



Canadian
Transportation
Agency

Office
des transports
du Canada

Air Transportation Regulations – Air Services Price Advertising

Interpretation Note

1st Revised Edition (July 8, 2014)



Making Transportation Efficient and Accessible for All

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Disclaimer

The Canadian Transportation Agency (Agency) is the economic regulator of Canada's federal transportation network. It publishes Interpretation Notes to provide information and guidance on provisions of the *Canada Transportation Act* and associated regulations that it administers. Should there be any discrepancy between the content of this Interpretation Note and the Act and associated regulations, the latter prevail. This Interpretation Note provides general guidance to air services price advertisers.

Although this Interpretation Note provides information and guidance on requirements of Part V.1 of the *Air Transportation Regulations*, when examining a particular situation, the Agency will consider each case on its own facts and merits.

I. Purpose

The purpose of this Interpretation Note is to assist any person who advertises prices of air services within, or originating in Canada, in any media. It provides general information and guidance to air services price advertisers on the regulatory requirements specified under Part V.1 - Advertising Prices as per the *Air Transportation Regulations* (ATR).

Part V.1 of the ATR should be read in its entirety to gain a full understanding of all of the air services price advertising requirements. This Note will continue to be updated as required to reflect Agency decisions or any rulings of the courts.

II. Objectives of the ATR Advertising Prices Provisions

Part V.1 of the ATR supports two key objectives:

Objective 1 — Enable consumers to readily determine the total price of an advertised air service.

The display of the total price in air services price advertising reduces confusion and frustration as to the total price and increases transparency. It also allows consumers to more readily conduct price comparisons and make informed choices.

Objective 2 — Promote fair competition between all advertisers in the air travel industry

Regulation of all-inclusive air price advertising promotes competition by achieving a level playing field for all persons who advertise the price of air services within, or originating in, Canada.

III. Legislative and Regulatory References

Note: See [Appendix IV](#) for the complete text of the referenced Legislation.

The Agency's power to make regulations pertaining to air services price advertising is found in section 86.1 of the *Canada Transportation Act* (Act). Section 177 of the Act also provides the Agency with the authority to prescribe administrative monetary penalties.

Act

Section 86.1:

- Requires the Agency to make regulations respecting the advertising of air service prices and specifically states that the Agency shall make regulations respecting advertising in all media, including on the Internet, of prices for air services within, or originating in, Canada.
- Requires the Agency to make regulations that will enable a consumer to readily determine the total price of an air service and requires some itemization. It specifically states that an advertisement for the price of an air service shall include in the price all costs of providing the service and to indicate in the advertisement all fees, charges and taxes collected on behalf of another person in respect of the service.
- Allows the Agency to prescribe what constitutes costs, fees, charges and taxes that may be itemized in the advertised price.

Section 177:

- Allows the Agency to designate the provisions of the Act and of any regulation made pursuant to the Act, the contravention of which results in a violation and to prescribe the maximum amount of the monetary penalty that may be imposed for such violation.

The regulation of air services price advertising is governed by Part V.1 of the ATR while the specification of related administrative monetary penalties is addressed in the *Canadian Transportation Agency Designated Provisions Regulations* (DPR).

ATR - Part V.1

- Subsection 135.8(1) - Requires any person advertising the price of an air service to include, among other things, the total price, including any third party charges, that must be paid to purchase the service.

DPR

- Sets out administrative monetary penalties of up to \$5,000 to individuals and \$25,000 to corporations for violation of the regulations regarding advertising prices.

IV. Air Services Price Advertising Terminology

Terms defined in the ATR and the Act

“air transportation charge” means, in relation to an air service, every fee or charge that must be paid upon the purchase of the air service, including the charge for the costs to the air carrier of providing the service, but excluding any third party charge (ATR section 135.5). [For example, it includes mandatory fees such as fuel surcharges, Canadian navigation surcharges and travel agent fees, but excludes third party charges, such as taxes.]

“third party charge” means, in relation to an air service or an optional incidental service, any tax or prescribed fee or charge established by a government, public authority or airport authority, or by an agent of a government, public authority or airport authority, that upon the purchase of the service is collected by the air carrier or other seller of the service on behalf of the government, the public or airport authority or the agent for remittance to it (ATR section 135.5). [Examples of third party charges include: Airport Improvement Fees, Air Travelers Security Charge, and Harmonized Sales Tax (HST).]

“total price” means

1. In relation to an air service, the total of the air transportation charges and third party charges that must be paid to obtain the service; and,
2. In relation to an optional incidental service, the total of the amount that must be paid to obtain that service including all third party charges (ATR section 135.5).

“air service” means a service, provided by means of an aircraft, that is publicly available for the transportation of passengers, or goods, or both (Act subsection 55(1)).

V. Scope

Part V.1 of the ATR applies to any person regardless of legal status or nature of business (e.g. individual, company, corporation or partnership, air carrier, travel agents, tours operators, online travel agents, etc.) who advertises the price for air services for travel within, or originating in Canada, through any media ([Appendix VI](#)), also referred to in this Interpretation Note as the advertiser.

