

REVIEW OF THE AIR SERVICES REGULATION PROVISIONS ON PRICE TRANSPARENCY

EPF Position September 2019

The European Commission is currently considering a revision of the “Air Services Regulation” (Regulation (EC) 1008/2008). The European Passengers’ Federation (EPF) welcomes the opportunity to share its views in connection with the price transparency provisions included in the Regulation.

Chapter IV of the Air Services Regulation specifies that air carriers are free to set the price of their intra-EU air services, provided that they respect the following price transparency provisions:

- the *final price* to be paid by the customer shall at all times be indicated, inclusive of all applicable taxes, charges, surcharges and fees which are *unavoidable and foreseeable*;
- the *price breakdown* shall clearly indicate its different elements i.e. air fare or air rate, taxes, airport charges, and other charges, surcharges or fees;
- *optional price supplements* shall be communicated in a *clear, transparent and unambiguous* way at the *start* of any booking process;
- acceptance of such optional price supplements by the customer shall be on an ‘*opt-in*’ basis.

EPF fully supports the objective of these provisions, as stated in the preamble of the Regulation (recitals 15 and 16), i.e. to allow consumers to effectively compare prices among different providers and to ensure non-discriminatory access to air fares.

Unfortunately, it has become increasingly difficult for passengers to compare prices across airlines. A search for a specific city-to-city travel through an online travel agency (e.g. Expedia, eDreams), a metasearch engine (e.g. Google Flights, Kayak) or an airline’s own website may yield very different results. Not all fares are available on all distribution channels and there is no like-for-like comparison (sometimes ancillary services such as luggage or seat reservation are included in the basic price, as shown at the beginning of the booking process, and sometimes they are not). As a result, passengers need to consult multiple sources to get a good overview, which is complex and time-consuming – the exact opposite of what we would like: simplicity in booking.

EPF urges the Commission to modify the present Regulation as follows, in order to safeguard and indeed enhance price competition and price transparency to the benefit of European passengers.

1. Specific provisions are needed with regard to ancillary services.

Airlines increasingly unbundle their products and charge extra for ancillary services such as luggage, seat reservation etc. For passengers, as a result, it has become very unclear which services they can expect to be included in the basic price, and which ones are optional, i.e. selected on an opt-in basis. Additional fees for such services vary greatly across airlines and are often not included in the final price shown at the beginning of the booking process, which makes effective comparison very difficult.

In order to address these issues, the Regulation should include a clear definition of:

- ‘minimum services’ that are ‘unavoidable and foreseeable’ and should therefore always be included in the basic price, such as: hand luggage, children and people with reduced mobility seated together with an accompanying person;
- ‘ancillary services’, the price of which should be clearly indicated next to the final price at the start of the booking process, such as: checked in luggage, seat reservation.

In this context, it would also be helpful if common standards for size and weight for both cabin and hold baggage could be agreed upon at EU level (and beyond). Now, the rules for luggage differ from company to company which makes it very difficult to compare prices. A bag permitted free of charge as cabin baggage with one airline may be 2 cm over length with another, requiring an additional hold charge which may lead to a significant difference in final price.

2. Fares and (core) ancillary service fees should be available through all distribution channels.

Air carriers do not always share price information on ancillary services with travel intermediaries such as CRSs, metasearch engines or online travel agents. As a result, passengers are not always able to effectively compare offers across carriers on a like-for-like basis.

Ideally, passengers would like a one-stop-shop where they can indicate where and when they want to travel, what luggage they will bring along, which special needs or requirements they have and what other services they would like (e.g. Wi-Fi on board, entertainment, meals) – and then be offered a comprehensive overview of the available offers from different airlines that fit those requirements.

In order to help realise this vision, the Regulation should include a provision:

- that carriers need to make available the basic air fare (which should include the ‘minimum services’ mentioned above) and the price for at least the most important ‘ancillary services’ (e.g. checked in luggage, seat reservation) to third party sites
- which would enable those third party sites (indirect distribution channels but also online comparison tools that do not offer ticketing options) to provide passengers with the comprehensive, transparent and comparable information they need in order to be able to make an informed choice when searching for and booking their travel.

