



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

Issued by the Department of Transportation
On the Fifth day of October, 2012

**734758 Ontario, Limited,
d/b/a FlightNetwork.com**

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

Docket OST 2012-0002

Served October 5, 2012

CONSENT ORDER

This consent order concerns the Internet website (www.FlightNetwork.com) of 734758 Ontario, Limited, d/b/a FlightNetwork.com, (FlightNetwork), a ticket agent based in Canada¹ that violated the advertising requirements specified in 14 CFR 399.84(a), as well as 49 U.S.C. §41712, which prohibits unfair and deceptive practices. It directs FlightNetwork to cease and desist from future violations of 399.84(a) and section 41712, and assesses the carrier a compromise civil penalty of \$15,000.

Applicable Law

As a ticket agent, FlightNetwork is subject to the advertising requirements of Part 399 of the Department's rules. Section 399.84 applies to ticket agents that hold out air transportation, or air tours to, from, or within the United States to U.S. consumers through the Internet and other media.² To ensure that consumers are not deceived and are

¹ A "ticket agent" is defined as "a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation." 49 U.S.C. § 40102(a)(45).

² To determine whether an Internet advertisement is marketed to U.S. consumers, the Enforcement Office considers a number of factors, including whether fares are displayed in U.S. dollars and whether sales can be made to persons with addresses or telephone numbers in the United States. The Enforcement Office does

given accurate and complete fare information on which to base their airline travel purchase decisions, section 399.84(a) requires that advertisements specifying airfares and air tour package prices state the entire price to be paid by the consumer. Although charges included within the single total price listed, e.g., government taxes, may be stated separately or through links or “pop ups” on websites that display the total price, such charges may not be false or misleading, may not be displayed as prominently as the total price, may not be presented in the same or larger size as the total price, and must provide cost information on a per-passenger basis that accurately reflects the cost of the item covered by the charge. Violations of section 399.84(a) also constitute an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. §41712.

Facts and Conclusions

For a period of time during the Spring of 2012, FlightNetwork failed to meet the requirements of 14 CFR 399.84(a). From the primary Internet booking path of the FlightNetwork.com homepage, staff from the Office of Aviation Enforcement and Proceedings (Enforcement Office) conducted a search for flights from Atlanta to Washington, DC. The search returned a landing page that displayed fare quotations which broke out the additional taxes and fees. Failing to include the additional taxes and fees in the fare quoted on the first landing page violates section 399.84(a), and constitutes an unfair and deceptive practice in violation of 49 U.S.C. § 41712.

Mitigation

FlightNetwork asserts that although the total fare price was expressed as two prices rather than a single unified price during the period in question, the two prices were clearly visible and displayed adjacent to each other at all times, and there was no intent to deceive customers. FlightNetwork states that it is a Canadian travel company, marketing exclusively to Canadians, selling almost entirely to Canadians, and with its corporate headquarters located in Canada. FlightNetwork asserts that its sales to U.S. consumers during the period in question represented a very small proportion of its total sales. FlightNetwork states that the improper practices described above were carried on for a relatively brief time and have now been discontinued.

Decision

The Department views compliance with the Federal aviation statutes and regulations very seriously. The Enforcement Office has carefully considered the information provided by FlightNetwork and continues to believe that enforcement action is warranted. The Enforcement Office and FlightNetwork have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above,

not intend to apply the rule to the sale of transportation by air that takes place solely outside the United States and is not directed at U.S.-based consumers. See “Answers to Frequently Asked Questions Concerning the Enforcement of the Second Final Rule on Enhancing Airline Passenger Protections (EAPP #2),” Dated January 11, 2012, available at <http://airconsumer.ost.dot.gov/rules/guidance.htm>.

FlightNetwork consents 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 the assessment of \$15,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

This compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It represents a strong deterrent against future noncompliance with the Department's advertising requirements.

This order is issued under the authority contained in 49 CFR Part 1.

ACCORDINGLY,

1. Based on the above information, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that FlightNetwork violated 14 CFR 399.84(a) by advertising fares that failed to state the entire price to be paid;
3. We find that by engaging in the conduct described in ordering paragraph 2, above, FlightNetwork engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order FlightNetwork, and all other entities owned or controlled by, or under common ownership and control with FlightNetwork, its successors, affiliates, and assignees, to cease and desist from further similar violations of 14 CFR 399.84 and 49 U.S.C. § 41712. Failure to comply with this cease and desist provision shall subject FlightNetwork, and its successors and assignees, to possible further enforcement action;
5. We assess FlightNetwork \$15,000 in compromise of civil penalties that might otherwise be assessed for the violations described above, which amount is due and payable within 30 days of the date of issuance of this order; and
6. We order FlightNetwork to pay the penalty through Pay.gov to the account of the U.S. Treasury. Payments shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject FlightNetwork, to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing 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:

SAMUEL PODBERESKY
Assistant General Counsel for
Aviation Enforcement and Proceedings

(SEAL)

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