

WHITE PAPER

Safeguarding consumer choice in the travel sector:

Preserving fair competition, an urgent call for action.



October 2023



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Methodology

This paper has been funded by On the Beach, one of the UK's leading online retailers of beach holidays and one of the largest ATOL holders in the UK, due to concerns about what it perceives to be anti-competitive practices of low-cost airlines in the travel sector and lack of regulatory intervention that is threatening consumer choice.

Consumer data referred to throughout the paper has been obtained through a survey conducted with a total of 3000 British adults (who have flown abroad in the last three years), carried out 15-24th May 2023 by One Poll.

This paper was commissioned to make clear the scale of the issues facing online travel agents and consumers in view to driving regulatory intervention and change.

Commentary is included from Martyn James, an award-winning broadcaster, columnist and consumer rights expert.

The paper will be shared with:

The Rt Hon Kemi Badenoch MP

Secretary of State for Business and Trade - Department for Business & Trade

Jonathan Reynolds MP

Shadow Secretary of State for Business and Trade

The Rt Hon Mark Harper MP

Secretary of State for Transport - Department for Transport

Louise Haigh MP

Shadow Secretary of State for Transport

Baroness Vere

Parliamentary Under Secretary of State (Aviation, Maritime and Security) - Department for Transport

Iain Stewart MP

Chair, Transport Committee - Houses of Parliament

Marcus Bokkerink

Chair - Competition and Markets Authority (CMA)

Sarah Cardell

Chief Executive - Competition and Markets Authority (CMA)

Rob Bishton

Interim Joint Chief Executive - Civil Aviation Authority (CAA)

Paul Smith

Interim Joint Chief Executive - Civil Aviation Authority (CAA)

Foreword



Shaun Morton
CEO, On the Beach

Holidays are important.

They give us a chance to recharge, to rejuvenate and to reconnect with friends and family. In fact, our customers tell us that their holidays are the best and most valued weeks of their year.

Holidays are a key part of life.

But as this paper will show, great value, protected package holidays are under threat because low-cost airlines are taking advantage of their market power and using anticompetitive behaviours, scaremongering tactics and smear campaigns to purposefully make life difficult for online travel agents, harming consumers in the process.

Why? Because online travel agents (for example On the Beach, Lastminute, Expedia and Booking.com) are one-stop shops that give consumers ultimate choice and flexibility, letting them purchase different parts of their holiday from different providers, while offering low deposits, flexible payments and ATOL protection - and airlines don't like it.

Low-cost airlines want consumers to have no choice, and instead, corner them into buying all the elements of their holiday (transfer, hotel, excursions, insurance etc.) from them directly - the less competition the better.

If low-cost airlines are allowed to continue abusing their market power with the anti-competitive behaviours that are detailed in this paper, the outcomes are inevitable; competition will reduce, customer service will deteriorate and holiday prices will increase.

Consumers surveyed for this paper agree. Nearly half believe that low-cost airlines treat their customers badly because they know they can get away with it, and 84% say that they are worried that lack of regulation means airlines will be able to charge more and provide a worse service in future.

Regulators have failed to keep up with the pace of change in the travel industry over the last few decades. Even in the past couple of years, they have missed the post-pandemic opportunity to address the anticompetitive behaviour from low-cost-airlines that we believe is the root cause of the issues that consumers and travel businesses are experiencing today.

On the Beach was founded to enable consumers to see holiday offerings from different suppliers in one place, empowering them to have choice, flexibility and value. Choice is a consumer right, and we are not prepared to stand by and see that disappear. Low-cost airlines are abusing their positions of power, and so we are putting our money behind this, taking High Court action against Ryanair in a competition case and publishing this white paper including proprietary research that demonstrates the depth of the issues and the strength of consumer feeling.

There is a growing threat to consumer choice and we must protect people from dominant airline behaviours that drive prices higher. I hope that the CMA will carefully review the recommendations made in this paper and take action to protect holidays for everyone.

Shaun Morton
CEO, On the Beach

Executive Summary

Travel agents have packaged holidays to help people find their perfect package holiday since the birth of Thomas Cook in 1841. Today, online travel agents (OTAs) offer consumers a digital one-stop shop for ATOL protected package holidays. They have revolutionised the market by enabling consumers to take advantage of choice, flexibility, value and protection, enabling millions of people to search and book their holidays every single year.

While travel agents are far from a new concept, OTAs brought new competition to the package holiday sector and to low-cost airlines (LCAs) - some of whom now have their own holiday businesses in addition to selling flights.

Today, LCAs feel threatened by the competitive challenge of OTAs in the market and are engaging in behaviours to try and eliminate competition, harming consumers in the process.

Interestingly, the Italian Competition Authority (AGCM) announced in September 2023^[1] that it is investigating Ryanair DAC because in a translation of the formal opening of proceedings, its preliminary view was that;

“It appears that Ryanair leverages its dominant position on the air transport markets to extend its market power to the supply of other tourist services (hotels, car rental, etc.), preventing and/or hindering travel agencies from selling airline tickets, which are typically the first purchase that is made in the organization of a holiday and which, therefore, represents the ‘entry point’ with the greatest cross-selling potential for the sale of other services.”

