



**STUDY ON AIR PASSENGER RIGHTS COMPLIANCE
MAIN REPORT
(THIS DOCUMENT HAS 24 PAGES)**



This study was produced by Rosário Macário, Maurits van der Hoofd, Thierry Vanelslander and Eddy van de Voorde of TIS.pt and the University of Antwerp for the Directorate-General for Health and Consumers of the European Commission, with the assistance of Sofia Esteves, Alexandra Rodrigues, Sofia Soares, Marin Marinov, Maria Spandou, Ricardo Gomes, Katrien Plasschaert, Nicolas Peeters, Jochen Maes, Roel Gevaers, Marjan Beelen, Edwin van Hassel, Raimonds Aronietis, and Franziska Kupfer.

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A. Introduction

A.1. Background

The Unfair Commercial Practices Directive 2005/29/EC, which came into force on 27 December 2007, introduced important provisions on how pre-contractual information shall be provided to the consumers. This information influences the way consumers perceive product properties and how these match and/or form their expectations. Together with the Unfair Contract Terms Directive 93/13/EEC, it is a major building block of marketing approaches to clients, where price and airline ticket distribution play a key role.

Since the late 1990s the internet has become a very important channel of selling air tickets. Currently, all airlines have websites that are used for promotional purposes and also to attract clients to the interactive components that allow self-service booking, check-in, and other services. The more concern exists about costs, the more airlines tend to avoid commissions paid to travel agents and other marketing intermediaries. As airline websites provide an easy way of comparing prices and booking tickets, travel agents lost their traditional role as air ticket sellers, at least in those countries with high internet penetration and reliable online paying methods.

This study focuses on the specific aspect of misleading advertising on the websites of airlines and online travel agents. Directive 2005/29 on unfair business-to-consumer commercial practices in the internal market (the UCP Directive) set the laws of the Member States on unfair commercial practices, including unfair advertising, which directly harm consumers' economic interests and thereby indirectly harm the economic interests of legitimate competitors. As many airlines were showing attractive prices on their websites that could not actually be bought for that price, as they were one part of a return trip and could only be bought as such, or not including taxes and surcharges, consumers were often misled into buying tickets that were perhaps not the cheapest option, and often far less attractive than they would have appeared at first sight, as the final total price would only be shown at the final part of the booking (or not even then, in some cases).

This led to the new Regulation on Air services (EC) No 1008/2008 that came into force on November 1st, 2008. This Regulation states that an all-inclusive final price must be presented at the beginning of the booking process in order to provide full transparency, which is identified through a number of elements, as presented below:

- Provision of the “all inclusive” final price at the beginning of the booking process,
- Breakdown of the final “all inclusive” price which is to include other charges than the air fare,
- Clear distinction between unavoidable and optional charges,
- Avoid biasing through presentation of information,

- Clear and easily accessible information concerning applicable contract terms and conditions as to pricing,
- Special offers and free tickets, with respective applicable contractual terms and conditions,
- Optional price elements,
- Arrangements for payment.

In 2007, a first joint investigation of web sites in the context of the UCP Directive found potential irregularities in one third of the sites investigated (over 400 websites were checked) with clear evidence that the complexity of pricing structures and taxes, fees and charges applied over the airfare confuse the customer.

Since then, Regulation 1008/2008 has entered into force, and the Commission wanted to know to what extent the sector is currently operating in line with the new Air Services Regulation.

A.2. Study objectives

The objective of this study was to provide the Commission with an overview of the extent to which the websites of the airline and travel agency sector currently match Regulation 1008/2008 and Directive 2005/29/EC.

The study analysed the content of web pages of online travel agents and tour operators, airlines and air carriers and checked their observance of the provisions of the existing legislation at the time of the study. It examined the different stages of the booking process up to the point where a payment will actually be made. This data has been compiled in a database.

The study checked the websites according to the check-list that was given by the Commission to the travel industry as a guideline. A data base has been developed and provided, in order to enable a country-by-country analysis as well as by groups of companies. The booking process was the main subject of examination. Some airlines or travel agency chains rank high in more than one country, and in those cases an aggregated report for the company as a whole has been compiled.

After the data collection process, an analysis of the observations was made an analysis of the situation by checklist item, for both the airlines and the travel agents. The study concludes with a summary of the findings.