VI. What Is Not Subject to the Advertising Requirements?

Part V.1 of the ATR does not apply to:

- Air cargo services, paragraph 135.7(2)(a);
- Prices that are negotiated between parties and are not available for purchase by the general public, paragraph 135.7(2)(c);
 - For example, fares available through corporate travel offices and not available to the general public, charter services negotiated with a private business or fares displayed to travel agents by the Global Distribution system.
- Air services as found in section 3 of the ATR and subsection 56(2) of the Act;
 - A complete list of excluded air services can be found in Appendix I.
- The media provider, subsection 135.7(3);
 - A media provider that acts solely as the means for an advertiser to advertise the price of an air service such as the newspaper providing advertising space to an air carrier or travel agent.
- Package travel services, paragraph 135.7(2)(b);
 - Package travel services typically involve the bundling of travel services for sale, such as combining air travel, accommodations, car rental and, where applicable, tour features. The Agency considers such bundled services, where the air service cannot be purchased separately, to be excluded from Part V.1 of the ATR;
 - Where components of a package travel service (air, car, accommodations, etc.) are offered through the same advertisement as standalone travel services that the consumer can elect to purchase individually, only the air service component must adhere to the requirements of Part V.1 of the ATR;
 - Should a service of minimal value be added to an air service, it may be considered incidental requiring that the advertiser comply with Part V.1 of the ATR.
- Air services originating outside Canada, subsection 135.7(1);
 - Part V.1 of the ATR only applies to the advertising of prices for air services within, or originating in Canada.

Further activities to which Part V.1 of the ATR does not need to apply:

- Situations where there is a non-monetary component that forms part of the payment towards the purchase of an air service.
 - For example, this would include advertising the price of air services by loyalty reward programs, which requires the redemption of points, earned earlier, in exchange for air services.
- Advertising where the Canadian public has not been targeted.
 - For example, for advertisers having multiple geographical specific versions of their websites, the Canadian version would need to comply. See also Section VIII for further details.

VII. Overview of Air Services Price Advertising

The Agency considers that for the purpose of Part V.1 of the ATR, an advertisement refers to any **representation** in respect of the price of an air service within, or originating in Canada for the purpose of promoting or selling that air service to the general Canadian public. The advertisement can be done via an interactive or non-interactive media. The difference between the two usually lies in the fact that the interactive media is dynamic and the users' interaction influences the output. Generally a media that can be used in either an interactive or non-interactive way (Internet) should be considered to be dynamic or non-dynamic depending on the use that is being made of the media by the advertiser. Examples of interactive and non-interactive media can be found in [Appendix VI](#).

Information that must appear in all Advertisements, ATR subsection 135.8(1)

Any person who advertises the price of an air service must include in the advertisement the following information:

1. The total price, inclusive of all taxes, fees and charges, that a consumer must pay to the advertiser to obtain the air service;
2. The price must always be in Canadian dollars; however, it may also be expressed in another clearly identified currency;
3. The point of origin and point of destination of the air service. The Agency considers that an advertisement must clearly indicate the cities between which the advertised air service is applicable.
4. An indication of whether the advertised price is for one-way (a trip from one place to another in one direction), round trip (a trip from one place to another and back, usually over the same route) or each way (one leg of a round trip) travel.

5. Any limitations on the period during which the advertised price will be offered and any limitation on the period for which the service will be provided at the price advertised (for example, the start and/or end date applicable to the availability period for the advertised price). If there are no limitations on the period during which the advertised price will be offered or for which the service will be provided, this must be indicated in the advertisement.
6. The proper name and amount of each tax, fee or charge relating to the air service that is a third party charge;
7. Any published tax, fee or charge related to air services that is not collected by the advertiser but must be paid at a departure, in-transit or arrival point in order for the consumer to travel. The advertiser, based on a review of published sources of information, must, at a minimum, indicate the name of such charges in the advertisement; and,
8. Each optional service offered for which a fee or charge is payable and its total price or range of total prices. An optional service generally refers to an option, service or amenity offered by an advertiser that can be selected by the consumer and that is supplemental to the services included in the advertised total price of the air service. The consumer is not obligated to purchase the optional service to complete their travel. Examples of optional services are provided in [Appendix III](#).

Exemptions

The advertiser is exempt from the requirement to include the information described in points 6 to 8 above if:

- The advertisement is presented through a non-interactive media; and,
- The advertisement mentions a readily accessible location (which generally includes a location that is reasonably available to the consumer; for example a Web site, a telephone number, an e-mail address, or regular mail address, depending on the circumstances) where the consumer can go to readily obtain this information (without unreasonable efforts or delays at the readily accessible location).
 - When a consumer accesses the location referred to or provided in the advertisement, the information must be readily obtainable by the consumer. The Agency expects that the consumer will not be obligated to search through many layers of the carrier's Web site to find the information required. If the consumer is directed to a telephone number, e-mail address or regular mail address, the Agency expects that a representative of the advertiser would be able to readily provide

information, including information relating to taxes, fees and charges and optional services.

VIII. Global Websites

The Agency recognizes that not all websites that display an air price from a Canadian origin are subject to Part V.1 of the ATR.

In [Decision No. 119-A-2014](#) (Priceline) the Agency addressed the specific case of advertisements on a global website owned by persons located outside Canada that target persons located outside Canada. The Agency acknowledged that such websites may be beyond the scope of the regulations.