This paper will show the extreme lengths that LCAs are reaching to try and monopolise consumers for themselves and will outline:

1. Increasingly sophisticated anti-competitive behaviours being conducted to try and limit competition from OTAs. This includes reducing or removing seats to certain destinations, making them completely unbookable by OTAs or consumers unless booked directly with the airline as a package; harming the consumer experience with onerous verifications only applied to bookings made with an OTA; and smear campaigns that cast doubt in the minds of consumers about the validity and benefits of booking package holidays with OTAs.
2. Data from a proprietary consumer study conducted for this paper, which demonstrates the concern at the anti-competitive behaviours of LCAs, the harm being caused and the impact it is having on consumers’ booking confidence and ability to access choice, flexibility, value and protection when booking a holiday.
3. Consumer frustration at regulations that are no longer fit for purpose, and of regulators that are failing to tackle the issues outlined in this paper to protect competition in the market that is of great benefit to them now - and in future.

In answer to the issues identified in this paper, the following recommendations will be made:

- A.** A full market review should be conducted by the Competition and Markets Authority (CMA), to examine the issues identified and mandate solutions that will preserve competition and drive higher standards in the travel sector.
- B.** Airlines should be mandated to provide OTAs with access to flight information and seat-only prices on a fair, reasonable and non-discriminatory basis, allowing agents acting on behalf of consumers to book flights and meet their responsibilities as a package holiday provider; akin to how Open Banking, implemented in 2018 helped consumers with fair access to a wide range of financial services and enabled healthy competition and service standards among providers. Measures implemented by LCAs that limit the choice and availability of flights that can be booked by consumers through OTAs should also be prohibited.
- C.** A Code of Conduct should be developed for airlines and OTAs to operate and work together, including two-way sharing of customer contact details and flight information (including changes or special assistance requirements), disruption protocols and refund responsibilities, processes, timelines and dispute resolution.
- D.** Consumers should write to, and garner support from, their local MP in preserving their right to choice and high standards of service from airlines and travel businesses, plus updated regulations that protect them from harm. Both OTAs and LCAs have called for regulatory intervention, and the CMA has the power to exercise a review of the market to preserve competition and protect consumers. As such, this paper will conclude that the status-quo has to change – the travel market as it is today is not working for airlines, OTAs or consumers, who are being caught in the crossfire. Without urgent regulatory reform, vibrant competition and consumer choice – fundamental to the future health of the travel sector – are at serious risk. The UK travel sector could be dominated by a very small number of airlines, which is bad for consumers, bad for the industry, and bad for the economy – such reliance on a small number of airlines is also a high-risk strategy for government.

CHAPTER 1:

How Online Travel Agents Benefit Consumers

The arrival of low-cost flights in the 1990's was groundbreaking. These low-cost airlines (LCAs) made flying more accessible than ever and enabled consumers to hop on flights to the sunshine, snow, or European cities with ease.

Online travel agents (OTAs) such as On the Beach, Booking.com, Lastminute and Expedia emerged shortly after, providing one-stop online shops that gave consumers access to flights from numerous LCAs, which could be purchased either individually (flight-only), or with a hotel to form a package holiday. Since then, even more OTAs have emerged underlining the popularity and value of this model to consumers. It is estimated UK consumers are set to spend £40.9 billion on package holidays in 2023^[2]. Flights booked through OTAs have contributed to the success of the LCAs.

OTAs provide consumers with a number of benefits:

Choice

The ability to access flights as well as hotels, transfers and other services to create a package holiday, all in one place. This makes it easy to find and compare the best times and prices and provides the flexibility to book outbound and inbound flights from different providers.

Value for Money

A number of players in the market means that consumers can shop around, and this competition means that OTAs must offer good value for money and service standards.

Protection

Booking flights with hotels creates an ATOL protected package holiday giving consumers financial protection and complete peace of mind - something that cannot be offered when booking flights and hotels separately.

Flexible Payments

OTAs offer flexible payment options so that consumers can spread the cost of their holidays over many months and offer low deposits, making holidays accessible to more people.

Today however, OTAs who package holidays are under threat from increasingly anti-competitive behaviour from LCAs, both at the point of booking, and when travelling. As regulators sit back, competition is not being protected for the benefit of consumers.

Put simply, without OTAs, consumers must either sacrifice the ability to shop around to find the best package holiday prices, or buy flights and hotels separately and sacrifice ATOL protection and flexible payments.

What is a Low-Cost Airline?

A low-cost airline is a carrier that operates a point-to-point network and offers consumers a no-frills, basic service. This typically means that the fare advertised is a seat-only price with ancillaries such as baggage, seat reservations, priority boarding, food, drink etc. charged separately.

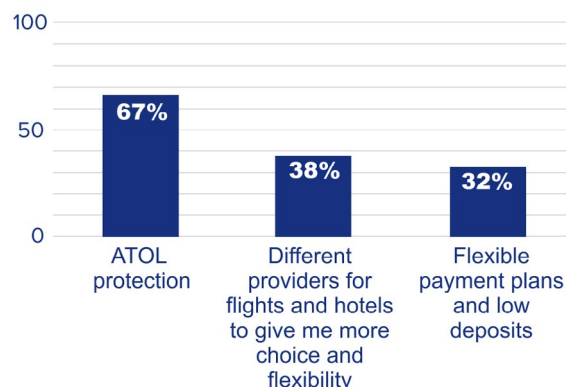
What is an Online Travel Agent?