B. Methodology

B.1. General approach

The project was carried out in five sections: selection of airlines and travel agencies, checklists, database preparation, data collection and analysis.

B.1.1. Selection of airlines and travel agencies

The first phase of the project defined the airlines and travel agents to be investigated. Websites from airlines and travel agents from all 27 European countries were to be covered, more specifically the seven main airlines and five main travel agents of each country. This would make 324 websites in total¹. In order to make a fair comparison possible between airlines and travel agents, the ranking criterion had to be the same for all. This would also allow showing the relative (un)importance of the travel agencies relative to the airlines' own sites. The criterion would be number of passengers having the first flight segment in that specific country – besides the fact that the results from the airlines and the travel agencies would now be compatible with each other; it would also directly show the number of people affected by unsatisfactory websites.

In order to find the seven most important airlines and five most important travel agents in each country, and in order to have one consistent criterion for selection, IATA was contracted to supply the top-20 airlines and top-20 travel agents in each of the 27 EU countries, ranked by the number of passengers booked in 2008 on a flight journey of which the first flight segment started in the country considered. Unfortunately, there was no consistent way of knowing what percentage of these passengers was booked online; it was considered that total booking numbers would be a good proxy for this figure.

To give an idea of the scope of the survey, the sample that this study investigated amounted to 339 million

¹ However, the number of websites actually investigated was lower, as not every country was found to have five websites for travel agents matching the study's selection criteria, while having any significant amount of bookings on them. Also, in the final analysis, consolidated reports were used in which all sites of an airline or travel agent would be taken together. Since some travel agents, but especially airlines, have sites covering more than one country, this reduced the number of sites listed in Annex I considerably.

airline passengers in 2008, and almost 36 million passengers travelling on flights booked through travel agents in that same year.

Airlines

Nearly all airlines investigated allow online booking directly through their site. Some airlines have different domain names for different countries (i.e. www.randomairline.nl, www.randomairline.de), but some use a single domain name throughout (e.g. www.randomairline.com); whenever a national site domain was found, that site was investigated. As some airlines ranked in the national top seven of more than one country, a comparative analysis was also made for those companies i.e. the various websites of one company were compared to each other.

Regarding codeshares, the only airline considered relevant was the airline issuing the ticket, not the airline physically operating the flight. This had the effect that some airlines show up in IATA's top 20 of a country without actually flying to that country with their own aircraft. However, no such situations were observed in the final airline samples analysed.

Until recently, charter flights were only bookable through travel agents, and seats on those flights would therefore not be directly bookable through the charter airline's website. More recently, however, some airlines that cater the charter market also allow for direct booking of flights (where the majority of seats would still be marketed through travel agents). As this is a rather small percentage of their total seats, no charter airline made it into the sample of this study.

The samples include both EU-based and non-EU based airlines.

The traffic numbers were based on 2008 traffic data. In the mean time, some airlines have merged or gone bankrupt; in such cases the defunct airline would be ignored, and a next airline would be chosen, up to the point of reaching seven airlines per country. Similarly, the very few airlines that do not allow tickets to be bought online were also left out of consideration.

An additional criterion set initially was that irrespective of traffic volume, each country airline sample should include at least one airline based in that country. As it turned out, every EU Member State has at least one national air carrier in its sample, and therefore this criterion did not affect the selection in the end.

Travel agents

For each country, IATA supplied a top-20 of travel agencies (defined as bookings in 2008 of flights of which the first segment starts in the country concerned). Many travel agents do not allow for direct online booking of flights, however. Some travel agents are corporate travel agents, catering companies; these travel agents were left out of consideration. Others only offer package holidays, and since package holidays fall under a different EU

legal framework, these were not considered either. Finally, many other travel agencies do not have online booking tools, they simply sell flights “over the counter”. In each country, the top-20 of travel agents was scanned until five travel agents allowing for online booking of flights were found. In some countries, this number was not reached, in some cases because the country is very small, whereas in other cases this might reflect the low level of internet penetration in households.

Besides “traditional” travel agencies’ websites, also so-called “consolidator” websites were considered. These are sites that do nothing but search the cheapest airfare on various airlines’ websites. These sites have a relevant market share in some countries; for the purposes of this study, they were considered travel agents, as essentially their business is the same.