The Agency determined in the Priceline decision that a global website will be subject to Part V.1 of the Regulations if the advertiser is targeting Canadians. Whether an advertisement is targeting Canadians will depend on a factual assessment of all indicators.

The Agency considers that the following factors indicate that a website is targeting the Canadian public:

- the price is displayed in Canadian dollars;
- an option is provided for the consumer to select Canada to differentiate sites or pages/content designed for Canada;
- banner advertisements or highlighted areas on the website promote special deals for flights from or within Canada or the website includes specialized content for a Canadian audience;
- an advertisement in other media that target the Canadian public directs the consumer to the website;
- the advertiser has a place of business in Canada selling air services;
- the website where the advertising is located has a Canadian domain name (e.g. “.ca”);
- a toll free number is available for use in Canada to make reservations;
- any other relevant factors established by the Agency providing an indication that the Canadian public is being targeted by the website.

IX. Representation of Total Price

Part V.1 of the ATR requires that the advertisement of the price of an air service must be displayed as a total price, inclusive of all taxes, fees and charges that a consumer must pay to obtain and complete the air service. A tax generally includes any amount levied on a product or activity by any government at any level, foreign or domestic, including amounts assessed by, and collected on behalf of, government agents. A tax must be applied on a per passenger or *ad valorem* (per value) basis to the air service. Examples of taxes, fees and charges can be found in [Appendix VII](#). The Agency recognizes that there are unique instances where some taxes, fees and charges can increase or decrease on short notice immediately before or after the advertiser has posted the advertisement. Should such unforeseen changes in third party taxes, fees or charges occur, the advertiser must exercise best efforts to update the advertisement as soon as possible.

Part V.1 of the ATR also requires that a consumer have access to the price of any optional service offered by the service provider. The price or range of prices displayed for each optional service or range of optional services must also be inclusive of all taxes fees and charges.

The following sections describe the format for presenting the total price in an advertisement as well as permitted flexibilities to accommodate technical limitations of various media.

The Total Price of an Air Service

How must the total price of an air service be displayed in an advertisement?

The price for an air service must not be advertised in a manner that could interfere with the ability of a person to readily determine the total price that must be paid for the air service. The Agency considers that the total price must be at least as predominant as any other pricing information found in the advertisement. The total price must also be the first price presented to the consumer. For example, having to hover a mouse over a price advertised on a Web site to view the total price is not acceptable. Also, when asking for the price of an air service using a customer service telephone line, the first price given to the consumer by the representative must be the total price inclusive of taxes, fees and charges. Finally, the total price must be expressed in Canadian dollars, although it can also be expressed in other currencies.

Part V.1 of the ATR requires that the total price of an air service include the air transportation charges and third party charges (taxes, fees and charges) that must be paid to obtain the air service. These two categories of costs are further clarified below:

**Total Price of an Air Service =
Air Transportation Charges + Taxes, Fees and Charges**

Air Transportation Charges (Carrier's and Other Advertiser's Costs)

Air transportation charges represent every fee or charge that must be paid upon the purchase of the air service, including the charge for the costs to the air carrier of providing the service, but excluding any third party charge.

An advertiser may voluntarily choose to break out the air transportation charges, such as base fare or any payment that must be made to a travel agent upon the purchase of an air service, and itemize the respective amounts for each of these items in their advertisement. If a breakdown of these charges is provided in writing in the advertisement, it must appear under the heading "Air Transportation Charges, not under "Taxes, Fees and Charges".

Note: Canadian navigation surcharges, fuel surcharges and travel agent fees are considered to be air transportation charges and must not appear under third party charges.

Taxes, Fees and Charges (Third Party Charges)

This covers any taxes, fees and charges that the carrier collects from the consumer on behalf of a third party and that it must remit to the third party. Amounts represented under this heading include any government sales tax (provincial taxes are determined by the consumer's province of purchase), airport improvement fees, security screening fees, etc. These amounts must appear in writing under the heading "Taxes, Fees and Charges". The advertiser must use the proper name for any third party charge that is applicable to the air service (e.g. Goods and Services Tax). However, the Agency considers it acceptable to use commonly known acronyms to describe the name of a tax, fee or charge (for example, the Goods and Services Tax can be described as G.S.T. but not as "Federal Tax") or to use a translation of third party charges in either official language.

The term "tax" may only be used to express a tax collected by the advertiser on behalf of the federal, provincial, local or foreign government and remitted to the third party.

Note: The term "tax" can only be used under the heading "Taxes, Fees and Charges" and not under the heading "Air Transportation Charges".

Third Party Charges/Taxes, Fees and Charges

How must Third Party Charges collected by the Advertiser be displayed?

An advertiser must provide a breakdown of all third party charges on a per passenger basis under the heading "Taxes, Fees and Charges". However, there are exceptions to this requirement provided in Part V.1 of the ATR depending on the type of media used to advertise the air service.

All advertisements placed in non-interactive media must provide a readily accessible location where the breakdown and amounts of third party charges can be readily obtained. The advertisement might, for instance, make reference to an air carrier's Web site where a consumer can review the third party charges or provide a toll-free number a consumer can call to speak to an air carrier representative.