An online travel agent (OTA) is a web-based marketplace where consumers can research, compare and book travel products and services such as flights, hotels, transport/transfers and activities from lots of different suppliers, all in one place. OTAs make planning and booking holidays really simple because consumers can compare and make informed choices from a wide range of products and services, then the OTA will manage all the elements from the different suppliers on their behalf. Where the holiday is a flight inclusive package, consumers benefit from ATOL protection and Package Travel Regulation rights.

What is a package holiday?

A package holiday^[3] is a combination of travel elements, e.g. a flight and hotel stay that is sold and packaged by a travel company together in one inclusive price. UK companies that sell package holidays which include flights are legally required to have an ATOL licence and comply with the Package Travel and Linked Travel Arrangements Regulations 2018.

% of consumers stating "extremely important" when choosing who to book with



[4]

“

Planning, researching and booking a holiday is a significant financial and emotional investment, so having a choice of provider available and being able to compare prices means consumers are more likely to find their perfect holiday with value, financial protection and quality of service.

Choice is a consumer right and to lose this would be catastrophic on many levels. Regulators must step in to protect consumer choice, limit the harmful behaviours from some of the low-cost airlines and drive higher standards throughout the travel sector. We can't continue to see scenes like we have this summer.”

Broadcaster, columnist and consumer rights expert Martyn James

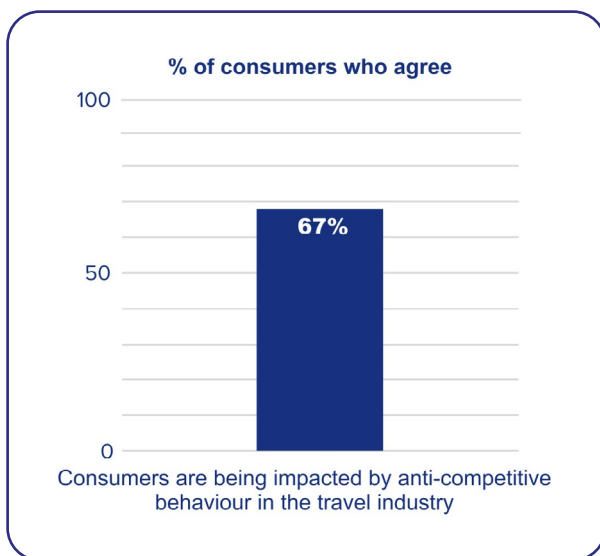
[3] <https://www.caa.co.uk/newsroom/blogs/what-are-package-holidays-and-what-makes-them-so-safe/>

[4] Market survey of 2064 On the Beach customers in April 2021 who had a beach holiday since 2018 or intended to book one the in the next 12 months.

CHAPTER 2:

Low-cost Airlines' Anti-competitive Behaviour

There are numerous techniques being deployed by some LCAs to make it difficult for OTAs to do business, which 67% of consumers agree is impacting them. As will be outlined in this paper, many consumers think that this behaviour is unacceptable.



The anti-competitive practices being displayed by LCAs include (but are not limited to):

1. Blocking OTA credit cards.

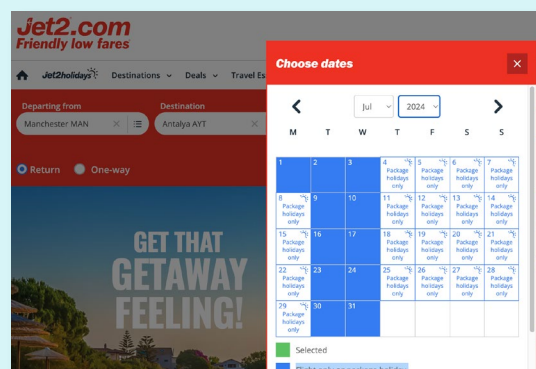
Just as a consumer can go online to book a flight with a LCA directly and provide their credit card details to pay, OTAs do this on behalf of their customers. Ryanair, however, is deliberately trying to prevent OTAs from booking seats and paying for flights for customers. It does this by rejecting credit card numbers identified as belonging to OTAs, thus preventing them from making bookings. While the consumer never feels the direct impact of that because the OTA will navigate it with an alternative(s) solution, these alternatives do come with an additional cost to the OTA. This is just one example of what On the Beach claims is a breach of competition rules. 70% of consumers surveyed for this paper say that LCAs should not be able to make it difficult for other companies to package their flights with hotels.

2. Blocking seat availability.

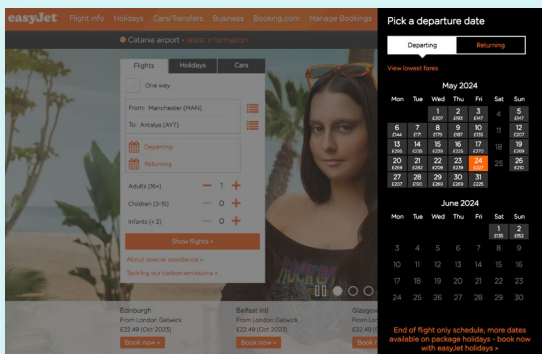
In a move by LCAs to try and direct consumers to book holidays with them directly rather than booking with an OTA, LCAs are reducing or removing seats to certain destinations, making them completely unbookable unless booked directly with the airline as a package. At some regional airports, where LCAs can have the complete monopoly or a significant proportion of the seats on a route/destination, consumers can be in a situation where not only do they have little or no choice of airline, the LCA, with this tactic, limits their choice of holiday package provider, too.

