



TRAVEL LAW FORUM
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**Advertising of
Air Transport Services
for Passengers
and PRICE TRANSPARENCY**

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LEGAL REGIME

- highly pro – consumer
- or
- rely on market forces

Competition in air transport

- increased consumers choice
- made travel cheaper
- opened up the market for new types of business models to generate revenue

TRENDS

Unbundle services

No longer all inclusive

Passenger only pays for what he needs

Advertised airfares:

- confusion what the final price is
- what it includes

Issues:

- price deception
- content of the service

True transparency means disclosing the price along with the corresponding purchased product information

Regulation n° 1008/2008 of 24 September 2008 on the common rules for operation of air services in the EU

- Article 22 : airlines are free to set the air fares**
- Article 23 :**
 - 1. transparency of information on prices**
 - 2. non-discrimination when prices are offered**

1. Transparency on information on prices

- a. When an airfare is made public: indicate all applicable conditions
- b. Able to compare prices of different airlines:
 - indicate at the very beginning the final amount
 - price must include all applicable taxes, charges, surcharges and fees which are unavoidable and foreseeable
 - break down of the price (air fare, taxes, airport charges, other charges)

Optional supplements:

Fi. Luggage, cancellation insurance, seat selection,...

Must be communicated

- in a clear and transparent way
- at the start of the booking process
- acceptance on an “opt-in” basis

Applies to any party, selling tickets

Airlines and third party (*Confirmed by ICJ in Eebokers.com*)

2. non-discrimination when prices are offered

Access to same airfares:

- irrespective of the place of residence or nationality
- irrespective of where the travel agent is located

SOME CASES

Eebokers.com C-112/11 EU:C: 2012:487

*** Vueling C-487/12 EU:C:2014:2232
(18 September 2014)**

*** AIR BERLIN C- 573/13, EU:C:201
(15 January 2015)**

*** DOT in “Mumtaz v. Etihad Airways”
(30 December 2014)**

*** AIR BERLIN C- 290/16, EU:C:2017:523
(6 July 2017)**

Unfair business-to-consumer Commercial Practices Directive (UCP)

Directive 2005/ 29 EC of May 11th, 2005

Prohibits unfair commercial practices such as misleading actions or omissions, aggressive commercial practices, use of harassment, coercion and undue influence.

* In annex: a list of commercial practices which are unfair in all circumstances

- * Invitation to purchase must include:
 - main characteristics of product
 - identity of trader
 - price inclusive of taxes
 - arrangements for payment

Directive 2011/83 of 25 October 2011, on consumer rights.

Applicable to contracts closed by consumers over internet

Applicable to contracts concluded after June 13, 2014

Only following articles apply to passenger air transport services:

* Article 8 (2)

Airline/trader must make consumer aware of characteristics of the service, of the total price, inclusive of taxes and charges and of the manner in which the price has been calculated.

* Article 19

Airlines/traders cannot add extra charges for paying by credit card, only real cost can be added.

* Article 22

Airline/trader must seek the consumer's express consent when adding extra services and it must be an opt-in choice.

Regulation 1107/2006 of July 5th, 2006 concerning Passengers with Reduced mobility

Intent: Tries to ensure that passengers with reduced mobility have the same opportunities as other citizens to travel by air

➤ Applies to ALL airlines operating in the European Union

Covers 3 areas:

1. **Fair and non-discriminatory treatment of people with reduced mobility**
 2. **Free of charge assistance in all airports located in the EU and the setting up of quality standards**
 3. **And on-board assistance**
- It foresees a right of reimbursement and re-routing in case of denied boarding
 - It puts airlines and the tour operators under an obligation to publish their policy towards passengers with reduced mobility

DIRECTIVE (EU) 2015/2302 of 25 November 2015 on package travel and linked travel arrangements

A package is a combination of at least 2 elements: transport, accommodation or other services for instance car rental;

The new rules go further than the Package Travel Directive of 2009, which is still applicable until July 2018.

Under the old Package Directive only package holidays put together by a tour operator were protected. The New Package Directive will also give protection to the 120 million consumers who book combined travel products on a website.

Combinations will be protected as package, in particular where:

- the travel services are advertised as a package,**
- are booked within the same booking process or**
- where they are offered or charged at a total or inclusive price**

Applies to 3 different travel combinations:

pre-arranged packages: a little bit the “old” packages. Ready-made holidays from a tour operator - at least 2 elements

customized packages: the traveller makes a selection of components for the same trip and buys them from a single business online or offline

linked travel arrangements: looser combination.

For instance if the traveller, after having booked one travel service on one website, is invited to book another service through a targeted link or similar and the second booking is made within 24 hours. Traveller has to be informed that he/she is not being offered a package, but that, under certain conditions pre-payments will be protected.

Conclusion

The obligations towards the consumer :

- transparency of the pricing policy;
- display the final price from the very beginning of the booking process, everything included;
- display the same price in all the Member States;
- extra services need to be advertised on an opt-in basis;
- no extra charges, other than the real cost for paying by credit card;
- display of the flight details such as real operator, stop-overs, unsafe airlines, etc..
- give all necessary information before a contract in relation to a travel package is signed

THANK YOU.