



**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

Compagnie Nationale Royal Air Maroc

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

Docket OST 2012-0002

Served August 21, 2012

CONSENT ORDER

This order concerns violations by Compagnie Nationale Royal Air Maroc (Royal Air Maroc) of 14 CFR 399.85(b), and the statutory prohibition against unfair and deceptive practices, 49 U.S.C. § 41712. It directs Royal Air Maroc 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, require airlines to clearly and prominently disclose on the first screen in which the carrier offers a fare quotation for a specific itinerary selected by a consumer that additional fees for baggage may apply and where consumers can view the applicable baggage fees. 14 CFR 399.85(b). The notification that additional baggage fees may apply must be clear, conspicuous and prominent. This rule, which became effective January 24, 2012, is intended to ensure 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 and unfair methods of competition in violation of 49 U.S.C. § 41712.

Facts

As a foreign air carrier, Royal Air Maroc 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). Royal Air Maroc failed to meet the requirements of section 399.85(b) by not clearly and prominently 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 could 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, Royal Air Maroc displayed a fare matrix for outbound and inbound legs. Appearing at the top of the page was a typical menu bar with, among six other items, the menu option, “Baggage and service fees.” Although this menu option linked to Royal Air Maroc’s baggage fee policies, its placement at the top of the page, and apart from the fare matrix, did not make it clear whether additional baggage fees might apply to the fares displayed and therefore was not sufficient to comply with the requirement of the rule.

Mitigation

In mitigation, Royal Air Maroc states that any violation of the Department’s requirement was inadvertent, that it fully cooperated with the Department’s investigation, and that this is the first consent order that the Department has ever issued against it for violation of the Department’s regulations.

Royal Air Maroc also states that it did not receive any passenger complaints regarding this issue, that there is no evidence that any passengers were not able to readily obtain all necessary information regarding Royal Air Maroc’s baggage fees, and that any allegation that it failed to adequately disclose baggage fees should be considered in the context of Royal Air Maroc’s long-standing policy of allowing all trans-Atlantic passengers to carry two checked bags without any additional charge.

Decision

The Enforcement Office has carefully considered the information provided by Royal Air Maroc, but continues to believe enforcement action is warranted. The Enforcement Office and Royal Air Maroc have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, Royal Air Maroc, 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 \$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 Royal Air Maroc and other sellers of air transportation.

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 Compagnie Nationale Royal Air Maroc violated 14 CFR 399.85(b) by failing to clearly and prominently disclose 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 view the applicable fees;
3. We find that by engaging in the conduct described in ordering paragraph 2, above, Compagnie Nationale Royal Air Maroc engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712;
4. We order Compagnie Nationale Royal Air Maroc, and all other entities owned or controlled by, or under common ownership and control with Compagnie Nationale Royal Air Maroc, 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. Compagnie Nationale Royal Air Maroc 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, Compagnie Nationale Royal Air Maroc violates the cease and desist provision in ordering paragraph 4, 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
6. We order Compagnie Nationale Royal Air Maroc 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 Compagnie Nationale Royal Air Maroc 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)

An electronic version of this document is available at
www.regulations.gov