When the characteristics of the traveler (e.g. province of purchase) are not known at the time of the advertisement, the Agency recognizes that it may not be possible to accurately calculate all third party charges. In these circumstances, the Agency expects that the amounts advertised would represent a reasonable approximation for a trip that can be booked by the general public targeted in the advertisement.

In the case of advertisements via interactive media, the breakdown of the names and amounts of third party taxes, fees and charges must be available in the advertisement.

Limitations on the Period for which an Air Service will be provided at an Advertised Price

Part V.I requires an advertiser to identify any limitations to the periods of purchase and travel that are associated with the advertised price (see [Appendix II](#)).

If the advertised price must be purchased by a specific date, then the advertisement must reflect this date.

Simply including vague statements such as "travel dates may vary" is not sufficient to meet the date of travel limitation requirement. Although not required to specify every date and/or time of a flight to which the advertised price applies, the advertiser must be specific about the travel period for which the advertised price is offered.

The Regulations do not govern the availability of the number of seats that should be allocated with respect to a specific advertised price. However, to help the consumer understand that limited seating at an advertised price may exist, the Agency considers it good practice for an advertiser to use the phrase "subject to availability" in its advertisements. Fares that are applicable year round may simply state that they are "subject to availability" given that no limitations regarding purchase and/or travel dates apply to these types of fares.

Round-trip or One-way Services

How can prices be advertised for different types of services?

Part V.1 of the ATR requires that an advertiser indicate whether the advertised air service is offered on a round-trip or one-way basis.

Part V.1 of the ATR also permits an advertiser to advertise a round-trip service on a directional basis. In this instance, the price must be displayed on an each way basis and shown as representing 50% of the total round-trip price. The advertiser must also be clear in the advertisement that the advertised price is obtainable only if both directions are purchased. The Agency considers that this would apply mainly to advertisements in non-interactive media.

When the characteristics of the traveler (e.g. province of purchase) are not known at the time of the advertisement, the Agency recognizes that it may not be possible to accurately calculate the round-trip cost. In these circumstances, the Agency expects that the amounts advertised would represent a reasonable approximation for a trip that can be booked by the general public targeted in the advertisement.

The Total Price of an Optional Incidental Service

How must the price of Optional Incidental Services be advertised?

The advertised price of each optional incidental service offered in relation to the advertised air service must be displayed as the total price, inclusive of any third party charges that a person must pay to obtain that service.

If optional services are available, the advertisement must identify the services being offered, including the price or range of prices for each service. Where a range of prices are available for an optional service (e.g. range of meal prices) and the characteristics of the traveller are unknown (e.g. province of origin), the upper end of the displayed price range should incorporate a reasonable approximation of the maximum cost inclusive of the maximum taxes that could apply to the described service.

**Total Price of an Optional Incidental Service =
Cost of Optional Incidental Service +
Taxes , Fees and Charges Applicable to an Optional Service**

Where can a person find the price list of optional services applicable to a particular air service?

All advertisements placed in non-interactive media must provide a readily accessible location where all information about the price of optional incidental services can be readily obtained. The advertisement might, for instance, refer to an air carrier's Web site where a person can obtain the details about the price of such services or a telephone number a person can call to speak to an air carrier representative.

In the case of interactive media, the advertiser could decide to provide a direct link on its Web site to a page containing the prices or a range of prices for each optional incidental service or the optional services could be integrated into the carrier's online booking system.

Disclosure in Advertisements of Any Published Taxes, Fees and Charges required to be paid by the Consumer upon arrival or departure at an airport but not collected by the Advertiser

If the consumer will be required to pay a tax, fee or charge that the advertiser does not collect (e.g. additional foreign tax the consumer must pay before leaving the foreign country's airport, such as a departure tax), the advertiser, based on review of published sources of information, must indicate in the advertisement, at a minimum, the name of such charges.

Examples of published sources of information the advertiser could reference regarding such taxes, fees and charges include, but are not limited to, the *IATA List of Ticket and Airport Taxes and Fees* or a computer reservation system.

Where can a consumer find information about any additional taxes, fees and charges required to complete their travel, but not collected by the carrier?

All advertisements placed in non-interactive media must indicate a readily accessible location where the consumer can obtain the name of any third party taxes, fees and charges that the advertiser does not collect but will be required of the traveller to complete their travel by air. The advertisement might, for instance, make reference to an air carrier's Web site where a consumer can obtain this information or provide a toll-free number that a consumer can call during the advertiser's business hours to speak to a sales representative.

For interactive media advertisements, information or links regarding the names of published taxes, fees and charges that the advertiser does not collect but will be required of the traveller to complete their travel by air, can be provided on the Web site.

X. Other Federal and Provincial Legislation to Consider when Advertising Prices for Air Services

The advertising of products and services is subject to consumer protection legislation of general application at the federal level through the *Competition Act* and at the provincial level through provincial legislation. Certain matters respecting misleading and deceptive acts and practices fall under the purview of the Competition Bureau.

It is the advertisers' responsibility to ensure that they comply with all applicable legislation respecting advertising of prices, not just the ATR.

XI. Agency Authority

The Agency's Designated Enforcement Officers (DEOs) carry out compliance and enforcement efforts to ensure an advertiser has met the advertisement requirements of Part V.1 of the ATR.