For the sake of this study, an online booking on a travel agent site is any booking that allows you to see various flight options, fill in your personal data and enter a contract. Allowing direct online payment was not a criterion, so even if the vast majority of travel agent websites allow for direct payment by credit card or bank transfer, those that do not (but offer every other booking/selection aspect) were still included in the study.

B.1.2. Checklist and database

The study checked websites according to the checklist given by the Commission to the travel industry as a guideline. This checklist is given at the next page.

For the purpose of this study, a database was designed, that follows the structure of the above checklist; for each of the questions, a possibility was created to store a screenshot capturing a situation that was found to be out of line with the Commission’s guidelines. This database format also allows for easy statistical analysis later.

In this phase data was gathered using the above checklist. In addition, a brief report was written about each airline or travel agent, with a general description of the site, the booking process and other relevant aspects. Then the database was filled in, inserting screenshots where required.

Based on its performance, a website could be categorised as satisfactory (meaning all aspects of the checklist were exactly in line with the guidelines of the Commission, worrying if not in line with one or more of the checklist items considered as having the most immediate and harmful effect in the event of non-observance (points 1-4 and 12) or unsatisfactory if not in line with one or more of the other items.

In those cases where one airline or travel agent occurs in the sample in more than one country, consolidated reports were written, giving the company an overall assessment; this assessment would always be the same as the lowest ranked national website.

Check List for websites in the Airline Sector

1. Do prices include all applicable, unavoidable and foreseeable taxes, charges, surcharges and fees? (Article 23 Air Services Regulation). In particular,
 - a. are all applicable, unavoidable and foreseeable booking fees included in the price?
 - b. are all applicable, unavoidable and foreseeable payment fees per persona and segment or other administrative fees included in the price?.
 - c. if there are different foreseeable and unavoidable fees that are applicable for different payment methods, are they indicated?
 - d. are all applicable, unavoidable and foreseeable check-in fees included in all prices?
2. Are all the optional price supplements of the flight offered on an "opt in basis" without the need for the consumer to remove a tick from any box to opt-out? (article 23 Air Services Regulation)
3.
 - a) Where tickets are described and sold as free by air carriers, does this mean that consumers do not have to pay anything other than the unavoidable cost of responding to the offer or paying for the delivery or collection of the ticket? (Annex I, point 20, UCP Directive) (This also applies to frequent flyer programmes)
 - b) Where tickets are described as free by air carriers but purchased through a distinct intermediary, does this mean that consumers do not have to pay anything other than the unavoidable cost of responding to the offer, the paying for the delivery or collection of the ticket, or the charges for the distinct intermediary's services ?
4. Are the limitations or conditions attached to the offer clearly displayed? (article 7.1 (material information) and 7.2 (hidden information) UCP Directive + article 23 Air service Regulation).
5. Are the identity of the company and its contact details clearly indicated? (article 7.4 (b) UCP Directive + article 5(1) of E-commerce Directive).
6. Is the same language used throughout the selling process, including advertising and the standard contract terms and conditions? (article 7.2 (clear and intelligible information) + Annex I point 8 UCP Directive and Annex point (i) of the UCT Directive)
7. Is access to air fares granted without any discrimination based on nationality, place of residence, or establishment of the air carrier's agent or ticket seller within the community? (Article 23 Air Services Regulation)
8. Is it stated whether the relevant flight is a non-stop service or whether the flight is operated with a stop at an intermediate point? (article 7.1 (material information) and 7.4 (a) (main characteristics of the product) UCP Directive).
9. Where certain charges cannot be calculated in advance (e.g. luggage fees), are consumers clearly informed that such charges may be payable and of the manner in which they will be calculated? (article 7.1 and 7.4 (c) UCP Directive).
10. Are the airports of departure and destination clearly indicated by including the full and official name of the airport and not by making reference only to the capital or the best known city nearby? (article 7.2 (non ambiguous information) UCP Directive).
11. Are all the standard contract terms and conditions, including the limitations to special offers and the conditions for cancellation and modification of the tickets written in a clear manner using readable characters? (Article 5 and Annex point (i) of the Unfair Contract Terms Directive +Air Services Regulation).
12. Are the standard contract terms available to the consumer before the ticket is bought? (Annex point (i) of the Unfair Contract Terms Directive)
13. Can the consumer retain (print-out or save otherwise) a copy of the company's standard terms and conditions at the time of purchase (article 10 of the E-Commerce Directive)
14. Does the website include the unmodified Annex of the Regulation 889/2002 on air carrier liability governing liability for passengers and their baggage (Article 1.8 and 1.10 of Regulation 889/2002 on air carrier liability)

C. Analysis

C.1. Airlines

In this chapter, the analysis of the observed websites will be discussed by checklist question.