A list of the most important ‘ancillary services’ needs to be agreed upon and should be added as an annex to the revised Regulation. For passengers with reduced mobility, any additional costs for (medical) assistance (e.g. carrying oxygen) should also be available and visible at the start of the booking process.

3. The right to reimbursement in case of cancellation by the passenger needs to be clarified.

Passengers who cancel a flight on their own initiative or do not show up at the gate are entitled to reimbursement of certain price elements, i.e. passenger-bound airport taxes and charges. However, most passengers are not aware that they have this right and if they are, they find it difficult to determine which amount they are entitled to because this is not clearly communicated to them.

In order to address these issues, the Regulation should:

- explicitly include a referral to passengers’ right to reimbursement in case of ‘no-show’
- specify which price elements are reimbursable
- oblige carriers and distributors to inform passengers of their rights and to clearly display at the time of booking which part of the price is reimbursable
- promote, where possible, automatic reimbursement of the relevant parts of the ticket price in case of cancellation by the passenger.

4. Non-discrimination in access to fares and rates should be guaranteed.

One of the objectives of the Air Services Regulation is to ensure that customers have access to all air fares and rates regardless of their place of residence and nationality, and regardless of the place of establishment of the travel agents they choose to consult. There are however indications of an increased use of dynamic and personalised pricing in the air transport sector, meaning that prices may vary according to time, location or even device that a person is using.

In addition, the Regulation does not contain any specific provisions regarding accessibility of information for people with functional limitations, which may also be a factor that hinders non-discriminatory access to information for all.

The Regulation needs to address these issues by:

- obliging carriers – and other distributors – to disclose clearly what criteria and preferences a personalised or dynamic pricing mechanism is based on, and to offer the passenger the option to turn off this functionality
- requiring websites to be designed in such a way that they can be used by people with disabilities and elderly people, in accordance with the accessibility requirements of Directive (EU) 2019/882 (Accessibility Act, adopted April 2019).

5. More effective enforcement and consumer redress options are necessary.

Currently, compliance with the EU rules on price transparency is low. For example, additional price supplements are not always presented on an opt-in basis and the final price, including all ‘unavoidable and foreseeable’ surcharges, is not always indicated at the beginning of the booking process. These findings are confirmed by the work of European consumer organisation BEUC and its members, and by the sweeps – EU-wide screenings of websites – focused on travel services that were carried out by the European Commission in 2013 and 2016.

In addition, for passengers, it is not clear who they should address with regard to infringements to Regulation 1008/2008. What should they do if they have a complaint on price transparency? Are the National Enforcement Bodies dealing with Regulation 261/2004 also competent for dealing with price transparency infringements?

In order to address these issues, the Regulation should:

- define adequate monitoring actions and effective, truly dissuasive sanction mechanisms (e.g. a percentage of the carrier’s annual turnover)
- explicitly state that NEBs in the field of passenger rights (Regulation 261/2004) are also competent to deal with price transparency issues, whilst ensuring that the NEBs have sufficient resources and power to act, i.e. that their opinions are legally binding
- include a clear reference to passengers’ options to obtain redress in the case of individual complaints, e.g. the right to terminate the contract, the right to compensation for damages, alternative dispute resolution, collective redress possibilities.

6. Multimodal and cross-modal comparison should be enabled and stimulated.

From a broader perspective, it is important to ensure comparability not only between the offers of different air service providers, but also across transport modes. The ultimate aim must be for passengers to be offered a complete multimodal and cross-modal overview of their door-to-door travel options including first and last mile, in terms of travel time and overall price, but also in terms of comfort and, where possible, environmental impact and CO₂ emissions. In order to achieve a truly transparent multimodal comparison, information on journey duration and price for onward travel from airports to city centres should also be made available.

The European Commission can play an important role by creating a framework that encourages or even obliges transport service providers (all modes) to open up their data (on schedules, but also on fares), which would allow both existing and perhaps new players to develop new services, apps etc. that would ultimately contribute to more competition and benefit the consumers. EPF welcomes Regulation 2017/1926 on the provision of EU-wide multimodal travel information services which aims to take a step forward towards realising this ambition. The case for multimodal information is really greater consumer choice, more transparency, decarbonisation and modal shift.