



The Consumer Voice in Europe

Price transparency and online booking payment surcharges

Letter sent to Mr. John Hanlon, Secretary General, European Low Fares Airline Association (April 2013)

Contact: **Monique Goyens** – consumercontracts@beuc.eu

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The Consumer Voice in Europe

Mr. John Hanlon
Secretary General
European Low Fares Airline Association
Avenue des Arts 46

B - 1000 Brussels

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Price transparency and online booking payment surcharges

Dear Mr. Hanlon,

I am writing on behalf of BEUC, The European Consumer Organisation, representing 39 well respected, independent national consumer organisations - including the most important ones across the EU - from 30 European countries (EU, EEA and applicant countries), in relation to recent developments in pricing transparency and the application of payment surcharges when consumers purchase flights online.

As you are surely aware, the UK Office of Fair Trading (OFT) decision¹ responded to a super-complaint launched by BEUC member Which?² which addressed the problems of price transparency and surcharges in the air transport sector primarily. The OFT was concerned that airline surcharges are a 'drip-fee' or 'price partitioning' device which conceal the actual or genuine price of their services.

In their decision, the OFT concluded that:

- It is misleading to separate compulsory charges from the headline prices.
- Retailers should make the headline price meaningful for comparison purposes by not imposing surcharges for debit cards, which are considered the standard online payment mechanism.
- Information on how much the consumer would have to pay to use mechanisms other than a debit card is necessary price information which consumers need to know in order to effectively shop around and make purchasing decisions. Therefore this information should be easily available.

¹ *Payment surcharges - Response to the Which? super-complaint* (updated version of July 2012) available at http://www.offt.gov.uk/shared_offt/super-complaints/OFT1349resp.pdf

² *Which ? super-complaint: credit and debit surcharges* available at <http://www.which.co.uk/documents/pdf/payment-method-surcharges-which-super-complaint-249225.pdf>

After an investigation carried out by the national authority, the companies³ concerned, including several ELFAA members, agreed to introduce changes to their pricing and advertising policies in order to comply with the requirements and recommendations highlighted in the OFT decision.

The companies had until December 2012 to comply and from the information available on the authority's website, it seems that most of the companies have adapted their pricing and advertising policies for the UK market in order to be brought in line with the OFT recommendations.

However, BEUC considers that these adaptations should be made by all carriers operating across Europe - not only for UK consumers - thereby creating more confidence among all European consumers when comparing offers and purchasing tickets online.

The OFT recommendations are also based on the existing EU legal framework applicable to the advertising of prices and payment surcharges across the 27 Member States of the European Union:

- The **Unfair Commercial Practices Directive**⁴, transposed by Member States, prohibits practices which mislead consumers in relation to the "*price or the manner in which the price is calculated*". Many airline websites do not sufficiently disclose that the consumer will have to pay additional charges when purchasing their ticket with a debit (or credit) card. This has the potential to lead consumers into transactional decisions they would otherwise not have made.
- According to **Regulation 1008/2008 on common rules for the operation of air services**, all unavoidable and foreseeable costs shall be indicated at all times and included in the final price. This means that the advertised price should be the final amount the consumer will have to pay including all taxes, fees and charges which are unavoidable and foreseeable at the time of publication. In relation to payment surcharges, reported consumers' experiences show that those means of payment offered as "free of charge" are not in common usage and therefore such additional costs can rarely be avoided.
- The **Payment Services Directive**⁵ allowed Member States to forbid or limit payment surcharges in their national legislations (Article 52(3)). Currently, payment surcharges are limited in three countries (DE, ES and FI) and prohibited in twelve others (BG, LV, IT, CY, LT, LU, AT, PT, RO, SK, EL, FR - rebates accepted). Following these approaches, BEUC asserts that all such payment costs (surcharges and rebates) should be banned in the frame of the Payment Services Directive and thereby make this prohibition applicable across the EU⁶.
- The **Consumer Rights Directive**⁷ introduces a ban on excessive surcharges. Article 19 of the Directive prohibits traders charging consumers fees in excess of cost to the trader for the use of such payment means. This is without prejudice to the option given to the Member States in Article 52(3) of the Payment Service Directive. The Consumer Rights Directive will be operational in the EU as of mid-2014.

³ Aer Arann; Aer Lingus; BMI Baby Ltd.; Eastern Airways Ltd.; easyJet plc; Flybe Group plc; German Wings GmbH; Jet2.com Ltd; Lufthansa AG; Ryanair Ltd.; Thomas Cook; Thomson; Vueling and Wizz Air.

⁴ Directive 2005/29/EC.

⁵ Directive 2007/64/EC.

⁶ BEUC's response to the European Commission's Green Paper "Towards an integrated European market for card, internet and mobile payments", (Ref.: X/2012/022 - 11/04/12), available at www.beuc.eu

⁷ Directive 2011/83/EU.

Taking into account developments in the UK and the EU legal framework, the conditions for European consumers when purchasing flights must be improved.

To this end, airlines should:

- Include in the headline price all payment means costs, if any;
- Offer a choice of inexpensive and widely used payment services;
- Stop applying charges for debit and credit card payments;
- Where payment costs are allowed under national laws, limit those charges to the *real* cost of offering such means of payment, as stipulated in the Consumer Rights Directive.

We would very much appreciate your views on the above mentioned points and count on your co-operation in creating a fairer air transport market for all European consumers.

Yours sincerely,

Monique Goyens
Director General