



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

Issued by the Department of Transportation
On the Twenty-Eighth day of February, 2011

American Airlines, Inc.

Violations of 49 U.S.C. § 41712

Docket OST -2011-0003

Served February 28, 2011

CONSENT ORDER

This consent order concerns violations of 49 U.S.C. § 41712, which prohibits unfair and deceptive trade practices and unfair methods of competition, by American Airlines, Inc., (American) for failure to disclose the amount of fees and use restrictions on travel vouchers offered and provided as denied boarding compensation (DBC) to passengers who volunteered to give up their seats in oversales situations. This consent order directs American to cease and desist from such further violations and assesses American a compromise civil penalty of \$90,000.

Applicable Law

As an air carrier, American must fully disclose fees and significant use restrictions in connection with offers and solicitations for passenger air transportation, including those made with respect to compensation to volunteers in oversales situations. We consider instances in which notice of fees or significant terms of an offer are withheld, obscured, or disclosed only after the customer has accepted to be an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712.

Facts and Conclusions

An investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) found that for a number of years American offered travel vouchers as compensation to passengers who volunteered to give up their seats in oversales situations without adequate disclosure of applicable fees and significant use restrictions. During this period, a ticketing fee was added to the cost of each ticket purchased through American's telephone reservations line or at American airport ticketing locations, including tickets purchased when using travel vouchers provided as voluntary DBC. American ceased adding ticketing fees for tickets purchased through the reservations line when using such vouchers about four years ago, but continued adding a \$30.00 ticketing fee to the cost of each ticket

purchased with such vouchers at American airport ticketing locations until late 2010. At all times relevant to this matter, travel vouchers provided as voluntary DBC could not be redeemed on American's Internet web site. Thus, until American eliminated the ticketing fee for tickets purchased through its telephone reservations line, the vouchers could not be redeemed without incurring a ticketing fee, and until late 2010, the vouchers could not be redeemed at airport ticketing locations without incurring a fee. Although a notice appeared on the voucher stating that a "ticketing fee may apply," no fee amount was stated and no information was given as to when the fee applied. Thus, fee amounts and certain other restrictions were not disclosed at the time of the voucher offers, resulting in passengers accepting these vouchers as voluntary DBC at what was less than the bargained-for amount.

The Enforcement Office also found that American's internal reference document on oversales volunteer solicitations gave no instruction to agents on disclosing certain significant limitations on redeeming vouchers. There were no guidelines, for example, to inform passengers that vouchers could not be used for ticket purchases online or that vouchers applied to tickets purchased by telephone had to be mailed in for processing 12-21 days before the departure date. Passenger complaints reviewed by the Enforcement Office indicated that passengers generally learned about fees and certain redemption restrictions only after trying to purchase tickets with the vouchers. It appears, for example, that passengers first learned of restrictions on the use of vouchers (e.g., the 12-21 day processing time) and the amount of the ticketing fee when they contacted American's telephone reservations agents to redeem the vouchers. Our findings further indicate that reservations agents did not always accurately disclose policies and procedures concerning the use of vouchers, resulting in significant inconvenience and expense to some consumers.

Mitigation

In mitigation, American believes that applying the general prohibition against unfair and deceptive practices found in 49 U.S.C. 41712 to this matter in the absence of specific regulations or guidance on these issues is inherently subjective. American contends that this case is therefore distinguishable from enforcement cases where carriers have violated an explicit regulation or guidance.

American also believes that any consumer problems associated with voucher distribution in oversales situations were minimal. The carrier maintains that since April 2007, passengers who received travel vouchers in return for giving up a seat could realize the full value of the voucher unless they chose to redeem at an airport. American points out that it eliminated the airport ticketing fee two months before the Enforcement Office first contacted American on this matter. American states that it issues approximately 250 of the subject travel vouchers per day. The carrier further states that the number of complaints it received from its "top tier" customers about issues associated with the redemption of travel vouchers was very small. American believes this to be an indicator that the number of similar complaints from its non-top tier customers, if discernible, would also be minor in magnitude.

American underscores its excellent record of compliance with the Department's consumer regulations and guidance. Despite periodic audits of both American and American Eagle for compliance with the Department's consumer protection rules, no enforcement orders have arisen from these audits, or in any other context, since 2003. With respect to denied boarding compensation, American notes that it consistently ranks favorably in the Department's monthly air travel consumer reports.

Decision

The Enforcement Office has carefully considered all of the information available to it, including the cooperation of American and the changes in procedures it has implemented, but continues to believe that enforcement action is warranted. In order to avoid litigation, the Enforcement Office and American have reached a settlement of this matter. Without admitting or denying the violations described above, American agrees to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41712. American further agrees to the assessment of \$90,000 in compromise of potential civil penalties otherwise assessable against it.

This compromise assessment is appropriate in view of the nature and extent of the violations in question, serves the public interest, and establishes a strong deterrent to future similar unlawful practices by American and other air carriers.

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 the order as being in the public interest.
2. We find that American Airlines, Inc., violated 49 U.S.C. § 41712 by failing to fully and accurately disclose the amount of fees and significant use restrictions applicable to travel vouchers offered and provided to passengers as compensation for voluntary denied boarding at the time the offers were made.
3. We order American Airlines, Inc., and all other entities owned and controlled by or under common ownership with American Airlines, Inc., and its successors and assignees to cease and desist from such further violations of 49 U.S.C. § 41712.
4. We assess American Airlines, Inc., a compromise civil penalty of \$90,000 in lieu of civil penalties that might otherwise be assessed for the violations described in ordering paragraph 2, above. Of this total assessed penalty, \$45,000 shall be due and payable within thirty days of the issuance of this order. The remaining \$45,000 shall become due and payable if American Airlines, Inc., violates this order's cease and desist provisions within one year following the date of issuance of this order or fails to comply with the payment provisions of this order, in which case the entire unpaid portion of the \$90,000 assessed penalty shall become due and payable immediately.

5. We order American Airlines, Inc., to pay the penalty by wire transfer through the Federal Reserve Communications System commonly known as "Fed Wire," in accordance with paragraph 4 above to the account of the U.S. Treasury as described in the attached instructions. Failure to pay the penalty as ordered shall subject American Airlines, Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to possible additional enforcement action for failure to comply with this order.

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 initiative.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

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