



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

Issued by the Department of Transportation  
On the Sixth day of May, 2011

**Automobile Club of New York, Inc., d/b/a  
AAA New York**

**OST-2011-0003**

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

**Served May 6, 2011**

**CONSENT ORDER**

This consent order concerns violations by the Automobile Club of New York, Inc., d/b/a AAA New York (AAA NY), an online airline ticket agent, 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. It directs AAA NY to cease and desist from future violations of Part 257 and section 41712 and assesses AAA NY \$20,000 in civil penalties.

Section 257.4 of the Department's 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, the advertiser follows certain notice requirements, including those of 14 CFR 257.5(d). The specific terms of section 257.5(d) require that print advertisements, including those published on the Internet, "prominently disclose that the advertised service may involve travel on another carrier," "clearly indicate the nature of the service in reasonably sized type," and "identify all potential transporting carriers... by corporate name and by any other name under which that service is held out to the public."

An investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) revealed a significant lack of compliance by AAA NY with section 257.5. During at least the latter half of 2010, AAA NY failed to properly disclose the existence of code-sharing arrangements when advertising code-share flights operated on behalf of a major air carrier by a regional air carrier on its Internet website. Specifically, it did not display the corporate names of the transporting carriers and any other names under which those flights were held out to the public on its flight itinerary pages. AAA NY's failure to properly disclose the existence of code-sharing arrangements and the names of the

transporting carriers could have resulted in consumers being deceived regarding the identity of the airline that was actually to operate the aircraft on which the consumer would be flying.

In mitigation, AAA NY states that it is a not-for-profit member service organization and it serves as the New York metropolitan area affiliate of its national affiliate, the Automobile Club of America (AAA). AAA NY states that it provides the services of a travel agent, but its services are subordinate to its not-for-profit missions, which are, in addition to maintaining a member service organization, to promote and advocate for travel, automobile and road safety. AAA NY states that it primarily conducts business at its branch offices, over the phone and, to a lesser extent, on its Internet website, which is targeted to a specific territory within the state of New York. AAA NY explains that less than 20% of its bookings are done via the Internet and during 2010, it made less than 1000 bookings via the Internet. Furthermore, AAA NY states that all of its Internet ticket sales are made through a booking engine via a link to its national affiliate, which receives fare information via its GDS.

We view seriously the failure of AAA NY 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, AAA NY 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 \$20,000 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 meaningful incentive to all airlines and ticket agents 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 the Automobile Club of New York, Inc., d/b/a AAA New York violated 14 CFR 257.5(d) 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, the Automobile Club of New York, Inc., d/b/a AAA New York engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712;
4. We order the Automobile Club of New York, Inc., d/b/a AAA New York and all other entities owned or controlled by or under common ownership with the Automobile

Club of New York, Inc., d/b/a AAA New York and 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 the Automobile Club of New York, Inc., d/b/a AAA New York \$20,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total penalty amount, \$10,000 shall be due and payable within 30 days of the date of issuance of this order. The remaining portion of the civil penalty amount, \$10,000, shall become due and payable if, within one year of the date of issuance of this order, the Automobile Club of New York, Inc., d/b/a AAA New York violates this order's cease and desist provisions or fails to comply with this order's payment provisions, in which case the Automobile Club of New York, Inc., d/b/a AAA New York may become subject to additional enforcement action for violation of the 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 the penalty as ordered will subject the Automobile Club of New York, Inc., d/b/a AAA New York to the assessment of interest, penalty and collection charges under the Debt Collection Act and to possible 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 motion.

**BY:**

ROSALIND A. KNAPP  
Deputy General Counsel

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