It has become common practice for LCAs who also sell package holidays to withhold seats from consumers who just want to buy a flight, and only sell those seats to those who wish to book a package holiday with them. This has a detrimental impact on consumer choice, not only for those consumers who want to book a package with an OTA, but also for those who want to book a flight-only with the LCA, perhaps because they have a property/timeshare abroad, are visiting friends or relatives, or have arranged their accommodation separately.

Example from Jet2.com: Jet2 will often restrict consumer choice by limiting the availability of seat only. Example shows Leeds-Bradford to Antalya, Thursday to Monday in July 2024, meaning consumers are prevented from booking a flight unless booking a Jet2 package.



Example from easyjet.com: directing consumers to package only for Summer 2024, beyond July.



process, indicating that this procedure is in place purely to make booking with an OTA less appealing than booking directly – another anti-competitive play.

A coalition of some of the UK’s best known online travel companies, Online Travel UK (OTUK) which includes On the Beach, wrote to regulators including the CMA, CAA and ICO, in an Open Letter in August 2023 to ask that this process is investigated and stopped. OTUK believes that not only is it causing consumer pain, but it could also be in breach of UK Data Protection laws (see example 4 and letter in the appendix).

3. Excess booking fees for OTAs

EasyJet and Jet2 are charging OTAs a dynamic ‘API fee’ on top of the seat price itself in order to book a flight on behalf of a consumer. For example, in the last 12 months, easyJet have charged travel agents £14^[5] on average more per seat than the web price. This is excessive, provides no additional benefit or value and ultimately increases holiday prices and squeezes competitor margins. It is a clear indicator of anti-competitive behaviour which is designed to further EasyJet’s “direct is best” policy.

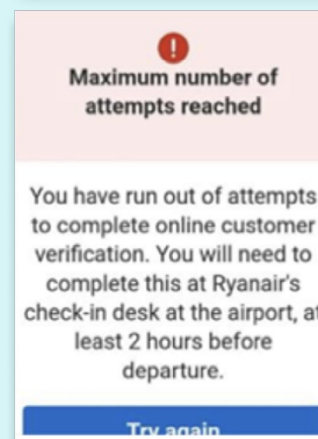
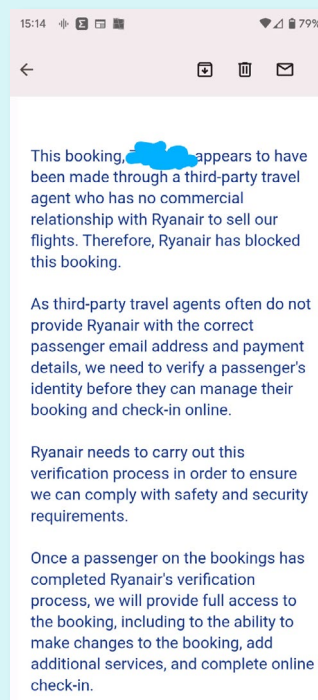
4. Arduous verification processes

OTA customers who book their package holiday with a Ryanair flight can face onerous, unnecessary and worrying processes for verifying their identity and even checking-in (see example 1) and OTAs are unable to manage their holiday and meet their obligations as a package provider until this process has been completed.

Not only is this process causing confusion among customers (see example 2), in some cases OTA customers are unable to access their booking at all and have resulted in cancelling their holiday altogether (see example 3). With standard and express options offered (express incurring a charge of €0.59), consumers who don’t verify their identity pre-departure can expect to be charged even more to do so at the airport.

Consumers who book with Ryanair directly do not have to follow this same verification

Example 1: Onerous and scaremongering messaging to OTA customers.



[5] Data collected by OTB from (a) the relevant third-party API; and (b) the relevant airline website between 4 September 2022 and 17 September 2023 for like for like flights departing from 4 September 2023.

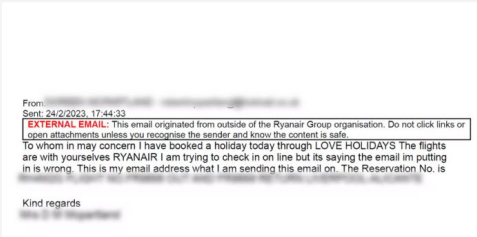
ryanaair.com/ie/en/lp/explore/third-party-hub/third-party-complaints

RYANAIR Plan | My bookings | Sign up | Log in | Help

OTA CUSTOMER COMPLAINTS

Every day Ryanair is contacted by thousands of customers who booked through an Online Travel Agent (OTA) and run into difficulties with their booking. Some OTAs don't provide Ryanair with customer contact or payment details, which means Ryanair cannot directly contact customers with important information and updates or directly assist customers who may contact us with a query or directly process refunds to customers.

Some recent examples of difficulties caused by OTAs:



Case 1

Customers who book through OTAs may have problems accessing their booking. The OTA often associates the booking with their own accounts which means only they can access the booking. When a customer reaches out to Ryanair in this case, we are unable to help unless they verify their identity and manage their booking under their own myRyanair account.