C.1.1. Checklist item 1

1. Do prices include all applicable, unavoidable and foreseeable taxes, charges, surcharges and fees? (Article 23 Air Services Regulation)
 - a. are all applicable, unavoidable and foreseeable booking fees included in the price?
 - b. are all applicable, unavoidable and foreseeable payment fees per persona and segment or other administrative fees included in the price?
 - c. if there are different foreseeable and unavoidable fees that are applicable for different payment methods, are they indicated?
 - d. are all applicable, unavoidable and foreseeable check-in fees included in all prices?

Item 1a considers whether all unavoidable taxes, charges, surcharges and fees are immediately included in the price rather than added at the end and item 1b checks whether these taxes, charges, surcharges and fees are specified. Item 1a is well observed; 96,2% of the airlines includes all applicable booking fees as soon as specific flights and their prices are shown. Often an airline will allow the customer to choose various options of outbound and inbound flights where separate prices are mentioned for the outbound and inbound leg, and upon selecting the total price is immediately shown, including a flat-rate ticket service fee. Item 1b was slightly less well observed (93.5%).

Item 1c checks whether the different prices associated with payment methods are shown. In practice this means that the prices for different credit card types are shown. Item 1c is also well-observed (98,9%) when one sticks to a strict interpretation of the rule: all airlines offer at least one payment option without additional charges. Traditional full-service airlines normally don't charge extra for credit card payment (with some exceptions though), but among the low-cost airlines the picture is less clear. Often low-cost airlines will allow bank transfer as a form of free payment, but bank transfers are often available only to people with bank accounts in the country, i.e. international bank transfers are not supported. This would make credit card payment at extra charge unavoidable for people without this option.

Regarding credit card payments, those airlines that charge for one or more types of credit card often give Visa

Electron as the free form of payment – but Visa Electron is not always supported by banks for internet payments. The charges for other card types are generally a fixed price but occasionally a percentage of the transaction cost (which is more in line with the charging system that the banks use for credit card transactions). In the case of low cost airlines, the credit card fee may end up being a considerable part of the total if the ticket is very cheap.

Item 1d) (check-in fees), concerns the question whether any payable and unavoidable check-in fees are clearly indicated. 100% of the sites respected this rule – even though passenger check-in fees are very uncommon..

C.1.2. Checklist item 2

2. Are all the optional price supplements of the flight offered on an "opt in basis" without the need for the consumer to remove a tick from any box to opt-out? (article 23 Air Services Regulation)

Item 2 considers whether airline websites have optional extra pre-ticked services, forcing the consumer to unselect them if the service is not desired. 14% of the sites (and most of these low-cost, but not all) have pre-ticked items. These can be, amongst others, checked luggage items, travel insurance or priority boarding. During the scan of the airlines, it was found that at least one airline was changing its policy in this respect. Therefore this information should be seen as a snapshot only. Some airlines were not consistent on this issue between their various national websites, but that may be a result of the mentioned changes.

Another phenomenon observed was that travel insurance would not be pre-ticked, but the customer would be asked to select country of residence, and only further down the list of countries there would be an option “no insurance required” that could easily be overlooked.

C.1.3. Checklist item 3

3.a. Where tickets are described and sold as free by air carriers, does this mean that consumers do not have to pay anything other than the unavoidable cost of responding to the offer or paying for the delivery or collection of the ticket? (Annex I, point 20, UCP Directive) (This also applies to frequent flyer programmes)

This checklist item deals with tickets described as free by airlines. While researching the various websites for this study, no free tickets were found on offer on any site. Therefore it was not possible to investigate this checklist item further.

C.1.4. Checklist item 4

4. Are the limitations or conditions attached to the offer clearly displayed? (article 7.1 (material information) and 7.2 (hidden information) UCP Directive + article 23 Air service Regulation).

