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NAD Examines Fareportal's Search Engine Marketing in Challenge Brought by Expedia

New York, NY – Dec. 17, 2014 – The National Advertising Division has recommended that online travel agent Fareportal Inc. – operator of the CheapOair.com and OneTravel.com sites – discontinue certain claims in its search engine marketing as the claims could potentially mislead consumers when they appear in response to consumer searches.

NAD is an investigative unit of the advertising industry's system of self-regulation. It is administered by the Council of Better Business Bureaus.

In this case of first impression, the claims at issue were challenged by Expedia Inc., a competing provider of online travel agency services.

The challenger argued that the advertiser's SEM advertising is misleading because it provides price

information for flight destinations, but does not offer that price from the origin location searched by consumers.

For example, the challenger argued that on July 1, 2014, a consumer searching for "flights from Miami to Houston" saw the following ad: "Houston \$149 Airfares – CheapOair.com."

Upon clicking the ad, the challenger said, the consumer did not find references to flights to Houston at \$149 or references to flights from Miami to Houston. Rather, the cheapest fare advertised on CheapOair was from Kansas City to Houston, offered at \$170.50. According to the challenger, there was not a single flight listed from Miami to Houston at the advertised price of \$149.

The advertiser argued that because it offers flights to the destination searched at the advertised price, its paid search results are truthful.

In its decision, NAD noted that a consumer searching for flights from Miami to Houston, when served an advertisement "Houston \$171 Airfares – CheapOair.com," could reasonably take away the message that CheapOair.com offers flights from Miami to Houston for \$171.

NAD further determined that a claim in SEM with a specific price to a destination is distinguishable from a claim that "cheap flights" to a destination are available.

A "cheap flights" claim sets different expectations for consumers than a specific price claim – when consumers can reasonably expect that a flight is available at the claimed price.

This does not prevent the advertiser from advertising specific prices for available flights, NAD noted, but instead holds the advertiser to its obligation to support all messages reasonably conveyed by its advertising claims.

NAD also considered the advertiser's "Best Price Guarantee," which gives Fareportal – not the consumer – the option of refunding the price difference or refunding the entire ticket price to consumers who find a lower fare within 24 hours after booking on its websites.

NAD noted in its decision that airfare prices can change quickly and an offer to refund a consumer's ticket price may not provide the consumer with the benefit of the guarantee – the ability to purchase a lower priced ticket. As a result, NAD recommended that the advertiser either modify the terms of its "Best Price Guarantee" so that consumers, at their option, can receive either a full refund or require the advertiser to match the competitive price when exercising their rights under the guarantee, or discontinue its "Best Price Guarantee" claim.

Finally, NAD recommended that when the advertiser offers discounts or savings off its fees the advertiser disclose both the dollar amount of the discount and clarify for consumers that the company is discounting its booking fees, not the airline ticket price or government-imposed fees.

Fareportal, in its advertiser's statement, said the company has incorporated NAD's recommended clarification in its Best Price Guarantee terms.

The company noted in its advertiser's statement that it was "disappointed with NAD's findings with

respect to its SEM advertising.”

The company said that its SEM advertisements are “accurate, include real fares, and display flights that are consistent with the origin/destination searched.”

Fareportal said that it is “unaware of any actual consumer concerns with Fareportal’s SEM advertising or that the novel standard being proposed here has ever been applied to any other advertiser.”

Finally, the company said, based on its commitment to the self-regulatory process, it will agree to incorporate NAD’s recommendations into future advertising campaigns.

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