



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

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

Vietnam Airlines JSC

**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 Vietnam Airlines JSC (Vietnam) of the Department of Transportation's consumer protection regulations contained in 14 CFR Part 399. These violations constitute unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712. This order directs Vietnam Airlines to cease and desist from future violations of those regulations and section 41712 and assesses the carrier a compromise civil penalty of \$65,000.

I. Full Fare Advertising

As a foreign air carrier, Vietnam Airlines is subject to the advertising requirements of Part 399 of the Department's rules. To ensure that consumers are not deceived and are given accurate and complete fare information on which to base their airline travel plans, 14 CFR 399.84 provides in relevant part that the Department considers any advertising or solicitation by a direct air carrier, indirect air carrier, an agent of either, or a ticket agent, for passenger air transportation, a tour (i.e., a combination of air transportation and ground or cruise accommodations) or tour component (e.g., a hotel stay) that must be purchased with air transportation that states a price for such air transportation, tour, or tour component

to be an unfair and deceptive practice in violation of 49 U.S.C. § 41712, unless the price stated is the entire price to be paid by the customer to the carrier, or agent, for such air transportation, tour, or tour component. Although charges included within the single total price listed (e.g., government taxes) may be stated separately or through links or “pop ups” on websites that display the total price, such charges may not be false or misleading, may not be displayed prominently, 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.

For a few months in 2017, Vietnam Airlines’ U.S.-facing website, on its homepage and a subsequent page linked from the homepage, displayed fare advertisements which included base fares but did not include taxes and fees. The advertisements on the homepage only listed base fares. The subsequent page displayed the following disclaimer below each list of advertised fares: “Airfare + Fuel Surcharge + taxes and the public utilities’ charge.” However, the webpage did not list specific figures for taxes or fees. Thus, the web advertisements displayed only partial fares, in violation of 14 CFR 399.84(a).

Additionally, in its booking process, Vietnam Airlines’ website displayed a carrier-imposed “Passenger Surcharge” in a breakdown menu under the label “Taxes.” Including carrier-imposed surcharges and other carrier fees not imposed by a government under the label of “taxes,” or under the label “taxes and fees,” is misleading and violates 14 CFR 399.84(a). Vietnam Airlines’ 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, Vietnam Airlines states that it is committed to providing accurate and complete price information to the customers who visit its website, and that it takes very seriously its obligations under 14 CFR 399.84(a) of the Department’s regulations. Vietnam Airlines notes that the website issues in question were the result of inadvertent errors by its staff. These website displays were promptly revised after the Department brought them to Vietnam Airlines’ attention. Vietnam Airlines management has implemented procedures to avoid this type of error in the future.

Decision

The Enforcement Office has carefully considered the information provided by Vietnam Airlines, but continues to believe that enforcement action is warranted. The Enforcement Office and Vietnam Airlines have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations described above, Vietnam Airlines 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 \$65,000 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 Vietnam Airlines 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 Vietnam Airlines JSC violated 14 CFR 399.84(a) by advertising base fares that did not include taxes and fees, and by listing a carrier-imposed surcharge under the label of "Taxes";
3. We find that by engaging in the conduct described in paragraph 2, above, Vietnam Airlines JSC engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order Vietnam Airlines JSC and its successors and assigns to cease and desist from further violations of 14 CFR section 399.84(a), as well as 49 U.S.C. § 41712;
5. We assess Vietnam Airlines JSC \$65,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total amount, \$32,500 shall be due and payable on June 21, 2018. The remaining \$32,500 shall become due and payable if, within one year of the service date of this order, Vietnam Airlines JSC violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately and Vietnam Airlines JSC may be subject to additional enforcement action for failure to comply with this order.
6. We order Vietnam Airlines JSC 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 Vietnam Airlines JSC 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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