

Regulatory Policy Group

To airlines operating in the UK

17 March 2014



Dear Colleague,

As you may be aware, in December 2013 the UK government published the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (the Regulations), which implement the Consumer Rights Directive¹ in the UK. The Regulations will come into force in June 2014. The Regulations and accompanying guidance are attached for ease of reference.²

Package travel³ that falls within the scope of Council Directive 90/314/EEC of 13 June 1990 (the Package Travel Directive⁴) is excluded from the provisions of the Regulations. In addition, although most of the Regulations do not apply to aviation (categorised in the Regulations as passenger transport), we would like to bring to your attention, if you were not already aware, of some of the aspects that do apply.

Regulation 40 prevents additional charges being payable by the consumer where they have been added to the cost of a contract without obtaining the consumer's express consent before the consumer commits to the contract. The Regulation specifically sets out that express consent cannot be achieved where pre-ticked boxes for additional services are used that the consumer, if they wish to avoid the charge, then has to deselect before they can proceed with the purchase. Where the consumer does pay additional charges, and has not expressly agreed to do so before the contract was concluded, Regulation 40 writes an implied term into the consumer's contract which will enable the consumer to be reimbursed.

In addition, **Regulation 41** sets out a prohibition on businesses charging consumers more than the basic rate for post-contract customer helplines. Airlines (and sellers of holidays and travel that do not fall within the scope of the Package Travel Directive) may still have telephone numbers which begin 09, 084, 0870, 0871, 0872, 0873, however basic rate customer helplines must be equally or more prominently displayed. The intention behind this is to give the consumer choice in those instances where a number (usually an 0845) may be cheaper for the consumer to call than a geographic number because of the call plan they are on.⁵

The attached Department for Business, Innovation and Skills guidance to the Regulations sets out some information to the basic rate on page 21 which includes the following:

"1. Where a telephone helpline is provided, the basic rate requirement means not charging more than a geographic or mobile rate. Consumers should generally expect to pay no more to phone a trader about something they have bought than to call a

¹ Directive on Consumer Rights (2011/83/EC)

² Also at: www.gov.uk/government/policies/providing-better-information-and-protection-for-consumers/supporting-pages/implementing-the-consumer-rights-directive-2011-83-eu

³ The Package Travel Directive defines package travel as: "package' means the pre-arranged combination of not fewer than two of the following when sold or offered for sale at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation: (a) transport; (b) accommodation; (c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package."

⁴ Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours

⁵ Section 8 on p21 of the attached Department for Business, Innovation and Skills guidance

friend or relative, that is to say the simple cost of connection. This telephone number provided should not provide the trader with a contribution to their costs”

2. The following numbers, if used by traders, would comply with the regulations:
- Geographic numbers or numbers which are always set at the same rate, which usually begin with the prefix 01, 02, or 03;
 - Calls which can be free of charge to call, for example, 0800 and 0808 numbers. In certain circumstances charges to these numbers can be applied, for example, for those ringing from a mobile. However, OFCOM’s proposed reforms will mean these numbers will soon become free in all circumstances;
 - Mobile numbers, which usually begin with the prefix 07.”

The guidance also contains information on the application of Regulation 40.

Once the new Regulations come into force the Civil Aviation Authority will check the websites of airlines that operate to and from the UK to see whether customer service telephone lines are compliant with the basic rate requirement. The CAA has power to take action for breaches of this requirement under the Enterprise Act 2002 and, depending on the results of its investigation, will consider whether enforcement action is required.

Further information can be found at www.gov.uk/government/policies/providing-better-information-and-protection-for-consumers/supporting-pages/implementing-the-consumer-rights-directive-2011-83-eu.

If you have any questions on Regulation 40 or 41 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, please feel free to contact my colleague listed below:

Miranda King – Consumer Policy Adviser
(miranda.king@caa.co.uk – 020 7453 6206)

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Buffey', with a long horizontal flourish extending to the right.

Matt Buffey
Head of Consumer Policy & Enforcement