



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

**Issued by the Department of Transportation
On the Twenty-Seventh day of January, 2012**

**Aviation Services, Ltd., d/b/a
Freedom Air**

Violations of 49 U.S.C. § 41712

Docket OST 2012-0002

Served January 27, 2012

CONSENT ORDER

This consent order concerns Internet sales activities by Aviation Services, Ltd., d/b/a Freedom Air (Freedom Air) that violated 49 U.S.C. § 41712 because they resulted in double payments by consumers of government taxes and fees. It directs Freedom Air to cease and desist from further violations of this statute and assesses the carrier a compromise civil penalty of \$20,000.

Applicable Law

As an air carrier, Freedom Air is subject to the statutory prohibition against unfair and deceptive practices and unfair methods of competition found at 49 U.S.C. § 41712. Advertising full fares to customers and then collecting additional charges at the point of payment constitutes a prohibited unfair and deceptive practice.

Facts and Conclusion

For a period of time during 2011, Freedom Air employed a search engine on its website that returned air fare quotes that included all taxes and fees. Upon selecting a fare, consumers were taken to a second landing page that informed them of the applicability of additional taxes and/or fees, specifically passenger facility charges (PFC). As a result, customers using Freedom Air's search engine to purchase air travel were double-charged for the same PFC. By twice charging customers for a single PFC, Freedom Air committed an unfair and deceptive practice in violation of 49 U.S.C. § 41712.

Mitigation

By way of mitigation, Freedom Air states that only those customers who booked tickets through the Freedom Air website, a very small minority of Freedom Air's customers, were overcharged. In addition, Freedom Air states that it issued refunds of the overcharges to all of the affected customers promptly upon receiving notice from the Department.

Decision

The Department views compliance with the Federal aviation statutes and regulations very seriously. The Office of Aviation Enforcement and Proceedings (Enforcement Office) has carefully considered the information provided by Freedom Air, but continues to believe that enforcement action is warranted. The Enforcement Office and Freedom Air have reached a settlement of this matter in order to avoid litigation. Freedom Air consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. § 41712, and to the assessment of \$20,000 in compromise of potential penalties otherwise due and payable pursuant to 49 U.S.C. § 46301.

This compromise 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 by Freedom Air and other sellers of air transportation.

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 Aviation Services, Ltd., d/b/a Freedom Air engaged in an unfair and deceptive practice in violation of 49 U.S.C. § 41712;
3. We order Aviation Services, Ltd., d/b/a Freedom Air and all other entities owned or controlled by, or under common ownership and control with Aviation Services, Ltd., d/b/a Freedom Air, and its successors, affiliates, and assignees, to cease and desist from future violations of 14 U.S.C. § 41712. Failure to comply with this cease and desist provision shall subject Aviation Services, Ltd., d/b/a Freedom Air, and its successors, affiliates, and assignees to further enforcement action;
4. We assess Aviation Services, Ltd., d/b/a Freedom Air \$20,000 in lieu of civil penalties that might otherwise be assessed for the violations described in ordering paragraph 2, above. Of this total penalty amount, \$5,000 shall be due and payable within thirty (30) days of the date of the issuance of this order, and \$5,000 shall be due and payable within ninety (90) days of the date of the

issuance of this order. The remaining portion of the civil penalty amount, \$10,000, shall become due and payable if, within one year of the date of issuance of this order, Aviation Services, Ltd., d/b/a Freedom Air, violates this order's cease and desist provisions or fails to comply with this order's payment provisions, in which case Aviation Services, Ltd., d/b/a Freedom Air may become subject to additional enforcement action for violation of the order; and

5. We order Aviation Services, Ltd., d/b/a Freedom Air to remit the payment assessed in paragraph 4 above by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," to the account of the U.S. Treasury in accordance with the instructions contained in the attachment to this order. Failure to pay the penalty as ordered shall subject Aviation Services, Ltd., d/b/a Freedom Air 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 ten days after its service date unless a timely petition for review is filed or the Department takes review on its own initiative.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

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