When OTAs make bookings, they often use their own email addresses. When customers wish to check in online, they may be unable to do so unless they verify their identity and manage their booking under their own myRyanair account.

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Example 2: Customer confusion and problems with verification in social media forums.

Georgia Adams Ryanair Complaints (non official) June 13

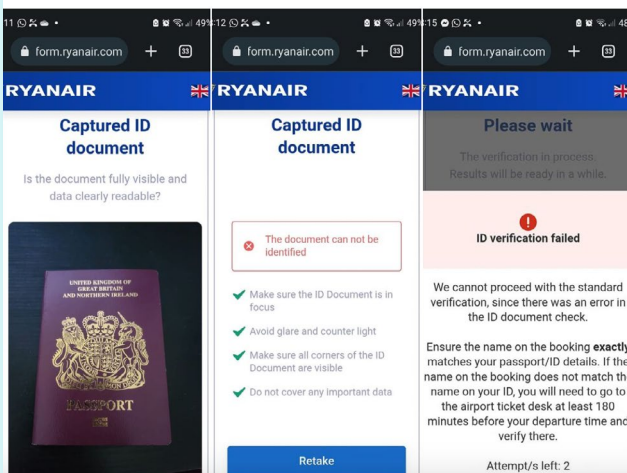
****UPDATE**** For the people who didn't read my whole message and jumped on the bandwagon calling me dumb, thinking im just sending my Front cover... it asks for all 3 pictures... and has now worked after the agent advised me to use incognito mode. Thanks for your help guys! 😊 NEVER AGAIN! I say this every single time...

Anybody had issues with verifying themselves due to booking by a 3rd party??

It won't let us pay for 'Express verification' as it keeps coming up with an error message and then standard verification keeps asking for clearer pictures... CANNOT get clearer than a Samsung s23!!! 🤔

Has anyone had issues with this? I'm at my wits end... all I want to do is change a name on a flight!!!!

P.s. it has specifically asked for a picture of the front on this particular one, I've not uploaded the picture with my actual details...



Kelly Upson August 19, 2022

Has anyone had trouble with verification Ryanair. They've put my son on as 12-15 when he's 17. I have to do verification and it keeps saying error. I've spent 2 days Trying to ring them they send me a link and the verification doesn't work it says error. I'm having to wait for them to unlock it now and we fly in 4 days

16 comments

Maria Helley

I had the exact same problem 2 weeks ago! Went around in circles with no one helping! Eventually (after about 40 hours) it just took one person to actually help which was someone on the end of Ryanair facebook messenger. It was horrendous customer service!!

Like 1y

Stephen Kennard

Omgl! It drove me to the edge seriously..If you're on about what I had to do as in take a picture of passport - not close enough, too far away, not clear enough... Arrggg! Then the face picture, look to the right look to the left, smile (found that a fuc*ing challenge the mood I was in!) it seriously took me about 2 hours on n off and almost a smashed computer/phone! After what was seriously a traumatic experience it still asked me for passport details to check in! Gotta laugh but I seriously was feeling quite homicidal!

Like 2w

Eunice Aldous

We had a lot of problems

Like 1w

Lisa Jane

It won't let me log in, says its a 3rd party booking??

Like 2w

Charlotte Brewin Robinson September 15 at 10:55 PM

Anyone had any issues verifying themselves with Ryanair

2 49 comments

Example 3: Case study of Diane Agro, BBC 1 *Rip off Britain*, Season 16 airing October 2023 to January 2024.

OTA customer Diane Agro explained how the difficulties she had verifying her booking according to Ryanair's specifications led her to cancel her booking. Diane explained how she booked with an OTA because she wanted her whole holiday to be managed for her, end to end, yet the verification issues she faced left her feeling stuck in the middle of her travel agent and her airline with no other option but to cancel, which felt completely unfair. While cancellations are rare, it is a clear demonstration of LCAs actively trying to eliminate choice, use scaremongering tactics and cause reputational damage to OTAs, with no consideration or regard for the consumer harm it causes.

Example 4: Feature in the *Financial Times*^[6] outlining the OTUK open letter and concerns about Ryanair booking verification requirements.



5. Preventing direct package holiday communication

LCAs are preventing OTAs from managing their customers' holidays effectively and meeting their obligations as package providers, because they cut OTAs out of important correspondence like changes to flight times or even cancellations.

In the summer of 2022, when LCAs were cancelling unprecedented numbers of flights from UK airports, OTAs would receive calls from customers stranded at airports after late cancellations with no prior knowledge from the airlines about the flight cancellation. The very same lack of communication and updates on flight cancellations and severe disruption to schedules occurred during the air traffic control failure in Summer 2023.

6. Withholding refunds

When flights and package holidays were cancelled at the beginning of the pandemic, consumers expected to receive refunds from airlines and travel companies, as outlined by regulations. Multiple millions of pounds in refunds for Ryanair flights booked by On the Beach are still owed. On the Beach did not allow its customers to have to wait for months on end for their refunds and so refunded them directly in lieu of receiving any money from Ryanair. On the Beach is suing Ryanair for the monies.

