



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

Issued by the Department of Transportation
On the 22nd of May, 2018

TAME Linea Aerea del Ecuador.

**Violations of 14 CFR Part 399
and 49 U.S.C. § 41712**

Docket DOT-OST-2018-0001

Served May 22, 2018

CONSENT ORDER

This order concerns violations by TAME Linea Aerea del Ecuador (“TAME”) of the Department of Transportation’s (“Department”) full fare advertising rule contained in 14 CFR 399.84(a). These violations constitute unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712. The Department directs TAME to cease and desist from future violations of 14 CFR 399.84(a) and section 41712 and assesses the carrier a compromise civil penalty of \$130,000.

I. Website Fare Calculations

On April 25, 2011, the Department issued a set of rules designed to enhance protections for air travel consumers which, among other things, require U.S. and foreign air carriers to comply with the Department’s full-fare advertising rule.¹ As a foreign air carrier, TAME is subject to the advertising requirements of 14 CFR 399.84(a). Section 399.84(a) provides, in relevant part, that the first price quote for air transportation must state the entire price to be paid by the customer. The rule permits charges included within that total price to be stated separately, but the separate statement may not be false or misleading.

¹ 14 CFR 399.84(a)

For a period of time, when providing consumers with fare quotations for selected airfare, TAME's price quote for individual flights on certain pages of its website displayed a lower price than the total price TAME eventually charged consumers. During an investigation by the Office of Aviation Enforcement and Proceedings ("Enforcement Office"), staff members created multiple sample itineraries to determine whether TAME was charging consumers a higher total cost for air transportation than the prices quoted for individual flights on these pages. The Enforcement Office found that TAME routinely charged consumers a total price that was higher than the first quoted price displayed to consumers. TAME's practice of charging consumers a higher total price than the first price quoted to consumers during the booking process constitutes a violation of 14 CFR 399.84(a). TAME's violations of 14 CFR 399.84(a) constitute unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712.

Response

In response, TAME states that the carrier takes its obligations under the Department's regulations regarding online sales of transportation very seriously. When the Department first contacted TAME about questions concerning its website, TAME states that it was able to resolve most of the outstanding issues within a matter of days. As a smaller carrier based in Ecuador, TAME explains that it does not operate its website using its own resources entirely, but instead is hosted on a third party system operated by SITA. TAME emphasizes that it could not remedy the most difficult issue—compliance with the Department's full fare rule—without the programming efforts of SITA. According to TAME, it is the only Ecuadorian airline that has suffered governmental changes which have indirectly affected the ability to act quickly and efficiently. TAME stresses that apart from these circumstances TAME brought its website into compliance with the Department's regulations as quickly as it could. TAME adds that it intends to maintain that compliance.

Decision

The Enforcement Office has carefully considered the information provided by TAME, but continues to believe that enforcement action is warranted. The Enforcement Office and TAME have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, TAME consents to the issuance of this order and to cease and desist from future violations of 14 CFR Part 399 and 49 U.S.C. § 41712, and to the assessment of \$130,000 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 TAME 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 TAME Linea Aerea del Ecuador violated 14 CFR 399.84(a) by charging consumers a higher total cost for flight itineraries than the prices quoted for the individual tickets that composed the itinerary.
3. We find that by engaging in the conduct described in paragraph 2 above, TAME Linea Aerea del Ecuador engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order TAME Linea Aerea del Ecuador and its successors and assigns to cease and desist from further violations of 14 CFR Part 399, as well as 49 U.S.C. § 41712;
5. We assess TAME Linea Aerea del Ecuador \$130,000 in compromise of civil penalties that might otherwise be assessed for the violations described above.
 - a. \$65,000 of the assessed penalty shall be due and payable within 30 days of the service date of this order; and
 - b. \$65,000 shall become due and payable if, within one year of the date of issuance of this order, TAME Linea Aerea del Ecuador violates the order's cease and desist provisions or fails to comply with the order's payment provisions, in which case TAME Linea Aerea del Ecuador may be subject to additional enforcement action for violation of this order.
6. We order TAME Linea Aerea del Ecuador to pay the penalty through Pay.gov to the account of the U.S. Treasury. Payment shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the compromise penalty assessment as ordered will subject TAME Linea Aerea del Ecuador to an assessment of interest, penalty, and collection charges under the Debt Collection Act and to possible enforcement action for failure 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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