to ensure that from that point forward, travel agents only advertise Oceania Cruises' and Regent Cruises' products in a manner consistent with the Department's rules. In addition, Prestige Cruises explains that it sent email communications to 31,000 travel agents to inform them of the changes. Prestige Cruises further asserts that it trained its field and inside sales agents regarding its new advertising policies and has retained regulatory counsel that will conduct training sessions periodically and as required to ensure compliance with Department rules and policies.

Finally, Prestige Cruises states that in the interest of offering customers a more simple pricing structure, both Regent Cruises and Oceania Cruises have

implemented an all-inclusive pricing model in which all airline-imposed fuel surcharges and government taxes are now included within the advertised fare.

The Enforcement Office has carefully considered all of the information available to it, including that provided by Prestige Cruises, but continues to believe that enforcement action is warranted. In this connection and in order to avoid litigation, the Enforcement Office and Prestige Cruises have reached a settlement in this matter. While neither admitting nor denying the above allegations, Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises accept the findings and conclusions stated herein in order to avoid potential litigation. Under this order, Prestige Cruises is assessed \$75,000 in compromise of potential penalties otherwise assessable under the provisions of 49 U.S.C. § 46301. Of this penalty amount, \$37,500 shall be due and payable within 15 days of the issuance of this order. The remaining \$37,500 shall become due and payable if, within one year following the date of issuance of this order, Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises violate this order's cease and desist or payment provisions, in which case the entire sum will become due and payable immediately.

The Enforcement Office believes that the assessment of a civil penalty of \$75,000 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 Prestige Cruises 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 Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises 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, Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises engaged in an unfair and deceptive practice and an unfair method of competition in violation of 49 U.S.C. § 41712;

4. We order Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises and all other entities owned and controlled by, or under common ownership and control with Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises, and their successors and assignees, to cease and desist from future violations of 14 CFR 399.84 and 49 U.S.C. § 41712;

5. Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises are assessed \$75,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 of this order. Of this penalty amount, \$37,500 shall be due and payable within 15 days of the issuance of this order. The remaining \$37,500 shall become due and payable if Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises fail to comply with the payment provisions of this order, or, within one year following the date of issuance of this order, violates this order's cease and desist provisions, in which case the entire sum will become due and payable immediately and Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises may be subject to additional enforcement action;

6. Failure to pay the compromise assessment as ordered shall subject Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises to the assessment of interest, penalty, and collection charges under the Debt Collection Act;

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; and

8. We order Prestige Cruise Holdings, Inc., Oceania Cruises, Inc., and Seven Seas Cruises S. de R.L. d/b/a Regent Seven Seas Cruises to submit to the Office of Aviation Enforcement and Proceedings copies of (a) all advertisements of air tours or air tour components it causes to be published in printed format or 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 site 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.

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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