



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation
on the 19th day of June, 1998

Served June 19, 1998

Carlson Travel Group, Inc.

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

CONSENT ORDER

This consent order concerns advertisements by Carlson Travel Group, Inc., doing business as Carlson Wagonlit Travel (“Carlson”), that violate 49 U.S.C. § 41712, which prohibits unfair and deceptive practices, and the advertising requirements specified in Part 399 of the Department’s regulations (14 CFR Part 399). This order directs Carlson to cease and desist from future violations and to pay compromise civil penalties.

Carlson, as a travel agency, is subject to the advertising requirements of Part 399 of the Department’s rules. Under 14 CFR 399.84, any advertising by a travel agency that states a price for air transportation is considered to be an unfair or deceptive practice or unfair method of competition in violation of 49 U.S.C. § 41712 unless the price stated is the entire price to be paid by the customer to the agency for such air transportation. Between April 1997 and February 1998, Carlson published advertisements in the Detroit Free Press that promoted air fares from Detroit to various destinations, but failed to meet the requirements of Part 399.

Between October 1997 and January 1998, Carlson’s advertisements in the Detroit Free Press promoted “Barbados,” “Beaches” and “Jamaica” air fares. The fares listed in those advertisements did not include the applicable *ad valorem* taxes, as required by the Department (see, e.g., Order 96-12-10, issued December 11, 1996) and the Internal

Revenue Code (see 26 U.S.C. § 7275).¹ Upon inquiry, Carlson submitted a response from which the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) staff learned that other Carlson promotions failed properly to include *ad valorem* taxes, including its "Sandals Love is All You Need" ad, published in the same newspaper on April 13, 1997, and its "Hawaiian Holidays" fare ad, published on February 1, 1998.²

Under 14 CFR 399.84, any advertising that states a price for air transportation is considered to be an unfair or 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 air carrier or ticket agent for such air transportation, tour or tour component. However, as a matter of enforcement policy, we have permitted air carriers and agents to state separately from the advertised price taxes and fees, including passenger facility charges, imposed by a government on a per-passenger basis. Taxes and fees imposed on an *ad valorem* basis, however, must be included in the advertised fare, lest consumers be seriously confused about the total amount that must be paid.

As published, Carlson's advertisements violated section 399.84 of the Department's regulations. Any violation of 14 CFR 399.84 also constitutes a violation of 49 U.S.C. § 41712.

Carlson neither admits nor denies the violations discussed herein. Carlson states that there has been no trial on the matter. However, Carlson recognizes the seriousness of the Department's concerns and, in the interest of avoiding costly litigation, agrees to this order. In mitigation, Carlson states that its role in the business activity which gave rise to this matter was to arrange advertising of services provided by many suppliers and to handle ticketing of customers who bought these services through Carlson's franchised and wholly-owned retail travel agency locations. Carlson explains that it does not provide the transportation or the accommodations promoted in this advertising and it does not have personnel on the ground in the destination countries. Carlson states that it has to rely upon suppliers for information about requirements in numerous countries. Carlson asserts that its policy has always been to provide complete and accurate information in advertising and to comply fully with all applicable laws and regulations. Carlson also states that it has taken corrective measures to ensure that no advertising violations occur in the future, which include insisting that its third-party suppliers also comply with all applicable Department rules, regulations and guidelines whenever the Carlson name appears in third-party advertising. Carlson promises that it will provide a copy of this order to its retail travel agency locations to inform all relevant personnel.

¹ For example, the advertised fares in Carlson's October 19, 1997, ad did not include the Federal Excise Tax. The ad states in the fine print: "Domestic fares do not include 9% plus \$2.00 F.E.T. or up to \$6.00 airport passenger facility charge." The same language appears in its November 9 ad.

² All three of these advertisements continued to appear long after their first publication date.

The Enforcement Office has carefully considered the information provided by Carlson but continues to believe that enforcement action is warranted. In this connection, the Enforcement Office and Carlson have reached a settlement of this matter. While admitting no violation of law or regulation, Carlson consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41712 and 14 CFR 399.84, and to the assessment of \$40,000 in compromise of potential civil penalties. Of this total penalty amount, \$20,000 shall be due and payable within 15 days of the issuance of this order. The remaining \$20,000 shall be suspended for one year following issuance of this order, and then forgiven, unless Carlson violates this order's cease and desist provision within that one-year period, or fails to comply with the order's payment provisions, in which case the entire unpaid portion of the \$20,000 penalty shall become due and payable immediately, and the carrier may be subject to further enforcement action. We believe that this compromise assessment is appropriate and serves the public interest. It represents an adequate deterrence to future noncompliance with the Department's advertising requirements by Carlson, as well as by other travel agents, tour operators, air carriers and foreign air carriers.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Carlson Travel Group, Inc. violated 14 CFR 399.84 by causing to be published advertisements that failed to state the entire price to be paid by the customer to the seller for certain air transportation;
3. We find that by engaging in the conduct and violations described in paragraph 2 above, Carlson Travel Group, Inc. also violated 49 U.S.C. § 41712;
4. Carlson Travel Group, Inc., and all other entities owned and controlled by, or under common ownership and control with, Carlson Travel Group, Inc., and their successors and assignees, are ordered to cease and desist from violations of 49 U.S.C. § 41712 and 14 CFR 399.84;
5. Carlson Travel Group, Inc. is assessed \$40,000 in compromise of civil penalties that might otherwise be assessed for the violations found in paragraphs 2 and 3 of this order. Of that penalty amount \$20,000 shall be due and payable within 15 days of the issuance of this order. The remaining \$20,000 shall be suspended for one

year following issuance of this order, and then forgiven, unless Carlson Travel Group, Inc. violates this order's cease and desist provision within that one-year period, or fails to comply with the order's payment provisions, in which case the entire unpaid portion of the \$20,000 penalty shall become due and payable immediately, and the carrier may be subject to further enforcement action. Failure to pay the compromise assessment as ordered will subject Carlson Travel Group, Inc. to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order; and

6. Payment shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," to the account of the U.S. Treasury. The wire transfer shall be executed in accordance with the instructions contained in the Attachment to 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:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

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on the World Wide Web at
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