Individuals may bring concerns with compliance to the attention of the DEO, however, it is a matter for the DEO to determine how those concerns are addressed, not an Agency panel. This is not an adjudication matter before the Agency; rather, it is an administrative matter where DEOs ensure compliance.

Ensuring compliance with Part V.1 of the ATR and implementing a program of effective education and enforcement are crucial to meeting the objectives of the Act and Part V.1 of the ATR. To support compliance, the DEOs will work with advertisers of the price of air services to provide educational and other guidance materials to assist them in meeting regulatory requirements.

The DEOs, under their authority provided by the Act, perform compliance verifications and use enforcement measures where necessary to achieve compliance with these requirements.

The Canadian Transportation Agency Designated Provisions Regulations identify the provisions of the ATR which, if contravened, are subject to administrative monetary penalties. The DEOs may impose fines of up to \$5,000 per violation for an individual and \$25,000 per violation for a corporation where either has been found guilty of an offence as a result of contravening Part V.1 of the ATR.

As with all Agency enforcement actions, in the case of a contravention, the DEOs can determine what corrective measures are required and the level of penalties will be established based on a number of factors including the frequency and nature of the offence (see [Appendix V](#)). An advertiser is subject to monetary penalties each and every day of non-compliance.

Finally, in exceptional cases and at the Agency's discretion, an Agency Panel can be struck to order a person to make the changes necessary to conform to Part V.1 of the ATR to bring about compliance or to interpret regulatory requirements where appropriate.

XI. Additional Information

Although this Interpretation Note provides information and guidance on compliance with the requirements of Part V.1 of the ATR, when considering a particular situation, the Agency will consider each case on its own merits.

For any additional information, you may contact the Agency at:

Canadian Transportation Agency

Ottawa, Ontario K1A 0N9

Tel: 1-888-222-2592

TTY: 1-800-669-5575

E-mail: info@otc-cta.gc.ca

Web: www.cta.gc.ca

To report non-compliant advertisements, you may contact the Agency at:

E-mail: conformite-compliance@otc-cta.gc.ca

Appendix I: Excluded Air Services

The air price advertising provisions do not apply to following types of air services as found in section 3 of the ATR and subsection 56(2) of the Act:

- aerial advertising services;
- aerial fire-fighting services;
- aerial survey services;
- aerial reconnaissance services;
- aerial forest fire management service;
- aerial sightseeing services;
- aerial spreading services;
- aerial spraying service;
- aerial weather altering services;
- air cushion vehicle services;
- transportation services for the retrieval of human organs for human transplants;
- aircraft demonstration services;
- external helitransport services;
- glider towing services;
- hot air balloon services;
- air flight training services;
- aerial inspection services;
- aerial construction services;
- aerial photography services;
- parachute jumping services; and
- rocket launching.

Appendix II: Examples of Price Advertising for Air Services

Non-Regulated Advertisement



The advertisement features a blue background with a white border. On the left, the text reads: "Cheap Flights to Toronto", "Lowest fares", "Up to 20% off the total fare", and "www.flyabc.com". On the right, there is a large white dollar sign. A callout box with a blue border and white background is connected to the advertisement by a line. The callout box contains the text: "Not regulated because no price is advertised."

The above format does not need to comply with the ATR air services price advertising requirements as no price appears in the advertisement. However, once the consumer accesses the Web site and an air service price is displayed, the advertiser is obligated to comply with the requirements.

