



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

Issued by the Department of Transportation
On the Thirtieth day of September, 2013

**Alpha Media Group, LLC,
d/b/a AlphaFlightGuru**

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

Docket OST-2013-0004

Served September 30, 2013

CONSENT ORDER

This consent order concerns Internet advertisements by Alpha Media Group, LLC, d/b/a AlphaFlightGuru (AlphaFlightGuru) that failed to comply with the U.S. Department of Transportation’s full-fare advertising rule, 14 CFR 399.84(a), and constituted an unfair and deceptive practice prohibited by 49 U.S.C. § 41712. It directs AlphaFlightGuru to cease and desist from further similar violations of section 399.84(a) and section 41712 and assesses AlphaFlightGuru a civil penalty of \$60,000.

Applicable Law

AlphaFlightGuru is a ticket agent¹ and is therefore subject to the advertising requirements of Part 399 of the Department’s rules and the prohibition in 49 U.S.C. § 41712 against engaging in unfair and deceptive practices. To ensure that consumers are not deceived and are given accurate and complete fare information on which to base their air travel purchase decisions, 14 CFR 399.84(a) requires that advertisements specifying air fares

¹ A “ticket agent” is “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).

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 described separately, including through links or “pop ups” on websites that display the total price, such descriptions 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 violations of section 41712.

Facts and Conclusions

An investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) found that AlphaFlightGuru advertised airfares without stating the entire price to be paid by the consumer. Specifically, AlphaFlightGuru’s website displayed price ranges for air travel that, instead of showing the entire price to be paid by the consumer, included language in a disclaimer stating that taxes and fees were not included.² By failing to include all taxes and fees in the fares advertised, AlphaFlightGuru violated 14 CFR 399.84(a) and engaged in an unfair and deceptive practice in violation of 49 U.S.C. § 41712.

Mitigation

In mitigation, AlphaFlightGuru states that to the extent it failed to comply with the Department’s full-fare advertising rule, it was entirely unintentional. Further, AlphaFlightGuru believes that its conduct did not result in any harm to the traveling public. AlphaFlightGuru states that immediately upon being advised of the Department’s concerns, it adjusted the fare displays on its website in accordance with the Department’s full-fare advertising rule. AlphaFlightGuru also notes that it has not received any complaints relating to its fare displays. According to AlphaFlightGuru, its customers have always been provided the full price to be paid for their travel upon making an initial inquiry and AlphaFlightGuru has never made any attempt whatsoever to mislead them.

Decision

The Enforcement Office has carefully considered the information provided by AlphaFlightGuru but continues to believe that enforcement action is warranted. The Enforcement Office and AlphaFlightGuru have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, AlphaFlightGuru consents to the issuance of this order to cease and desist from similar violations of 49 U.S.C. § 41712 and 14 CFR 399.84(a) and to the assessment of \$60,000 in civil penalties pursuant to 49 U.S.C. § 46301.

² See *Additional Guidance on Air Fare/Air Tour Price Advertisements*, February 21, 2012, available at <http://www.dot.gov/individuals/air-consumer/additional-guidance-airfare-and-air-tour-price-advertisements>.

This 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 air fare advertising regulations.

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 Alpha Media Group, LLC, violated 14 CFR 399.84(a) by failing to advertise the entire price to be paid by consumers for air travel;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2, above, Alpha Media Group, LLC, engaged in an unfair and deceptive trade practice in violation of 49 U.S.C. § 41712;
4. We order Alpha Media Group, LLC, its successors, its affiliates, its assigns, and all other entities owned by, controlled by, or under common ownership and control with Alpha Media Group, LLC, its successors, its affiliates, and its assigns to cease and desist from further violations of 49 U.S.C. § 41712 and 14 CFR 399.84(a);
5. We assess Alpha Media Group, LLC, \$60,000 in civil penalties for the violations found in ordering paragraphs 2 and 3 above. Of this total penalty amount, \$10,000 shall be due and payable within 30 days of the issuance date of this order; \$10,000 shall be due and payable within 60 days of the issuance date of this order; \$10,000 shall be due and payable within 90 days of the issuance date of this order; and the remaining \$30,000 shall become due and payable if, within one year of the issuance date of this order, Alpha Media Group, LLC, 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;
6. We order Alpha Media Group, LLC, 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 Alpha Media Group, 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:

SAMUEL PODBERESKY
Assistant General Counsel for
Aviation Enforcement and Proceedings

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