



**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, 2013

**AAA Mid-Atlantic Inc.**

**Docket OST 2013-0004**

**Violations of 49 U.S.C. § 41712(a) and  
14 CFR Part 257**

**Served: August 29, 2013**

**CONSENT ORDER**

This consent order concerns violations by the AAA Mid-Atlantic Inc. (AAA Mid-Atlantic) when it failed to disclose code-share arrangements as required by 49 U.S.C. § 41712(c) and 14 CFR Part 257 during telephone airline reservation calls. These failures also constitute separate and distinct violations of 49 U.S.C. § 41712(a), the statutory prohibition against unfair and deceptive practices. The order directs AAA Mid-Atlantic to cease and desist from future violations of Part 257 and section 41712, and assesses \$40,000 in civil penalties.

**Applicable Law**

AAA Mid-Atlantic is a ticket agent<sup>1</sup> and is therefore subject to the detailed code-share disclosure requirements found in 49 U.S.C. § 41712(c) and 14 CFR 257.5(b). Under section 41712(c), any “ticket agent, air carrier, foreign air carrier, or other person offering to sell tickets for air transportation on a flight of an air carrier” is required to disclose “whether verbally in oral communication or in writing in written or electronic communication, prior to the purchase of a ticket[,] the name of the air carrier providing the air transportation; and if the flight has more than one segment, the name of each air carrier providing the air transportation for each such flight segment.” Failure to disclose the required information is an unfair or deceptive practice in violation of section 41712. Section 257.4 of the code-share disclosure rule states that the holding out or sale of scheduled passenger air transportation involving a code-sharing arrangement is an unfair

<sup>1</sup> A “ticket agent” is “a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for air transportation.” 49 U.S.C. § 40102(a)(45).

and deceptive trade practice in violation of section 41712, unless, in conjunction with that holding out or sale, carriers and agents follow certain requirements, including those of section 257.5(b). With regard to oral communications concerning a flight that is part of a code-sharing arrangement, section 257.5(b) states that a ticket agent or carrier must disclose to prospective consumers before they book the flight the existence of the code-share arrangement, the corporate name of the transporting carrier, and any other name under which the flight is held out to the public. Violations of section 257.5(b) constitute unfair and deceptive trade practices and unfair methods of competition in violation of section 41712.

### **Facts and Conclusion**

An investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) revealed a significant lack of compliance by AAA Mid-Atlantic with section 257.5(b) of the Department's code-share rule and section 41712(c). For a period of time during January and February of 2013, Enforcement Office staff made a number of telephone calls to AAA Mid-Atlantic as potential purchasers and inquired about booking a flight. During these calls, the AAA Mid-Atlantic reservations agents answering the calls failed to make the required disclosure regarding code-share arrangements for the flights in question. Specifically, when discussing flights marketed by one carrier but operated by another with the callers, AAA Mid-Atlantic's reservation agents only identified the marketing carrier and did not identify the corporate name of the carrier operating the flight or any other name under which the flight is operated, even when prompted by the caller.

As interpreted by the Department, section 257.5(b) and 49 U.S.C. § 41712(c) require that oral code-share disclosures be provided whenever an agent first mentions a code-share flight in response to a specific consumer inquiry, including inquiries that may involve only a request for information. The telephone calls indicated that AAA Mid-Atlantic generally failed to inform consumers booking flights involving code-share arrangements of the identity of the airline that would actually operate the aircraft on which the consumer would be flying.

### **Mitigation**

In mitigation, AAA Mid-Atlantic states that it has taken multiple steps to ensure its compliance with the Department of Transportation's code-share disclosure regulations. Specifically, AAA Mid-Atlantic states it has mandated that any and all current employees or agents who assist customers with airline reservations receive training on the code-share disclosure regulations twice annually. Additionally, newly hired employees or agents who will assist customers with airline reservations must receive this training upon hiring and then must repeat the training twice annually. AAA Mid-Atlantic asserts it monitors its employees' and agents' compliance with these mandatory training requirements and will audit randomly its employees' and agents' communications with customers about airline flight reservations that involve code-sharing in order to determine the effectiveness of the required training and compliance with the code-share disclosure

regulations. Furthermore, AAA Mid-Atlantic states it has joined the American Society of Travel Agents, a professional trade association that educates its members about regulations applicable to the travel industry, including, but not limited to, the code-share disclosure regulations.

### **Decision**

We view seriously the failure of AAA Mid-Atlantic to disclose code-sharing arrangements as required by 49 U.S.C. § 41712(c) and 14 CFR 257.5(b). Accordingly, after carefully considering all of the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted. In order to avoid litigation, AAA Mid-Atlantic agrees to the issuance of this order, to cease and desist from future similar violations of 49 U.S.C. § 41712 and 14 CFR 257.5(b), and to the assessment of \$40,000 in compromise of potential civil penalties that otherwise might be imposed pursuant to 49 U.S.C. § 46301. We believe that this compromise assessment is appropriate in view of the nature and extent of the violations in question, serves the public interest, and provides a strong deterrent to non-compliance with the statute and the Department's code-share disclosure rule.

This order is issued under the authority contained in 49 CFR Part 1.

#### **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 by failing to disclose code-sharing arrangements as prescribed in 49 U.S.C. § 41712(c) and 14 CFR 257.5(b), the AAA Mid-Atlantic Inc., violated 14 CFR 257.5(b) and engaged in an unfair and deceptive trade practice in violation of 49 U.S.C. § 41712;
3. We order AAA Mid-Atlantic Inc., and all other entities owned or controlled by or under common ownership with AAA Mid-Atlantic Inc., its successors and assignees, to cease and desist from further violations of 49 U.S.C. § 41712 and 14 CFR 257.5(b);
4. We assess AAA Mid-Atlantic Inc., \$40,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraph 2 above. Of this total penalty amount, \$20,000 shall be due and payable within thirty (30) days of the date of the issuance of this order. The remaining portion of the civil penalty amount, \$20,000, shall become due and payable immediately if, within one year of the date of issuance of this order, AAA Mid-Atlantic Inc., violates this order's cease and desist provisions or fails to comply with the order's payment provisions, in which case AAA Mid-Atlantic Inc., may be subject to additional enforcement action for violation of this order; and

5. Payment shall be made through Pay.gov to the account of the U.S. Treasury in accordance with the instructions contained in the Attachment to this order. Failure to pay any portion of the penalty as ordered shall subject AAA Mid-Atlantic Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act.

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:**

**SAMUEL PODBERESKY**  
**Assistant General Counsel for**  
**Aviation Enforcement and Proceedings**

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