Non-Compliant Advertisement



Special Deal **\$399** + \$185 taxes

Fly from Montreal to California

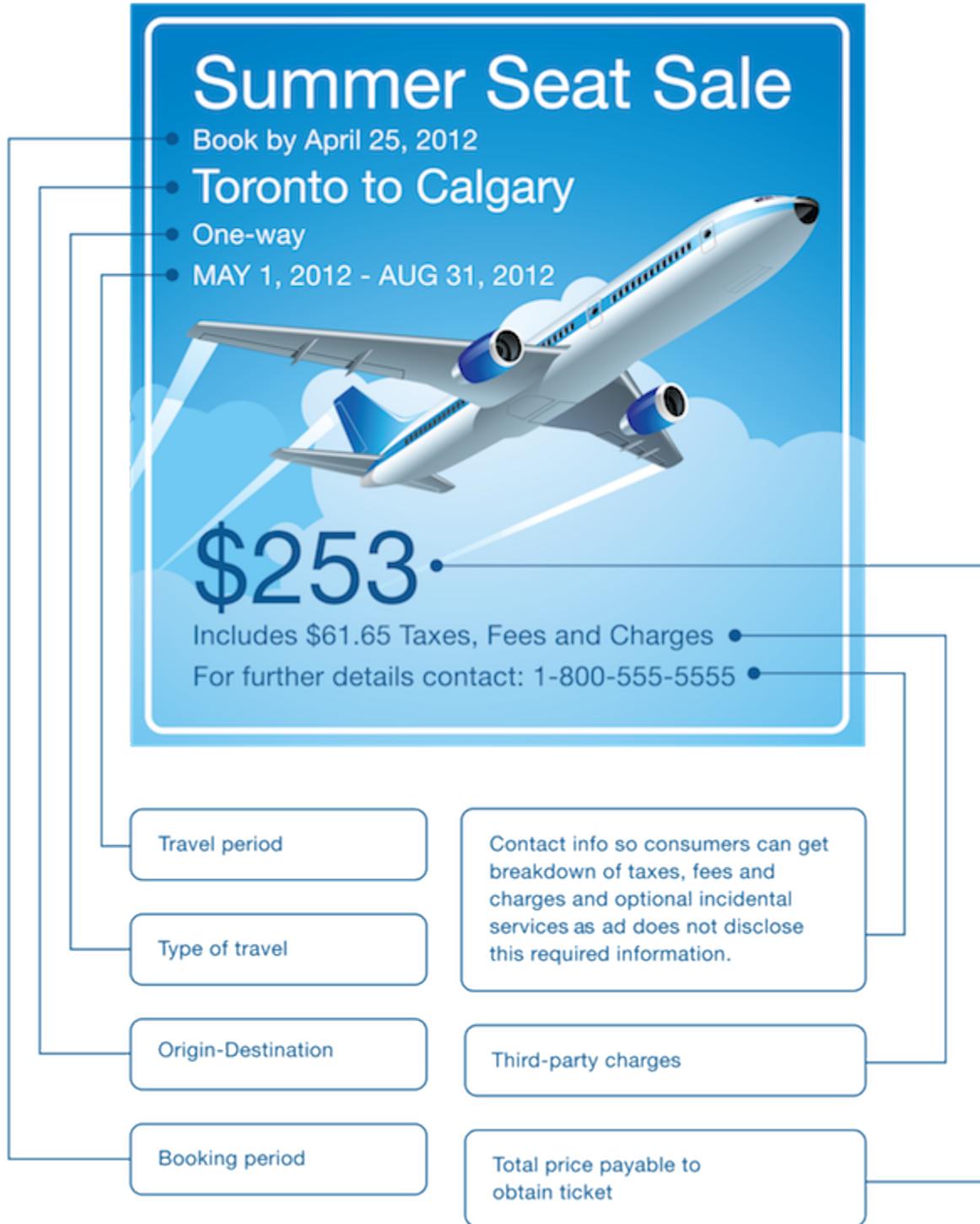
Book before
October 1, 2012
Travel before
December 10, 2012

Details at flyabc.com

The above advertisement is not compliant because it does not include the total price. It also does not mention if the air service is one-way or round trip and it does not clearly mention the destination.

Compliant Advertisements

Non-Interactive Media



Summer Seat Sale

- Book by April 25, 2012
- Toronto to Calgary
- One-way
- MAY 1, 2012 - AUG 31, 2012



\$253

\$191.35
Air Transportation Charges
+ \$61.65
Taxes, Fees and Charges

For further details contact:
1-800-555-5555 or www.flyabc.com

Total of third-party charges collected to be remitted to a government, public authority or airport authority, or by an agent of a government, public authority or airport authority. Amounts do not have to be listed provided contact information is provided to allow the consumer the ability to obtain further information on the breakdown of the third-party taxes, fees and charges.

World Travel Agency

Toronto to Calgary

Book by April 25, 2012

One-way

MAY 1, 2012 - AUG 31, 2012

\$253 all incl.

Includes air transportation charge of \$20
travel agent fee. For further details contact
1-800-555-5555 or www.flyabc.com

Total price

In the example above, as the advertisement is not interactive, the advertiser is not required to provide a breakdown of the taxes, fees and charges but must provide a location where the consumer can readily obtain this information. The amount for taxes, fees and charges must however be included in the total advertised price.

Summer Seat Sale

Book by April 25, 2012

Toronto to Montego Bay

Round Trip

MAY 1, 2012 - AUG 31, 2012



\$450 each way •

- **Available if both directions are purchased**

A departure tax may be charged upon departure for stays of up to two weeks. The departure tax for stays longer than two weeks varies depending on length of stay and nationality.

For further details, contact:
1-800-555-5555 or www.flyabc.com

Total price to be paid to obtain a ticket inclusive of advertiser-imposed fees and charges (Air Transportation Charges) and third-party charges (Taxes, Fees and Charges.) Round trip service advertised on a directional basis must make a mention that the price is obtainable only if both directions are purchased and must be 50% of the round trip price.

The name of known taxes, fees and charges that are not collected by the advertiser but have to be paid to travel can be indicated in the ad.

In the example above, the departure tax is mentioned but as this is not an interactive advertisement, it is not mandatory for the advertiser to indicate it. However, the advertiser must still provide a location to readily obtain other prescribed information.

Interactive Media

Online Booking system

ABC Airlines

Monday June 25, 2012
 From: **Toronto, ON**
 To: **Ottawa, ON**

The first price presented to the consumer must be the total price.

Flights	Depart	Arrive	Economy	Business	Business Plus
One-way					
ABC123	07:00	08:00	<input checked="" type="radio"/> \$177	<input type="radio"/> \$350	<input type="radio"/> \$510
ABC124	09:00	10:00	<input type="radio"/> \$154.40	<input type="radio"/> \$250	<input type="radio"/> \$510
ABC125	11:00	12:00	<input type="radio"/> \$120		
ABC126	14:00	15:00	<input type="radio"/> \$120		

When a consumer hovers over a selected fare, a pop-up box appears giving breakdown of advertiser-imposed charges and fees (Air Transportation Charges) and third-party charges (Taxes, Fees and Charges).