Checklist item 4 investigated whether limitation and conditions to a special offer are clearly displayed, e.g. the time before which the special offer must be bought and in which timeframe the flight must be made. This item was respected by 86,6% of the individual airlines sites. In most cases, the website either gives the limit date of sale, travel time window and says that the offer is valid while seats last, or alternatively clicking on the special offer takes the customer to a calendar that shows for which dates the advertised low fare is still available.

In those cases where the sites were not satisfactory, the special offer would simply take the customer to the booking engine of the site without giving any hints how to actually obtain the low fare.

C.1.5. Checklist item 5

5. Are the identity of the company and its contact details clearly indicated? (article 7.4 (b) UCP Directive + article 5(1) of E-commerce Directive).

Checklist item 5 dealt with the clear indication of the identity and contact details of the airline. The identity of an airline is always well shown. The contact details were well indicated by 99% of the airlines – in some cases one had to search the site a bit to reach this information.

C.1.6. Checklist item 6

6. Is the same language used throughout the selling process, including advertising and the standard contract terms and conditions? (article 7.2 (clear and intelligible information) + Annex I point 8 UCP Directive and Annex point (i) of the UCT Directive)

Item 6 investigated whether there is language consistency throughout booking process; and was observed by 90% of the individual websites, but there are many airlines that only show the conditions of carriage in English, even when the rest of the booking process is entirely in a local language. In rare cases this would also be true for special offers, but much less so. Very often, fare rules and the detailed breakdown of third-party taxes would only be in English.

Occasionally it would show that the translation of the booking engine software was not perfect, for example error messages generated by the software would not always match the language of the booking process.

C.1.7. Checklist item 7

7. Is access to air fares granted without any discrimination based on nationality, place of residence, or establishment of the air carrier's agent or ticket seller within the community? (Article 23 Air Services Regulation)

Item 7 considered whether the consumer has to indicate their nationality or residence at any stage during the booking process, to the extent that this has an impact on the price or even the possibility to buy a ticket. Item 7 was observed by all with regards to nationality and agent location.

Regarding discrimination based on place of residence, some flights operated under a Public Service Obligation regime give discounts to residents of remote regions. This is the only type of discrimination allowed, and no other forms of discrimination were observed by the study.

C.1.8. Checklist item 8

8. Is it stated whether the relevant flight is a non-stop service or whether the flight is operated with a stop at an intermediate point? (article 7.1 (material information) and 7.4 (a) (main characteristics of the product) UCP Directive).

Item 8 addresses whether a site will clearly show a flight to have an intermediate stop (and the continue under the same flight number). Item 8 was respected by 90% of the individual sites. The study specifically looked at some long-haul flights with a known stopover and then checked that airline and its alliance partners for that flight. When a stopover would not be shown in the flight overview, it would normally be shown when clicking on flight details, but this obviously doesn't help the consumer much.

Most low-cost airlines and several traditional airlines do not have stopovers at all. In that case, they obviously cannot mention stopovers, and were considered acceptable (as the UCP Directive mentions a "misleading omission"). In case of doubt, airport website were consulted for timetables to be sure that an airline really did not have any stopovers at all.

C.1.9. Checklist item 9

9. Where certain charges cannot be calculated in advance (e.g. luggage fees), are consumers clearly informed that such charges may be payable and of the manner in which they will be calculated? (article 7.1 and 7.4 (c) UCP Directive).

In Item 9 the two main topics investigated were luggage fees for checked luggage within the luggage weight limit, and excess luggage fees.

In the case of checked luggage fees (which involves low-cost airlines only), websites would clearly show the price for each checked item, however in some cases the prices would differ depending whether this item would be checked in online (and left at a baggage drop-off point) or checked in at a check-in desk – this distinction may be confusing for an inexperienced traveller.

Excess luggage fees are generally well indicated (92,5% of the sites), but not always in the local language. Some airlines have a special online tool that calculates the excess luggage fee for a given weight and itinerary, which is very convenient.

The fees and procedures for other special checked items such as sports equipment, musical instruments are well explained by some airlines. A few even mention prices and regulations for other special items such as pet kennels.

C.1.10. Checklist item 10

10. Are the airports of departure and destination clearly indicated by including the full and official name of the airport and not by making reference only to the capital or the best known city nearby? (article 7.2 (non ambiguous information) UCP Directive).

