



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

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

Aerolineas Argentinas S.A.

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

Docket OST 2012-0002

Served August 29, 2012

CONSENT ORDER

This order concerns violations by Aerolineas Argentinas S.A. (Aerolineas) of 14 CFR 399.84(a) and the statutory prohibition against unfair and deceptive practices, 49 U.S.C. § 41712. It directs Aerolineas to cease and desist from future similar violations and assesses the carrier \$50,000 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 full-fare advertising rule as written.¹ Specifically, 14 CFR 399.84(a) requires that advertisements specifying air fares and tour package prices with an air

¹ 76 Fed. Reg. 23110 (April 25, 2011). The Department delayed the effective date for the requirements pertaining to full-fare advertising from October 24, 2011, to January 24, 2012. 76 Fed. Reg. 45184 (July 28, 2011). The Department later extended the time period for compliance to January 26, 2012. 76 Fed. Reg. 82115 (Dec. 30, 2011).

component state the entire price to be paid by the consumer. This rule ensures that consumers are not deceived and are given accurate and complete fare information on which to base their travel purchase decisions. 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 as prominently as the full fare, 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 constitute unfair and deceptive practices in violation of 49 U.S.C. § 41712.

Facts

As a foreign air carrier, Aerolineas is subject to the prohibition on engaging in unfair and deceptive practices set forth in 49 U.S.C. § 41712 and to the advertising requirements of 14 CFR 399.84(a). For a period of time after January 26, 2012, in response to consumer searches using the main booking path on its website, Aerolineas displayed fare matrices that separately listed base fares for outbound and inbound legs. These base fares, however, did not include the amount of additional government taxes and fees, as required.

Mitigation

In mitigation, Aerolineas reaffirms its commitment to providing complete and accurate information about its airfares to consumers and fully complying with the Department's advertising regulations. Aerolineas believed in good faith that its website fully complied with the new rules, given that the total fare was identified on page 1 through a pop-up, as well as by being listed on page 2. Aerolineas states that it has been and is committed to providing accurate information to its customers, as well as promoting its fares and services in a transparent and understandable manner and in no way intended to mislead any would-be passenger. Aerolineas notes that it fully cooperated with the Department. When informed by the Department, Aerolineas took immediate actions to ensure compliance, including promptly revising its website. Moreover, Aerolineas states that it is not aware of any consumer confusion arising from the way its website was designed for a time after January 26th and has not received any consumer complaint. Finally, Aerolineas emphasizes that it will monitor its own compliance with the Department's rules.

Decision

The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered the information provided by Aerolineas, but continues to believe enforcement action is warranted. The Enforcement Office and Aerolineas have reached a settlement of this matter in order to avoid litigation. Without admitting or denying the violations

described above, Aerolineas consents to the issuance of this order to cease and desist from future violations of 14 CFR 399.84(a) and 49 U.S.C. § 41712 and to the assessment of \$50,000 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 Aerolineas 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 Aerolineas Argentinas S.A. violated 14 CFR 399.84(a) by failing to state the entire price to be paid in the advertisement of airfares on its website;
3. We find that by engaging in the conduct described in ordering paragraphs 2, above, Aerolineas Argentinas S.A. engaged in unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. § 41712;
4. We order Aerolineas Argentinas S.A. and all other entities owned or controlled by, or under common ownership and control with Aerolineas Argentinas S.A., its successors, affiliates, and assignees, to cease and desist from further violations of 14 CFR 399.84(a) and 49 U.S.C. § 41712;
5. We assess Aerolineas Argentinas S.A. \$50,000 in compromise of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2 and 3, above. This total amount shall become due and payable in five equal installments of \$10,000. The first installment of \$10,000 shall be due and payable on or by September 28, 2012, the second installment of \$10,000 shall be due and payable on or by October 31, 2012, the third installment of \$10,000 shall be due and payable on or by November 30, 2012, the fourth installment of \$10,000 shall be due and payable on or by December 31, 2012, and the fifth installment of \$10,000 shall be due and payable on or by January 31, 2013; and
6. We order Aerolineas Argentinas S.A. 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 Aerolineas Argentinas S.A. 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:

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