On September 18th 2023, the Department for Business & Trade (DBT) launched a consultation on reforming the Package Travel and Linked Travel Arrangements Regulations 2018^[7]. The DBT is interested in exploring evidence from package organisers who have been finding it difficult to obtain refunds from suppliers and how the legal right to redress set out in Regulation 29 (which provides organisers with an express right to seek redress from third parties) is working in practice.

Lydney Swarbrick
October 30, 2020

Hi all. I am still waiting on my ryanair flight refund. Have managed to contact ryanair today via the chatbots system and they have sent a link for me to claim the refund. They said they aren't refunding travel agents anymore. Has anyone else been told this? I had a look at the form they have asked me to fill in and I have to attach my passport including signature and proof of address and the original booking with on the beach. Has anyone else done this?

10 comments

Nicola Toole
July 10, 2020

Absolutely cannot fault On The Beach Holidays regarding our cancelled holiday from June, we booked a package holiday with them flying with Ryanair and we got the money from the hotel 5 days after requesting the refund and was told Ryanair would refund the money for our flights which we're still waiting for. Just had an email from On The Beach saying due to Ryanair not paying back their customers they are going to refund us the final amount and also give us £100 voucher for a future booking, cannot complain at that and can't wait to book for next year

21

13 comments

[6] <https://www.ft.com/content/56e1a876-ddcf-44b7-ba73-32a3c67283db>

[7] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1185358/package-travel-legislation-updating-the-framework.pdf

On the Beach suing Ryanair for £2.3m over money owed for flight cancellations during the pandemic

By DAILY MAIL CITY & FINANCE REPORTER
UPDATED: 08:38, 4 December 2021



On the Beach is suing Ryanair for £2.3m over money owed for flight cancellations during the pandemic.

The online travel agent claims it refunded customers whose package bookings were scrapped when the flights, arranged through the Irish no-frills airline, were grounded.

In documents submitted to the High Court, the company alleges Ryanair has still not paid for these refunds, despite it being part of the airline's own policy, and industry regulations, to do so.

7. Reputational slurs

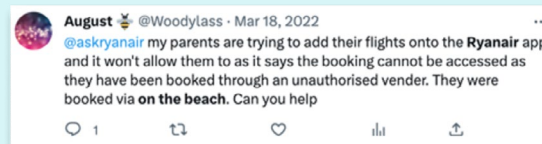
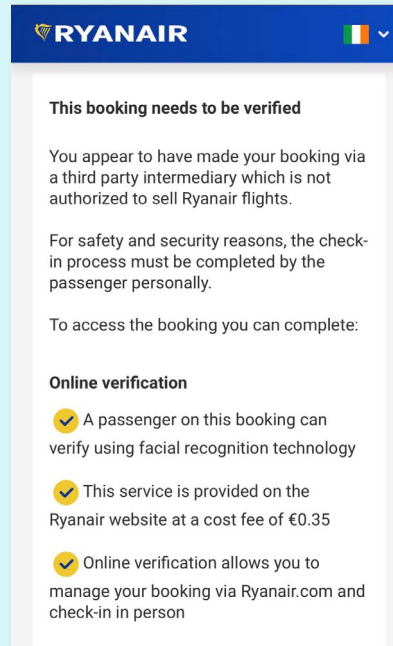
Ryanair has an ongoing publicity campaign against OTAs including On the Beach, describing them as “screenscrapers” and “rampant internet pirates”. The defamatory campaign and scaremongering language is being used as a deliberate tactic to frighten consumers into booking direct, incorrectly claiming that OTAs are not legally allowed to book flights on their behalf. It is entirely valid and lawful for OTAs to book and package services with different suppliers and then manage that booking for customers. Consumers enjoy the exact same rights and status as flight bookings made directly with Ryanair and inferring that booking with an OTA causes safety and security issues is yet another anti-competitive tactic that is causing consumer harm. Ryanair has gone on to claim in media interviews and in direct to customer communications that there is “no benefit” to booking through a third-party – another entirely false claim.

Ryanair defamatory & scaremongering communications to OTA customers.

Thank you for completing our customer verification process. You now have full access and control of your booking. You can manage all aspects of your upcoming trip and check in [here](#).

There are no benefits to booking with a third party. These companies often add extra charges to our products which ultimately makes you pay more for your trip.

We've seen countless instances where our passengers have faced unnecessary difficulties due to booking through a third party, all of which could have been avoided by booking directly with Ryanair. If you would like to learn more about real issues our passengers unfortunately faced from booking with a third party, [click here](#).



8. Overbooked flights.

When a flight is overbooked i.e., an airline sells more seats than it can provide, On the Beach has found isolated examples of customers finding themselves unfairly targeted and selected for removal from the flight, in place of those consumers who booked with the LCA directly. This must be investigated by regulators to establish if this is the anti-competitive play it appears to be, as LCAs seek to discourage consumers from booking their holiday with an OTA in the future.

EXCLUSIVE: Family removed from flight by TUI after waiting 48 hours due to airport delays

Daniel Riley, 43, from Barnsley, South Yorkshire, was due to fly with his family to Crete from Manchester Airport but after a 48-hour wait TUI selected them for removal as the plane was too small

By **Ryan Merrifield**, News Reporter
09:06, 2 Jun 2022 | UPDATED 14:47, 2 JUN 2022



A family was selected by TUI to be removed from a flight to Greece as the plane was too small following a 48-hour wait due to airport delays.