Economy – One-way

Air Transportation Charges

Base Fare	\$100
Fuel Surcharge	\$20
Insurance Surcharge	\$3
NAV Surcharge	\$9

Taxes, Fees and Charges

HST	\$13
Toronto AIF	\$25
ATSC	\$7

Total price (per passenger) \$177

[Optional Incidental Service Charges](#)
 (Additional charges passengers may incur)

When a consumer hovers over Optional Incidental Services Charges, a pop-up box appears with the additional charges listed that a consumer may incur. It is also acceptable if the consumer clicks on the Optional Incidental Service Charges and is taken to another page where the charges are listed.

Optional Incidental Service Charges (inclusive of HST)

Checked 2nd Bag	\$22.60
Oversized/Overweight Bag	\$84.75 - \$113
Preferred Seat Selection	\$16.95 - \$24.86
Beverage/Snack	\$2.26 - \$6.78
Travel w/ Pet	\$113- \$282.50
Unaccompanied minor	\$113

Responding to Advertising Queries – By Telephone

When responding to a telephone call from a consumer regarding an advertised price of an air service, the advertiser's representative must inform the caller of the total price of the advertised air service, inclusive of third party taxes, fees and charges, expressed in Canadian currency.

Consistent with the regulatory requirements, an advertising representative responding to a customer telephone query regarding an advertised price of an air service would initially quote the total price (inclusive of taxes, fees and charges) then specify the total amount of the applicable taxes, fees and charges.

Example:

The total price of the advertised flight is \$550. This total includes \$140 in taxes, fees and charges.

The representative must also be prepared upon request to provide the name and amount of each third party tax, fee and charge collected by the advertiser, which when added together, would equal the total amount of the quoted taxes, fees and charges i.e., breakdown of the \$140 indicated in the example above).

Upon request by the consumer, the advertiser's representative must also provide:

- the origin and destination, whether the service is one-way or round trip, and any limitations that may exist with respect to availability or travel period;
- the cost or range of costs for optional incidental services, inclusive of applicable taxes, and;
- the name of any additional charges that the advertiser does not collect but will be required of the traveller to complete their air service travel (e.g. departure tax).

Appendix III: Examples of Optional Incidental Services

Optional air services are those services that do not form part of the total advertised price.

As optional services constitute a business practice and can vary by service provider/carrier, it is the advertiser who determines the type of optional services to be offered.

The consumer is not obligated to purchase the optional service to obtain and complete the advertised air travel.

Examples of services that might be optional services include:

- checked baggage;
- unchecked baggage;
- in-flight entertainment;
- meals and beverages;
- access to a lounge;
- pre-reserved seat assignment;
- priority boarding; and
- trip insurance provided by the advertiser.

Optional incidental services do not include services that are free and that are not incidental to the air service (e.g. additional miles for frequent flyer program or onboard duty free purchases)

Appendix IV: Referenced Legislation

Canada Transportation Act

86.1 (1) The Agency shall make regulations respecting advertising in all media, including on the Internet, of prices for air services within, or originating in, Canada.

(2) Without limiting the generality of subsection (1), regulations shall be made under that subsection requiring a carrier who advertises a price for an air service to include in the price all costs to the carrier of providing the service and to indicate in the advertisement all fees, charges and taxes collected by the carrier on behalf of another person in respect of the service, so as to enable a purchaser of the service to readily determine the total amount to be paid for the service.

(3) Without limiting the generality of subsection (1), the regulations may prescribe what are costs, fees, charges and taxes for the purposes of subsection (2).

177. (1) The Agency may, by regulation,

(a) designate

(i) any provision of this Act or of any regulation, order or direction made pursuant to this Act,

(ii) the requirements of any provision referred to in subparagraph (i), or

(iii) any condition of a licence issued under this Act,

as a provision, requirement or condition the contravention of which may be proceeded with as a violation in accordance with sections 179 and 180; and

(b) prescribe the maximum amount payable for each violation, but the amount shall not exceed

(i) \$5,000, in the case of an individual, and

(ii) \$25,000, in the case of a corporation.

Air Transportation Regulations

PART V.1

ADVERTISING PRICES

INTERPRETATION

135.5 The following definitions apply in this Part.

“air transportation charge” means, in relation to an air service, every fee or charge that must be paid upon the purchase of the air service, including the charge for the costs to

the air carrier of providing the service, but excluding any third party charge. (*frais du transport aérien*)

“third party charge” means, in relation to an air service or an optional incidental service, any tax or prescribed fee or charge established by a government, public authority or airport authority, or by an agent of a government, public authority or airport authority, that upon the purchase of the service is collected by the air carrier or other seller of the service on behalf of the government, the public or airport authority or the agent for remittance to it. (*somme perçue pour un tiers*)

“total price” means

(a) in relation to an air service, the total of the air transportation charges and third party charges that must be paid to obtain the service; and

(b) in relation to an optional incidental service, the total of the amount that must be paid to obtain the service, including all third party charges. (*prix total*)

135.6 For the purposes of subsection 86.1(2) of the Act and this Part, a prescribed fee or charge is one that is fixed on a per person or *ad valorem* basis.

APPLICATION

135.7 (1) Subject to subsection (2), this Part applies to advertising in all media of prices for air services within, or originating in, Canada.

