

REVISION OF THE PRICE TRANSPARENCY PROVISIONS OF THE AIR SERVICES REGULATION (REGULATION. 1008/2008).

POSITION PAPER

The European Commission will soon present its proposal for the revision of the Regulation 1008/2008 on the operation of Air Services in the Union. This regulation currently includes provisions (Article 23) regarding transparency for prices advertised or communicated to the general public. Article 23 establishes the need to allow consumers “to compare effectively the prices for air services of different airlines”, a provision which was adopted to tackle abusive practices from certain airlines and preserve consumers’ right to comparability through non-discriminatory access to fares.

However, more than a decade later, the achievement of this objective is increasingly at risk:

- **Information on air ticket fares has become more fragmented across different sources:** airlines direct distribution websites, online travel agencies, metasearch engines. Large airlines’ practice of withholding content from indirect distribution channels and adding surcharges to such channels further adds to this fragmentation. As a result, it is increasingly difficult for consumers to compare prices across airlines, as searching for the same ticket can yield very different results depending on the distribution channel used.
- **Airlines have progressively unbundled their offers, with a number of services becoming optional such as baggage.** As a result, the information provided by airlines to the intermediaries does not always include all information necessary to ensure effective comparison of competing airline offers.
- **There is a lack of compliance with the existing rules.** 61% of respondents of the public consultation have experienced a change of the final price during the booking process and 55% of them have experienced an absence of information on optional price supplements at the start of the booking process¹. In addition to clearer rules, stronger enforcement actions are needed at national and EU level.

This lack of transparency currently experienced on the marketplace prevents consumers from accessing comprehensive and transparent information on air fares, ancillaries and related charges. As a result, it is increasingly difficult for them to compare prices across airlines, as searching for the same ticket can yield very different results depending on the distribution channel used.

The importance of this Regulation is further heightened in the wake of the COVID-19 pandemic, at a time where small and regional airlines are calling for the same level of

¹ [Public consultation](#) on common rules for the operation of EU air carriers in the internal aviation market.

state support as their larger competitors. Indeed, by ensuring transparency and comparability of prices, this Regulation also preserves the ability of small airlines to compete on the merits of their offer against larger competitors with greater reach.

This revision is therefore a unique opportunity to ensure the text's underlying objective is met: customers must be able to effectively compare the prices for air services of different airlines at the beginning of the booking process.

SPECIFY AND ENFORCE THE DISPLAY OF FEES WHICH ARE "UNAVOIDABLE AND FORESEEABLE" THROUGH A LIST OF MINIMUM SERVICES APPLICABLE TO ALL AIRLINES AND ALL AIR TICKETS.

This will prevent a diverse interpretation by airlines of which fees are considered 'unavoidable and foreseeable' and will ensure transparent comparability for consumers.

In our view, the following elements shall be included in such a list:

- ✓ Cabin luggage
- ✓ Services for Persons with Reduced Mobility (including travelling with the relevant equipment)
- ✓ Minors to be seated together with accompanying adults

Furthermore, indicated prices shall display, as ruled by the ECJ in its recent Ryanair decision², (1) the amount of VAT on domestic flights, (2) the online check-in fees, and (3) the fees charged when paying by a credit card other than that approved by the airline.

We also suggest a **revision of the notion of "final price"** to **"*price for the minimum available package for the chosen class of service.*"**³ Indeed, such a final price will now depend on the choices of the traveller to supplement the minimum package they have chosen.

DEFINE A LIST OF BOOKABLE "CORE OPTIONAL PRICE SUPPLEMENTS" AND DISPLAY THESE UPFRONT AT THE START OF THE SHOPPING AND BOOKING PROCESS ON ALL DISTRIBUTION CHANNELS, TO ALLOW CONSUMERS TO EFFECTIVELY COMPARE PRICES ACROSS AIRLINES.

The current Regulation clearly provides for an obligation of transparency on such optional services at the beginning of the booking process⁴. However, the growing number of ancillaries and the airlines' practices that limit access to comprehensive information for indirect distribution channels precludes the effective comparison

² Case C-28/19, 23 April 2020

³ For the avoidance of doubt, fees not paid by the traveller (for example, service fees paid by a corporation to a business travel agency) are not unavoidable costs for the traveller and should not be included in the price of the minimum available package.

⁴ "*Optional price supplements shall be communicated in a clear, transparent and unambiguous way at the start of any booking process*"

across airlines. The growing importance of these services for a consumer and a business is evidenced by the revenue it generates, with the ‘ancillary services market’ worth 93bn\$ worldwide in 2018⁵. However, for this to be workable it must be incumbent upon the airline to share this ancillary information with intermediaries displaying prices.

A list of “core optional price supplements” should be established. For those services, prices should be displayed upfront, next to the price of the package selected, on all marketplaces where such packages are made available and at the point of initial comparison of prices. In our view, the following elements should be considered as core optional price supplements:

- ✓ Checked-in luggage options
- ✓ Seating options
- ✓ Change and cancellation options
- ✓ Boarding options
- ✓ Payment fees

In order to futureproof the regulation, the list of “core optional price supplements” could be included in an Annex and regularly reviewed and adapted to relevant market developments.

ENSURE THAT INFORMATION ON FARES AND CORE OPTIONAL SERVICES ARE AVAILABLE AND BOOKABLE ON ALL DISTRIBUTION CHANNELS.

Consumers need to be able to compare offers across airlines on a like-for-like basis, in transparent marketplaces. This will only be possible if airlines make transactable information on basic fares and core optional price supplements available to indirect distribution channels (online travel agencies, metasearch engines), enabling them to provide consumers with the comprehensive, transparent and comparable information they need to make an informed choice.

THE NEW LEGISLATION NEEDS TO TAKE INTO ACCOUNT ONLINE SHOPPING CONSUMER PREFERENCES AND FUTURE TECHNOLOGICAL DEVELOPMENTS

Bookings made on mobile devices – currently one third of online bookings - and the rising use of vocal assistants in e-commerce should be considered when regulating. It should be possible to convey certain information on mobile devices by clicking on an icon to display further information, to avoid the screen becoming overcluttered.

⁵ The global market for ancillary services has been estimated at 93bn\$ in 2018, compared to 22.6bn\$ in 2010 (a 312% increase). Source: IATA.

ANNEX

PROPOSED AMENDMENTS

Minimum services to be included in the basic price

The price for the minimum available package for the chosen class of service to be paid by the traveler shall at all times be indicated and shall include the applicable air fare or air rate as well as all applicable taxes, and charges, surcharges and fees which are unavoidable and foreseeable at the time of publication, as defined in Annex [x].

Core optional services

Core optional services, as set out in Annex [x], shall be made available to customers in the beginning of the on-line booking process so that customers are able to search for and compare offers including core optional services with similar offers from other air carriers.

Access to data for all distribution channels

Air carriers shall be obliged to make all information necessary to comply with the price transparency obligations easily available to third party intermediaries that distribute the air carrier's fares and optional services. Air carriers shall not attach any unjustified or discriminatory terms to such access and shall allow for the booking of their products directly on the website of the third party intermediary.