This item (are airports clearly indicated with the full and official name of an airport instead of a big city nearby) was fully observed by the traditional airlines, less so by low-cost airlines – 84,4% of all sites correctly gave the name of all airports served by that airline. Since it has become increasingly common for low-cost airlines to fly to secondary airports (as landing charges are lower and turnaround times quicker), these airlines may mention the name of a big city nearby rather than (or alongside) the real name of the airport, that may not immediately be recognised by passengers.

In these cases, a distinction was made between those secondary airports that have officially included the name of that big city in the airport name (which was considered satisfactory), and those that haven't (which was considered unsatisfactory)..

C.1.11. Checklist item 11

11. Are all the standard contract terms and conditions, including the limitations to special offers and the conditions for cancellation and modification of the tickets written in a clear manner using readable characters? (Article 5 and Annex point (i) of the Unfair Contract Terms Directive +Air Services Regulation).

Item 11 focused on fare rules, terms and conditions as well as special offers that are supposed to be written in

clear language. Regarding fare rules, several airlines were found that instead of mentioning the terms and conditions when clicking on the link “terms and conditions” in the final step of the booking process actually showed the fare rules in a very complicated and unclear manner. All these airlines used the same third-party booking engine (as evidenced by the URL during the booking process), so it seems that the booking engine would be the issue here.

In less than 1% of cases, the terms and conditions of carriage would not be on the site at all (see the next checklist item) - in which case the clarity of the reading could obviously not be assessed. In the vast majority of cases where the terms and conditions were mentioned, they were clearly written generally, albeit in a rather legal style sometimes.

No issues were found with unreadable characters, Item 11 was observed by 97% of the websites.

C.1.12. [Checklist item 12](#)

12. Are the standard contract terms available to the consumer before the ticket is bought? (Annex point (i) of the Unfair Contract Terms Directive)

Item 12 investigated whether the conditions of carriage are shown in the booking process or elsewhere on the site. 99% of the airline sites allow the conditions of carriage to be read at some point in the booking process (often the consumer has to tick a box and thereby accept the conditions), and also elsewhere on the site outside of the booking process.

C.1.13. [Checklist item 13](#)

13. Can the consumer retain (print-out or save otherwise) a copy of the company's standard terms and conditions at the time of purchase (article 10 of the E-Commerce Directive)

Item 13 checked whether the terms and conditions can be saved or printed; 93% of airline sites allow for this, with the obvious exception of those few where the terms and conditions were not available. Only in a few occasions this document was presented as a PDF document, in most cases as simple HTML.

C.1.14. [Checklist item 14](#)

14. Does the website include the unmodified Annex of the Regulation 889/2002 on air carrier liability governing liability for passengers and their baggage (Article 1.8 and 1.10 of Regulation 889/2002 on air carrier liability)

The last item checked whether the unmodified Annex of Regulation 889/2002 is included. This was found to be the case in 74,7% of the sites and was thus the least observed item. Regulation 889/2002 is an amendment to Regulation 2027/97 on air carrier liability that aligned the previous Regulation with the 1999 Montreal Convention. Consequently, several airlines mention the articles on liability limits, but quote them as part of the Montreal Convention rather than EC legislation. Since the Montreal Convention does not have a 16.000 SDR minimum specified for advance payment, this limit is set by the contracting parties to the Convention (the Commission in this case) therefore different limits were found in the conditions of carriage of some carriers based outside the European Union.

One airline publishes the notice of liability limitations with a disclaimer, stating that the Annex of Regulation 1008/2008 is not an accurate representation of the Regulation or the Montreal Convention, regarding the 100.000 SDR limit below which the airline cannot contest claims for compensation. This matter was not investigated further within the scope of this study, but may deserve subsequent analysis.

Some airlines have slightly rearranged or modified the text, as well as the spirit of the text, of the Annex. It was even observed on a few occasions that the above-mentioned limit of 100.000 SDR was lowered to 1 SDR, so that the airline can contest claims of any amount.

C.2. Travel agents

C.2.1. Checklist item 1

1. Do prices include all applicable, unavoidable and foreseeable taxes, charges, surcharges and fees? (Article 23 Air Services Regulation)
 - a. are all applicable, unavoidable and foreseeable booking fees included in the price?
 - b. are all applicable, unavoidable and foreseeable payment fees per persona and segment or other administrative fees included in the price?
 - c. if there are different foreseeable and unavoidable fees that are applicable for different payment methods, are they indicated?
 - d. are all applicable, unavoidable and foreseeable check-in fees included in all prices?

