



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

Issued by the Department of Transportation
On the Ninth day of November, 2011

BusinessJet Class, LLC

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

Docket: OST-2011-0003

Served: November 9, 2011

CONSENT ORDER

This consent order concerns violations by BusinessJet Class, LLC (BusinessJet), an online airline ticket agent, of the Department's code-share disclosure rule, 14 CFR Part 257 and the statutory prohibition against unfair and deceptive practices, 49 U.S.C. § 41712. It directs BusinessJet to cease and desist from future violations of Part 257 and section 41712 and assesses BusinessJet \$40,000 in civil penalties.

Section 257.4 of the Department's code-share disclosure rule states that the holding out or sale of scheduled passenger air transportation involving a code-sharing arrangement is an unfair and deceptive trade practice in violation of 49 U.S.C. § 41712 unless, in conjunction with that holding out or sale, the advertiser follows certain notice requirements, including those of 14 CFR 257.5(d). The specific terms of section 257.5(d) require that print advertisements, including those published on the Internet, "prominently disclose that the advertised service may involve travel on another carrier," "clearly indicate the nature of the service in reasonably sized type," and "identify all potential transporting carriers... by corporate name and by any other name under which that service is held out to the public."

An investigation by the Office of Aviation Enforcement and Proceedings (Enforcement Office) revealed a significant lack of compliance by BusinessJet with section 257.5. During at least the latter half of 2010, BusinessJet failed to properly disclose the existence of code-sharing arrangements when advertising code-share flights operated on behalf of a major air carrier by a regional air carrier on its Internet website www.jetcombo.com. Specifically, it did not display the corporate names of the transporting carriers and any other names under which those flights were held out to the public on its flight itinerary pages. BusinessJet's failure to properly disclose the existence of code-sharing arrangements and the names of the transporting carriers could have resulted in consumers being deceived regarding the identity of the airline that was actually to operate the aircraft on which the consumer would be flying.

In mitigation, BusinessJet states that it relied on two Global Distribution Systems (GDS) to provide it with the flight information it advertised on its website. BusinessJet states that it has always displayed code share information, but that it has displayed the operating carriers' names only when the names were provided by the GDS. BusinessJet states that its two GDS providers did not always provide the required operating carrier names by default, but significant modification to the GDS setup and Application Programming Interface/Web Services (API/WS) software were needed in order to comply with the code-share regulations. BusinessJet states that upon learning that it was in violation of the Department's code-share regulations it acted quickly to remedy the deficiencies on its website and did everything in its control to comply with the Department's laws and regulations. BusinessJet states that until the Department contacted it, it had no reason to believe that it was not being provided with all of the required information by the GDS. BusinessJet is now defunct and its website, www.jetcombo.com is now disabled.

We view seriously the failure of BusinessJet to disclose code-sharing arrangements as required by 14 CFR Part 257. 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, BusinessJet agrees to the issuance of this order to cease and desist from future similar violations of Part 257 and 49 U.S.C. § 41712 and to the assessment of \$40,000 in compromise of potential civil penalties otherwise assessable against it. 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 meaningful incentive to all airlines and ticket agents to comply with the Department's code-share disclosure rule.

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 BusinessJet Class, LLC violated 14 CFR 257.5(d) by failing to disclose code-sharing arrangements as required;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above, BusinessJet Class, LLC engaged in an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. § 41712;
4. We order BusinessJet Class, LLC and all other entities owned or controlled by or under common ownership with BusinessJet Class, LLC and its successors and assignees to cease and desist from further violations of 14 CFR Part 257 and 49 U.S.C. § 41712;
5. We assess BusinessJet Class, LLC \$40,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3 above. Of this total penalty amount, \$20,000 shall be due and payable in installments of \$1,000 on the 1st

day of each calendar month following the issuance of this order, with the first payment due on December 1, 2011. The remaining portion of the civil penalty amount, \$20,000, shall become due and payable if, before July 1, 2013, BusinessJet Class, LLC, violates this order's cease and desist provisions or fails to comply with this order's payment provisions, in which case, BusinessJet Class, LLC, may become subject to additional enforcement action for violation of the order; and

6. Payments 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 in accordance with the instructions contained in the attachment to this order. Failure to pay the penalty as ordered shall subject BusinessJet Class, LLC, to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and to possible additional enforcement action for failure 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:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

*An electronic version of this document is available on the World Wide Web at
www.regulations.gov*