Daniel Riley, 43, his wife Diane, 41, and daughter Eva, 11, were booked to fly to Crete on Sunday morning and took up the airline's advice to drop off their luggage the night before to help with congestion.

Daniel said: "We got down to the departure gate and they called our names and some other couples to come to the information desk.

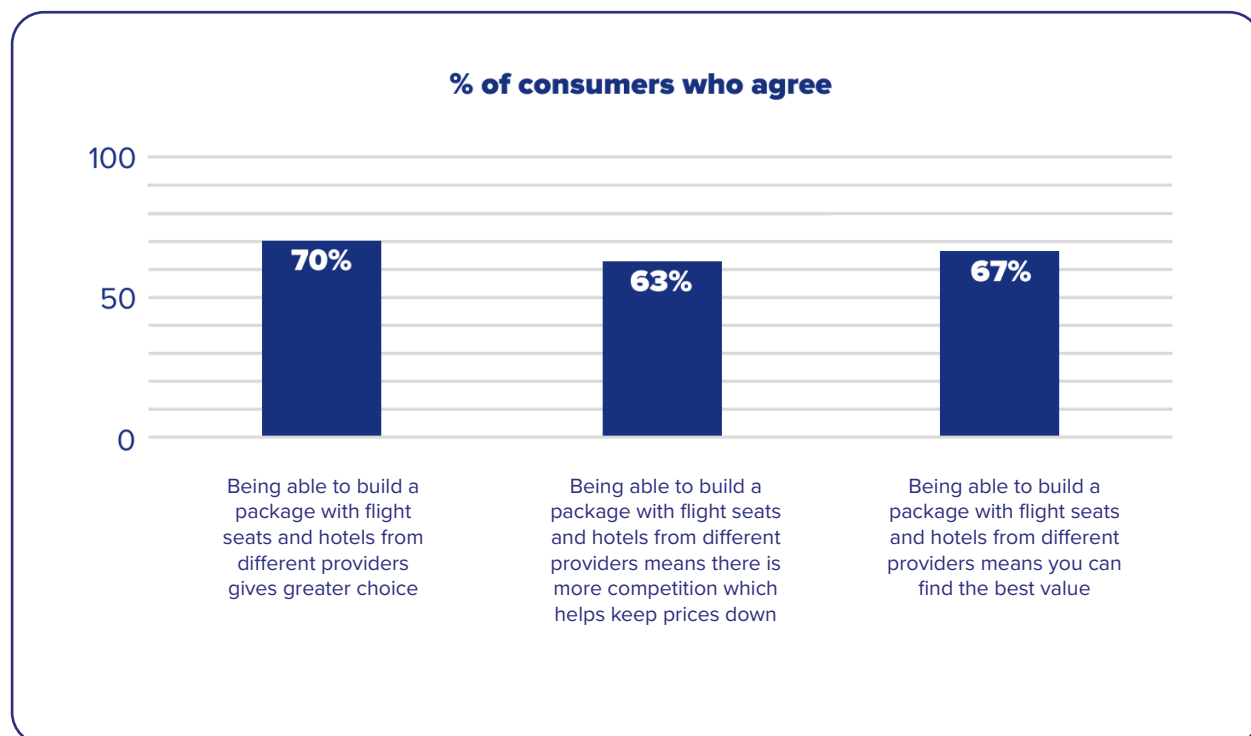
"We were told all the flight had been moved to a smaller plane so they were removing people and as we hadn't booked direct through TUI as a package holiday...we'd only got the flights with TUI so they removed us."

CHAPTER 3:**Consumer Harm & Craving Choice**

When looking at the anti-competitive behaviour examples outlined in the previous chapter, the negative consumer impacts can be summarised in five areas:

1. **Angst, frustration and time wasted when being bounced from LCA to OTA to resolve issues. Consumers feel like they are caught in the crossfire.**
2. **Worry and confusion about the validity of bookings made with OTAs which damages their confidence and strips the joy out of planning and booking a holiday.**
3. **Being left out of pocket for refunds (precisely why On the Beach is taking legal action against Ryanair after stepping in to refund cancelled flights during Covid, in lieu of receiving monies from Ryanair) or feeling like it is a fight to get compensations owed in a timely manner.**
4. **Potential breach of personal data through onerous Ryanair verifications, not to mention the inconvenience and potential cost of a completely unnecessary step.**
5. **Not always being able to receive the service standard and experience expected from booking with an ATOL-protected package provider like an OTA, thus damaging consumer trust in those companies.**

A significant majority of consumers surveyed for this paper want to be able to shop around and see what is available from different holiday providers. They don't want to be limited to having to buy the flight and hotel from the airline, as it prevents them from finding the best value for money holiday.



