

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

ADVERTISING AIR FARES ON SOCIAL MEDIA SITES

NOTICE

This notice is intended to give guidance to airlines and other sellers of air transportation on how additional taxes, fees, and restrictions that are currently permitted to be listed separately from a fare quotation may be disclosed in advertisements on Twitter, Facebook, and other online social media sites. This guidance will be used by the Office of Aviation Enforcement and Proceedings in its compliance and enforcement activities associated with 14 CFR 399.84, the Department's full fare advertising rule, and 49 U.S.C. § 41712, which prohibits unfair and deceptive practices, until January 24, 2012, when, as discussed below, a new rule becomes effective.

Pursuant to 14 CFR 399.84, carriers advertising airfares must state the full price to be paid by the consumer. Under long-standing enforcement case precedent the Department has allowed taxes and fees collected by carriers and ticket agents, such as passenger facility charges and departure taxes, to be stated separately from base fares in advertisements, so long as such taxes and fees are levied by a government entity, are not ad valorem in nature, are collected on a per-passenger basis, and their nature and amount are clearly indicated.¹ Violations of section 399.84 constitute unfair and deceptive practices in violation of 49 U.S.C. § 41712.

In Internet advertising displays, including on social media sites, taxes and fees that properly may be stated separately from the advertised fare must still be disclosed, e.g. through a prominent link placed adjacent to the stated fare that notes that taxes and fees are extra. The link must directly take the viewer to a pop-up or a place on a separate screen, where the nature and amount of taxes and fees are prominently and immediately displayed.²

¹ For a full statement of the policy and enforcement precedent regarding section 399.84, we refer to the pertinent Department notices entitled "Disclosure of Air Fare Variations: Web vs. Other Sources, Surcharges that May be Listed Separately in Advertisements," dated November 4, 2004; "Disclosure of Additional Fees, Charges, and Restrictions on Air Fares in Advertisements, Including 'Free' Airfares," dated September 4, 2003; and "Prohibition on Deceptive Practices in the Marketing of Airfares to the Public Using the Internet," dated January 18, 2001, available at: <http://airconsumer.dot.gov/rules/guidance.htm>.

² For example, under current policies, a carrier or ticket agent could advertise a flight in the following manner: "\$260 + Taxes and Fees" with the phrase "Taxes and Fees" set off as a hyperlink that takes the viewer directly to the bottom of the screen or to a pop-up or a place on a separate screen, where the nature and amount of taxes and fees are prominently and immediately displayed. Hyperlinks that take

Recently, we have noted air fare advertisements by carriers and ticket agents on social media sites that fail to comply with these policies. On Twitter, in particular, we have become aware of “tweets” that contain advertisements for air fares that do not disclose either the nature and amount of taxes and fees that are excluded from the advertised fare or the existence of such taxes and fees. Given the constraint of 140 characters applicable to tweets, it may be difficult to provide the full disclosure required. If full disclosure is not provided, Twitter postings, as with other website advertisements, must provide appropriate disclosure through a prominent link placed adjacent to the fare that notes that taxes and fees are extra. Tweets must clearly indicate that certain government-imposed taxes and fees are not included in the advertised fare, e.g., “gov’t taxes/fees extra,” or “+gov taxes/fee,” and include a hyperlink that takes the viewer directly to a place on a separate screen where the nature and amount of taxes and fees are prominently and immediately displayed. Likewise, if a roundtrip purchase condition applies to an advertised each-way fare, this must also be disclosed in the tweet. We emphasize that these requirements apply to all social media sites.

Website owners and air transportation advertisers should also be aware of new advertising requirements that take effect on January 24, 2012, pursuant to a recently adopted consumer rule.³ Under these new requirements, airlines and ticket agents must include all government taxes and fees in every advertised fare. This full disclosure policy will apply to all sites, including social media sites.

Questions regarding this notice may be addressed to Jonathan Dols, Chief, Consumer Protection and Licensing Branch, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave., SE, Washington, D.C. 20590. You may also reach him by telephone at (202) 366-9342 and by facsimile at (202) 366-7152.

By:

Samuel Podberesky
Assistant General Counsel for
Aviation Enforcement and Proceedings

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An electronic version of this document is available at
<http://airconsumer.dot.gov>.

the viewer to a page or a place on a screen that requires scrolling or further “clicking” on links to be able to view the explanation of taxes and fees do not comply with the enforcement policy for website advertisements.

³ Enhancing Airline Passenger Protection, 76 Fed. Reg. 23110 (April 25, 2011); See *also* Enhancing Airline Passenger Protections: Limited Delay of Effective Date for Certain Provisions, 76 Fed. Reg. 45181 (July 28, 2011).