Item 1a considers whether all unavoidable taxes, charges, surcharges and fees are immediately included in the price rather than added at the end and item 1b checks whether these taxes, charges, surcharges and fees are specified. Item 1a was observed by 97,2% of the investigated websites. Item 1b was observed by 82,6% of the sites, however, in some cases (mostly in the Nordic countries), credit card fees were not included but payable later. The only free option given in those cases is a bank transfer, available only to local accountholders and thus not avoidable for all. The vast majority of travel agents offered credit card payment at no extra charge. A few travel agencies in the new Member States did not offer online payment, after the reservation is complete the customer has to go the travel agent's office to pay. It was not possible to establish in these cases whether another fee would not be added later when paying.

Item 1c (indication of prices of various payment methods) is therefore only relevant in cases where credit card payment comes at an extra cost – in those cases where it does, the prices of the various payment options are well indicated. Of all sites 94,5 % observed Item 1c.

Regarding item 1d (check-in fees), this was not found to be relevant in the case of travel agencies, as no airline was found that currently charges extra for check-in at the airport and allows travel agencies to book any of its flights.

C.2.2. Checklist item 2

2. Are all the optional price supplements of the flight offered on an "opt in basis" without the need for the consumer to remove a tick from any box to opt-out? (article 23 Air Services Regulation)

Item 2 deals with pre-ticked extra services that have to be unselected if not desired. Extra services can include many different things in the case of travel agents: travel insurance, other insurances, checked luggage (for those

flights that require it), car rental, hotel bookings and more. Generally, the only item that is pre-ticked is the travel insurance, the rest is all on an opt-in basis. Of the investigated sites, 14,7% was found to have pre-ticked options.

C.2.3. Checklist item 3

3.b. Where tickets are described as free by air carriers but purchased through a distinct intermediary, does this mean that consumers do not have to pay anything other than the unavoidable cost of responding to the offer, the paying for the delivery or collection of the ticket, or the charges for the distinct intermediary's services

This checklist item deals with tickets described as free by airlines or sold through travel agents. While researching the various websites for this study, no free tickets were found on offer on any site. Therefore it was not possible to investigate this checklist item further.

C.2.4. Checklist item 4

4. Are the limitations or conditions attached to the offer clearly displayed? (article 7.1 (material information) and 7.2 (hidden information) UCP Directive + article 23 Air service Regulation).

Checklist item 4 investigated whether limitation and conditions to a special offer are clearly displayed, e.g. the time before which the special offer must be bought and in which timeframe the flight must be made. This item was respected by 91,7% of the individual travel agent sites.

C.2.5. Checklist item 5

5. Are the identity of the company and its contact details clearly indicated? (article 7.4 (b) UCP Directive + article 5(1) of E-commerce Directive).

Checklist item 5 dealt with the clear indication of the identity and contact details of the travel agent. In 97,2% investigated cases, the identity of the travel agent was well-displayed and the contact details could be found easily on the website.

C.2.6. Checklist item 6

6. Is the same language used throughout the selling process, including advertising and the standard contract terms and conditions? (article 7.2 (clear and intelligible information) + Annex I point 8 UCP Directive and Annex point (i) of the UCT Directive)

Item 6 on language consistency throughout booking process was observed by 81,7% of the sites, as many travel agents have booking engines that at some point switch language or do not show the terms and conditions in the local language. This is also apparent when booking engines show error messages, which are often in English when the rest of the booking process is not. In some extreme cases, sites switch back and forth between the local language and English within the booking process.

C.2.7. Checklist item 7

7. Is access to air fares granted without any discrimination based on nationality, place of residence, or establishment of the air carrier's agent or ticket seller within the community? (Article 23 Air Services Regulation)

Item 7 checks whether the consumer has to indicate their nationality or residence somewhere during the booking process, to the extent that this has an impact on the price or availability of the ticket. Item 7 is observed by 96,3% of the travel agents.

Discrimination based on nationality or the establishment of the agent within the community was not found.

