

Ms Marie-Paule Benassi
Head of Unit
DG JUST
European Commission

B-1040 Brussels

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22 January 2021

Subject: State of play of BEUC and its members' external alert about airlines widespread practices in breach of traveller and consumer legislation.

Dear Ms. Benassi,

I am writing concerning the state of play of BEUC's co-ordinated action and external alert against airlines¹ for the widespread breaches of the Air Passenger Rights Regulation 261/2004 and the numerous unfair commercial practices conducted during the COVID-19 pandemic towards consumers.

Last July, BEUC and 11 of its members launched a coordinated action against 8 major airlines² in order to ask the competent authorities in the Consumer Protection Cooperation network to investigate the massive and repeated breaches of passenger rights and unfair commercial practices that European consumers have faced and are still facing during the pandemic. Among the most widespread practices we identified the imposition of vouchers, limitations to passengers' rights to cash refunds, misleading information given to travellers about their rights and massive delays in refunds.

In addition to these complaints, BEUC and its members have called for an in-depth sector-wide investigation of these practices to be carried out by the Consumer Protection Authorities Network ("CPC-Net"). The alerts concerned specifically those airlines that have caused a significant number of consumer complaints reported to our participating members during the crisis, but the denounced practices were widely applied by the whole aviation market during the COVID-19 crisis.

Today, six months after the launch of the coordinated action and the first external alert pursuant to the CPC Regulation, BEUC and its members have not received a formal response neither from the European Commission, nor from the network of consumer protection authorities whilst numerous consumers are still waiting for their monetary reimbursements.

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¹<https://www.beuc.eu/publications/beuc-reports-major-airlines-breaching-passenger-rights-and-calls-industry-investigation/html>

² Aegean, Air France, EasyJet, KLM, Norwegian, Ryanair, TAP Portugal, Transavia.

This seems surprising because according to Article 17 of the CPC Regulation, if the Commission or a competent authority have any reasonable suspicion, that a widespread infringement with an EU dimension is occurring, they shall notify without delay the competent authorities concerned by the suspected infringement. The latter then have *one month* from the notification to conduct the appropriate pre-investigations and to notify the results to other authorities and the European Commission. Then, where the findings reveal that a widespread infringement with a Union dimension might be taking place, the competent authorities concerned shall start with the coordinated action.

In December 2020, BEUC published a report³ assessing, member state by member state, the implementation of the EU recommendation on vouchers. Amongst the main findings, our members reported that more than 9 months after the start of the pandemic, many consumers are still not reimbursed and are still harmed by the numerous unfair commercial practices conducted by airlines during the pandemic as signalled in our external alert.

For example, in Belgium, our member Test-Achats/Test-Aankoop indicated that since June 2020 they have received more than 6000 complaints, mainly against airlines, including those reported to the CPC-authorities in our external alert. Many consumer complaints remain unresolved as they are still waiting for their cash reimbursement. The same situation in France⁴ is reported by our member UFC-Que Choisir.

In the United Kingdom, our member Which?⁵ found that Ryanair, despite its public statements of Autumn 2020 that it had refunded all of its customers, many travellers are still waiting for their money⁶. Furthermore, our member also reported that some airlines - notably Easyjet and British Airways⁷ - were refusing to refund passengers after their vouchers had expired, even if the latter had been imposed on consumers. This is in contradiction with EU legislation and in contradiction with the EU Recommendation on vouchers⁸. It has to be presumed that the practices of above-mentioned airlines are potentially wide spread in other European countries.

Enforcement of air passenger rights has since long been problematic⁹ and the COVID-19 crisis has exacerbated this problem even more. Therefore, we call on the European Commission, with the provisions of Article 17(4) CPC, in its capacity as coordinator for coordinated actions concerning suspected infringements with an EU-wide dimension, to urge the competent CPC-authorities:

- To take a common position among concerned national authorities to make it clear to the airlines and the aviation industry that the reported violations of passenger rights and unfair commercial practices found in the first wave of the pandemic are not acceptable; it should make clear that any recurrence will be subject to enforcement actions among the CPC-Authorities.
- To impose clear deadlines for airlines to reimburse consumers, with penalties such as fines or periodic penalty payments, in case of non-compliance with the timeframes. Recent research from BEUC members have shown that several airlines reported in external alerts, have still not refunded all their passengers. This situation is no longer acceptable.

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³ https://www.beuc.eu/publications/beuc-x-2020-119_covid-19_and_eu_travellers_rights.pdf

⁴ <https://www.quechoisir.org/actualite-vols-annules-video-des-remboursements-toujours-compliques-n86515/>

⁵ <https://www.which.co.uk/news/2021/01/only-13-of-virgin-atlantic-and-ryanair-customers-happy-with-customer-service/>

⁶ <https://www.which.co.uk/news/2020/11/ryanair-claim-that-all-requests-for-cash-refunds-have-been-paid-is-untrue/>

⁷ <https://press.which.co.uk/whichpressreleases/british-airways-and-easyjet-ignoring-eu-guidance-on-voucher-refunds/>

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020H0648>

⁹ <https://op.europa.eu/en/publication-detail/-/publication/f03df002-335c-11ea-ba6e-01aa75ed71a1>

- Furthermore, BEUC and its members, in accordance with the provisions of articles 19(5), 20(2) and 20(4) CPC, request an opportunity and remain available to the Commission and the CPC-Authorities, to provide our views regarding the common position agreed, the possible commitments proposed by the traders, as well as the implementation thereof.

The lack of a clear, strong and *timely* joint position by consumer protection authorities, on the reported infringements, could further undermine confidence in the traveller and tourism sector already negatively impacted during the pandemic. Moreover, this would be a wrong signal sent to the airlines in view of new travel disruptions.

We look forward to your response.

Your sincerely,

Ursula Pachl
Deputy Director General