



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

Issued by the Department of Transportation
On the Twentieth day of August, 2012

Orbitz Worldwide, LLC

**Violations of 14 CFR 399.85(b) and
49 U.S.C. § 41712**

Docket OST 2012-0002

Served August 20, 2012

CONSENT ORDER

This order concerns violations by Orbitz Worldwide, LLC, (Orbitz) of the Department's rule requiring baggage fee disclosure, 14 CFR 399.85(b), and the statutory prohibition against unfair and deceptive practices and unfair methods of competition, 49 U.S.C. § 41712. It directs Orbitz, a ticket agent¹, to cease and desist from future similar violations of the baggage fee disclosure requirement of 14 CFR 399.85(b) and assesses the company \$50,000 in civil penalties.

Applicable Law

On April 25, 2011, the Department issued a set of rules designed to enhance protections for air travel consumers that, among other things, requires carriers and ticket agents to clearly and prominently disclose on the first screen in which the carrier offers a fare

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).

quotation for a specific itinerary selected by a consumer that additional fees for baggage may apply and where consumers can go to see the applicable baggage fees.² This rule, which became effective on January 24, 2012, ensures that consumers are not deceived and are given accurate and complete information on which to base their travel purchase decisions. Violations of section 399.85(b) constitute unfair and deceptive practices in violation of 49 U.S.C. § 41712.

Facts

As a ticket agent, Orbitz is subject to the baggage fee disclosure requirements of 14 CFR 399.85(b). However, for a short period of time after January 24, 2012, although Orbitz' website disclosed on the first webpage in which it offered fare quotations for specific itineraries that additional fees for baggage may apply and where consumers could see those fees, the location of the disclosure may have required a user to scroll to the bottom of the first webpage and therefore, was not clear and prominent as required by section 399.85(b) and 49 U.S.C. § 41712.

Mitigation

In mitigation, Orbitz states that it strives to comply with all regulatory requirements that govern ticket agents, including the Department's baggage fee disclosure rules, and that any violations were unintentional and promptly corrected. Orbitz states that it is strongly committed to providing airline consumers with transparent and easily understood fare information. Furthermore, Orbitz notes that it has fully cooperated with the Department in the course of this investigation.

Orbitz claims that at all times the required disclosure was present on its first webpage. In late January 2012, Orbitz asserts that it was in the process of transitioning to an enhanced platform. According to Orbitz, the existing platform displayed a baggage fee link in full compliance with 14 CFR 399.85(b) without the need to scroll down. The enhanced platform displayed the baggage fee link on the first webpage in which a fare quotation was offered, but in a different location at the bottom of the webpage. Upon notification of the Department's concerns, Orbitz took immediate steps to address the concerns by moving the baggage fee link up to the top of the first webpage on its enhanced platform, below the search matrix.

Decision

The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered the information provided by Orbitz but continues to believe enforcement

² An agent may refer consumers to airline websites where specific baggage fee information may be obtained or to its own site if it displays airline baggage fees.

action is warranted. The Enforcement Office and Orbitz have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, Orbitz consents to the issuance of this order to cease and desist from future violations of 14 CFR 399.85(b) and 49 U.S.C. § 41712 and to the assessment of \$50,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent to future similar unlawful practices by Orbitz and other ticket agents.

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 Orbitz Worldwide, LLC, violated 14 CFR 399.85(b) by failing to clearly and prominently disclose on the first webpage of its website in which it offered a fare quotation for a specific itinerary selected by a consumer that additional airline fees for baggage may apply and where consumers could view the applicable fees;
3. We find that by engaging in the conduct described in ordering paragraph 2, above, Orbitz Worldwide, LLC, engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order Orbitz Worldwide, LLC, and all other entities owned or controlled by, or under common ownership and control with Orbitz Worldwide, LLC, its successors, affiliates, and assignees, to cease and desist from further violations of 14 CFR 399.85(b) and 49 U.S.C. § 41712;
5. We assess Orbitz Worldwide, LLC, a compromise civil penalty of \$50,000 in lieu of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3, above. Of this total penalty amount, \$25,000 shall be due and payable within 30 days of the date of issuance of this order. The remaining \$25,000 shall become due and payable immediately if Orbitz Worldwide, LLC, violates this order's cease and desist provision within one year following the date of issuance of this order or fails to comply with the order's payment provisions; and
6. Payment shall be made 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 Orbitz Worldwide, LLC, 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:

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Assistant General Counsel for
Aviation Enforcement and Proceedings

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