



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

Issued by the Department of Transportation  
On the Twenty-First day of August, 2012

**EgyptAir Airlines Company**

**Violations of 14 CFR 399.85(b) and 259.5(b)(4)  
and 49 U.S.C. § 41712**

**Docket OST 2012-0002**

**Served August 21, 2012**

**CONSENT ORDER**

This order concerns violations by EgyptAir Airlines Company (EgyptAir) of 14 CFR 399.85(b) and 259.5(b)(4), and the statutory prohibition against unfair and deceptive practices, 49 U.S.C. § 41712. It directs EgyptAir to cease and desist from future similar violations and assesses the carrier \$60,000 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, required airlines to comply with the Department's baggage fee disclosure rule as written, which requires that the carrier clearly and prominently disclose on the first screen in which a fare quotation appeared that additional airline fees for baggage may apply.<sup>1</sup> In addition, the rules require "covered carriers," which include a foreign air carrier operating to, from or within the United States using any aircraft with a design capacity of 30 or more passenger seats, to adopt a provision in its customer service plan permitting the holding of reservations without payment, or the canceling of reservations without penalty, within a twenty-four-hour time period of making a reservation.

<sup>1</sup> 76 Fed. Reg. 23110 (April 25, 2011).

The Department delayed the effective date for certain requirements of the rules from August 23, 2011, to January 24, 2012, including the provisions pertaining to the disclosure of baggage fees, and the holding of a reservation without payment, or cancellation without penalty, for twenty-four hours.<sup>2</sup>

### **I. Baggage Fee Disclosure**

The Department's current baggage fee disclosure rule, 14 CFR 399.85(b), requires carriers to inform passengers on the first screen in which the carrier offers a fare quotation for a specific itinerary selected by a consumer that additional airline fees for baggage may apply and where consumers can go to see these baggage fees. This notification on the website must be clear, conspicuous and prominent. The rule reduces consumer confusion over whether, and, if so, how much they will have to pay to check or carry-on bags. Violations of section 399.85(b) constitute unfair and deceptive practices in violation of section 41712.

### **II. Customer Service Plan**

Pursuant to 14 CFR 259.5(b)(4), a covered carrier is required to include a commitment in its customer service plan that at a minimum it will allow reservations to be held at the quoted fare without payment, or cancelled without penalty, for at least twenty-four hours after the reservation is made if the reservation is made one week or more prior to a flight's departure. This provision allows a consumer to make travel plans and shop for a fare that meets his or her needs, and addresses the carrier's need for adequate time to sell seats on its flights. Violations of section 259.5(b)(4) constitute unfair and deceptive practices in violation of section 41712.

### **Facts**

As a foreign air carrier, EgyptAir is subject to the prohibition on engaging in unfair and deceptive practices set forth in 49 U.S.C. § 41712 and to the baggage fee disclosure requirements of 14 CFR 399.85(b). EgyptAir failed to meet the requirements of section 399.85(b) by not disclosing on the first screen in which it offers a fare quotation for a specific itinerary selected by a consumer that additional airline fees for baggage may apply and where consumers can go to see these baggage fees. For a period of time after January 24, 2012, in response to consumer searches using the main booking path on its website, EgyptAir displayed a fare matrix for outbound and inbound legs. Additionally, the following text appeared directly above the fare matrix, "Please refer to our baggage overview pages for more detailed information on EGYPTAIR's baggage policy." Although the sentence also included a link to EgyptAir's baggage policy, it is unclear from the text alone whether additional baggage fees may apply to the fares displayed. The notification that additional baggage fees may apply must be clear.

As a covered carrier, EgyptAir is also required to adopt and follow a customer service plan applicable to its scheduled flights. For a period of time after January 24, 2012,

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<sup>2</sup> 76 Fed. Reg. 45184 (July 28, 2011).

EgyptAir failed to include a commitment in its customer service plan allowing reservations to be held at the quoted fare without payment, or canceled without penalty, for at least twenty-four hours after the reservation is made if the reservation is made one week or more prior to a flight's departure. EgyptAir's failure to include this commitment in the contents of its plan violated 14 CFR 259.5(b)(4) and 49 U.S.C. § 41712.

### **Mitigation**

In mitigation, EgyptAir states that it is committed to fully complying with all the Department's regulations and that it in no way intended to mislead its customers. According to EgyptAir, the omissions from its website were completely inadvertent and have been corrected. Moreover, EgyptAir points out that it has cooperated fully with the Enforcement Office in an effort to correct the deficiencies in its website and to resolve this matter. In addition, EgyptAir states that as a result of the Enforcement Office's investigation, it has implemented internal measures that include regular audits to ensure that its website remains in compliance with all applicable existing and future regulations.

### **Decision**

The Enforcement Office has carefully considered the information provided by EgyptAir, but continues to believe enforcement action is warranted. The Enforcement Office and EgyptAir have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, EgyptAir, consents to the issuance of this order to cease and desist from future violations of 14 CFR 399.85(b), 14 CFR 259.5(b)(4), and 49 U.S.C. § 41712 and to the assessment of \$60,000 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 EgyptAir and other carriers.

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 EgyptAir Airlines Company violated 14 CFR 399.85(b) by failing to inform passengers on the first screen in which the carrier offers a fare quotation for a specific itinerary selected by a consumer that additional airline fees for baggage may apply;
3. We find that EgyptAir Airlines Company violated 14 CFR 259.5(b)(4) by failing to include a provision in its customer service plan permitting the holding of reservations without payment, or the canceling of reservations without penalty, within a twenty-four hour time period after the reservation was made provided that it was made a week or more before departure;

4. We find that by engaging in the conduct described in ordering paragraphs 2 and 3, above, EgyptAir Airlines Company engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
5. We order EgyptAir Airlines Company, and all other entities owned or controlled by, or under common ownership and control with EgyptAir Airlines Company, its successors, affiliates, and assignees, to cease and desist from further violations of 14 CFR 259.5(b)(4), 14 CFR 399.85(b), and 49 U.S.C. § 41712;
6. EgyptAir Airlines Company is assessed \$60,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total penalty amount, \$30,000 shall be due and payable in three equal installments of \$10,000 each, with the first installment due and payable within 30 days of the issuance date of this order, the second installment due and payable within 60 days of the issuance date of this order, and the third installment due and payable within 90 days of the issuance date of this order. The remaining \$30,000 shall become due and payable if, within one year of the issuance date of this order, EgyptAir Airlines Company violates the cease and desist provision in ordering paragraph 5, above, or fails to comply with the payment provisions in this ordering paragraph, in which case, the entire unpaid portion of the civil penalty shall become due and payable immediately; and
7. We order EgyptAir Airlines Company 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 EgyptAir Airlines Company 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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