C.2.8. Checklist item 8

8. Is it stated whether the relevant flight is a non-stop service or whether the flight is operated with a stop at an intermediate point? (article 7.1 (material information) and 7.4 (a) (main characteristics of the product) UCP Directive).

Item 8 (dealing with the question whether intermediate stops are clearly shown) was observed by 94,5% of the travel agents' sites: a proper display of intermediate stops is especially important in the case of travel agencies as the customer has normally several airlines to choose from, and knowing which option has intermediate stops would make a big difference on the attractiveness of that specific airline's product. As with the airline sites, several destinations were investigated which are known to have at least one airline (combination) with an intermediate stop, in order to see whether this stop would be shown.

C.2.9. Checklist item 9

9. Where certain charges cannot be calculated in advance (e.g. luggage fees), are consumers clearly informed that such charges may be payable and of the manner in which they will be calculated? (article 7.1 and 7.4 (c) UCP Directive).

Regarding item 9 (extra charges that cannot be calculated in advance, such as luggage charges or excess luggage fees), travel agents often have little information on this issue (only 68,8% of the sites did). While the terms and conditions of agencies generally specify that luggage has a weight limit and that extra charges apply in case of excess weight, it rarely happens that a passenger would already know the exact weight while booking. Therefore excess luggage fees would normally be paid at the airport, with the exact amount of luggage only known just prior to boarding. Luggage limits are generally also mentioned in the fare rules and not in the context of other charges, as Regulation 1008/2008 requires.

C.2.10. Checklist item 10

10. Are the airports of departure and destination clearly indicated by including the full and official name of the airport and not by making reference only to the capital or the best known city nearby? (article 7.2 (non ambiguous information) UCP Directive).

This item (are airports clearly indicated with the full and official name of an airport instead of a big city nearby) was observed by 97% of the sites, only in one case did a travel agency suggest a flight to a secondary airport without clearly stating so.

C.2.11. Checklist item 11

11. Are all the standard contract terms and conditions, including the limitations to special offers and the conditions for cancellation and modification of the tickets written in a clear manner using readable characters? (Article 5 and Annex point (i) of the Unfair Contract Terms Directive +Air Services Regulation).

Item 11, dealing with the question whether terms and conditions are written in a clear manner using readable characters, focused on fare rules, terms and conditions as well as special offers. Only 60.6% of the sites observed this item, and several travel agencies use unclear language, small print and in some cases do not have terms and conditions at all (see item 12 as well). Several agencies using a certain third-party booking engine (as do several airlines) do not show terms and conditions under the “terms and conditions” link, but only fare rules, that are shown in a very unclear and almost illegible way.

C.2.12. Checklist item 12

12. Are the standard contract terms available to the consumer before the ticket is bought? (Annex point (i) of the Unfair Contract Terms Directive)

A distinction has to be made whether a travel agent shows their own terms and conditions or also the conditions of carriage of the airline that will operate the flight. With the exception of only one agency, all websites will show only their own terms and conditions (and sometimes not even those), but never the conditions of carriage of the airline that will actually operate the flight. This is a worrying situation, as the customer will be bound by the airline conditions of carriage just as much as by the travel agent's own terms and conditions.

C.2.13. Checklist item 13

13. Can the consumer retain (print-out or save otherwise) a copy of the company's standard terms and conditions at the time of purchase (article 10 of the E-Commerce Directive)

Item 13 (can the terms and conditions be saved or printed), was interpreted as the terms and conditions of the travel agent itself, considering that virtually no travel agent is able to include the conditions of carriage of the airliner. Item 13 was observed by 88,1% of the sites.

C.2.14. Checklist item 14

14. Does the website include the unmodified Annex of the Regulation 889/2002 on air carrier liability governing liability for passengers and their baggage (Article 1.8 and 1.10 of Regulation 889/2002 on air carrier liability)

The last item deals with the inclusion of the unmodified Annex of Regulation 889/2002. Only 17,4% of the investigated travel agent websites mention this regulation, or the Montreal Convention. Most sites do not state anything about liability issues other than saying that they themselves have no liability at all in case of accidents, and that in those cases the air carrier is liable – but the travel agents in fact do not provide any info on how to find out more about liability policies of the airlines.

Those travel agents that do mention Regulation 889/2002, state that this is the main legal framework regarding liability in air travel without elaborating further.

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