(2) This Part does not apply to an advertisement that relates to

(a) an air cargo service;

(b) a package travel service that includes an air service and any accommodation, surface transportation or entertainment activity that is not incidental to the air service; or

(c) a price that is not offered to the general public and is fixed through negotiation.

(3) This Part does not apply to a person who provides another person with a medium to advertise the price of an air service.

REQUIREMENTS AND PROHIBITIONS RELATING TO ADVERTISING

135.8 (1) Any person who advertises the price of an air service must include in the advertisement the following information:

(a) the total price that must be paid to the advertiser to obtain the air service, expressed in Canadian dollars and, if it is also expressed in another currency, the name of that currency;

(b) the point of origin and point of destination of the service and whether the service is one-way or round trip;

(c) any limitation on the period during which the advertised price will be offered and any limitation on the period for which the service will be provided at that price;

(d) the name and amount of each tax, fee or charge relating to the air service that is a third party charge;

(e) each optional incidental service offered for which a fee or charge is payable and its total price or range of total prices; and

(f) any published tax, fee or charge that is not collected by the advertiser but must be paid at the point of origin or departure by the person to whom the service is provided.

(2) A person who advertises the price of an air service must set out all third party charges under the heading "Taxes, Fees and Charges" unless that information is only provided orally.

(3) A person who mentions an air transportation charge in the advertisement must set it out under the heading "Air Transportation Charges" unless that information is only provided orally.

(4) A person who advertises the price of one direction of a round trip air service is exempt from the application of paragraph (1)(a) if the following conditions are met:

(a) the advertised price is equal to 50% of the total price that must be paid to the advertiser to obtain the service;

(b) it is clearly indicated that the advertised price relates to only one direction of the service and applies only if both directions are purchased; and

(c) the advertised price is expressed in Canadian dollars and, if it is also expressed in another currency, the name of that other currency is specified.

(5) A person is exempt from the requirement to provide the information referred to in paragraphs (1)(d) to (f) in their advertisement if the following conditions are met:

(a) the advertisement is not interactive; and

(b) the advertisement mentions a location that is readily accessible where all the information referred to in subsection (1) can be readily obtained.

135.9 A person must not provide information in an advertisement in a manner that could interfere with the ability of anyone to readily determine the total price that must be paid for an air service or for any optional incidental service.

135.91 A person must not set out an air transportation charge in an advertisement as if it were a third party charge or use the term “tax” in an advertisement to describe an air transportation charge.

135.92 A person must not refer to a third party charge in an advertisement by a name other than the name under which it was established.

Canadian Transportation Agency Designated Provisions Regulations

4. The schedule to the *Canadian Transportation Agency Designated Provisions Regulations* sets out the following:

Column 1	Column 2	Column 3
Designated Provision	Maximum Amount of Penalty — Corporation (\$)	Maximum Amount of Penalty — Individual (\$)
Paragraph 135.8(1)(a)	25,000	5,000
Paragraph 135.8(1)(b)	25,000	5,000
Paragraph 135.8(1)(c)	25,000	5,000
Paragraph 135.8(1)(d)	5,000	1,000
Paragraph 135.8(1)(e)	5,000	1,000
Paragraph 135.8(1)(f)	5,000	1,000
Subsection 135.8(2)	5,000	1,000
Subsection 135.8(3)	5,000	1,000
Section 135.9	5,000	1,000
Section 135.91	5,000	1,000
Section 135.92	5,000	1,000

Appendix V: Designated Provisions - Levels

Designated Provisions – Levels

Designated Provision	Level
135.8 (1) a), b), c)	4
135.8 (2) (3) (4)	2
135.91	2
135.8 (1) d), e), f)	2
135.9	2
135.92	2

Table of Penalty Amounts: Individual

	1st violation	2nd violation (up to)	3rd violation (up to)	4th and subsequent violations (up to)
Level 2	warning	\$250	\$500	\$1,000
Level 4	warning	\$1,000	\$2,500	\$5,000

Table of Penalty Amounts: Corporation

	1st violation	2nd violation (up to)	3rd violation (up to)	4th and subsequent violations (up to)
Level 2	warning	\$1,250	\$2,500	\$5,000
Level 4	warning	\$5,000	\$12,500	\$25,000

Appendix VI: Examples of Interactive and Non-Interactive Media

Non-Interactive Media

- Printed (newspapers, magazines, billboards, pamphlets, etc)
- Television, radio
- Internet banners
- Social medias (tweets, Facebook posts, YouTube videos, etc)
- Emails

Interactive Media

- Online booking system for the general public
- Customer and booking services by phone (call centers, service desks, etc)

The above list is given for general guidance only. Whether a specific media is used in an interactive or non-interactive way will depend on the facts of each case. The Agency also recognizes that the advertising practices and the technology enabling such practices are in constant evolution.

Appendix VII: Examples of Taxes, Fees and Charges

Third party charges when travelling within Canada include:

- Air Travellers Security Charge
- Airport Improvement Fees
- Goods and Services Tax
- Harmonized Sales Tax
- Quebec Sales Tax

For travel from Canada to a foreign country, other taxes, fees and charge may be applicable. A useful guide in this regard is the IATA [List of Ticket and Airport Taxes and Fees](#).