Broadcaster, columnist and consumer rights expert Martyn James says,

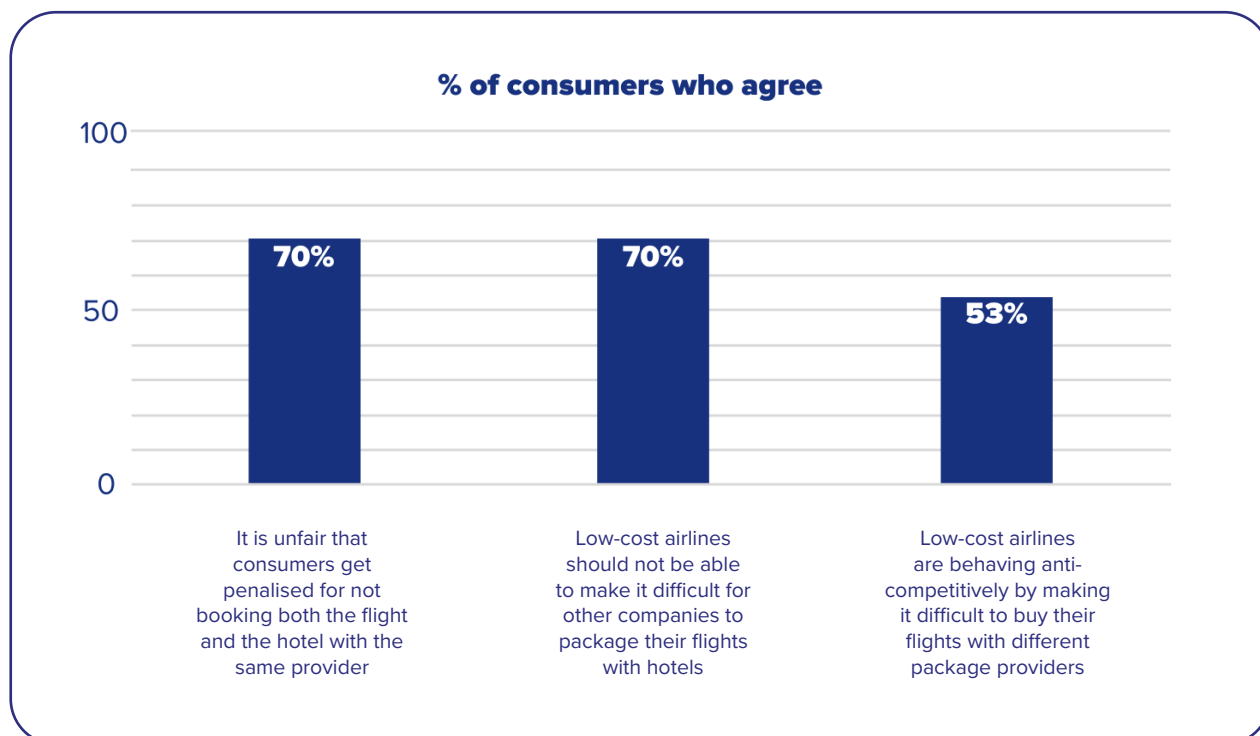


For millions of people booking a holiday, it's clear that the option they prefer is to be able to compare, contrast and find the best deal that works for them – and book it through a company they trust. In almost every other sector I can think of, online marketplaces that facilitate this are embraced as a vital part of the process.

It makes sound, logical business sense too, because when people are aware of the wide range of options available to them, they are more likely to choose beneficial deals with airlines that they wouldn't have found by going through the airline's own website."

Broadcaster, columnist and consumer rights expert Martyn James

Furthermore, consumers believe that it is unfair that consumers are being penalised for booking their package from a company other than the airline that they are flying with and feel that this behaviour is anti-competitive and should not be allowed.



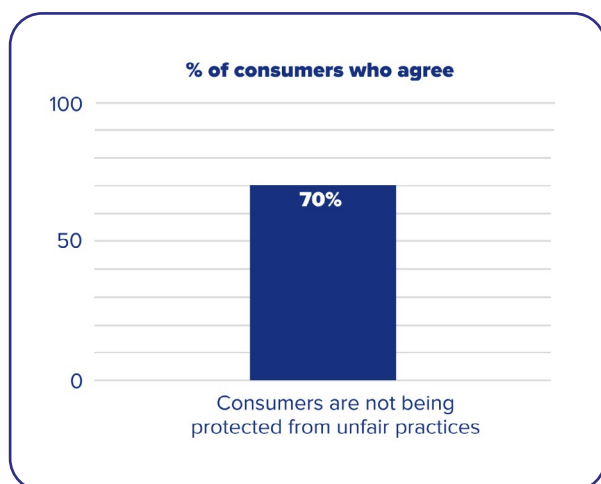
CHAPTER 4:

Regulators Missing in Action

UK regulators are aware of the issues that consumers are facing at the hands of LCAs, but they are not currently tackling anti-competitive behaviour or protecting consumer choice.

The same cannot be said in Italy, where the Italian Competition Authority (AGCM) has started to act. It was announced in September 2023 that it had opened an investigation regarding an alleged exclusionary abuse of dominant position by Ryanair DAC. The AGCM's preliminary view is that Ryanair DAC is leveraging its dominant position in several markets to extend its market power in other tourist services (such as hotels and car rental), harming both online and offline travel agencies - as well as consumers. Consumer rights expert Martyn James says that "UK holidaymakers deserve this protection too."

Consumers interviewed for this paper are very underwhelmed at the impact and lack of action from the Competition and Markets Authority (CMA) when it comes to protecting their interests versus protecting the status quo for LCAs.



In a joint letter to airlines in July 2022, the CMA and the Civil Aviation Authority (CAA) said passengers "could experience significant

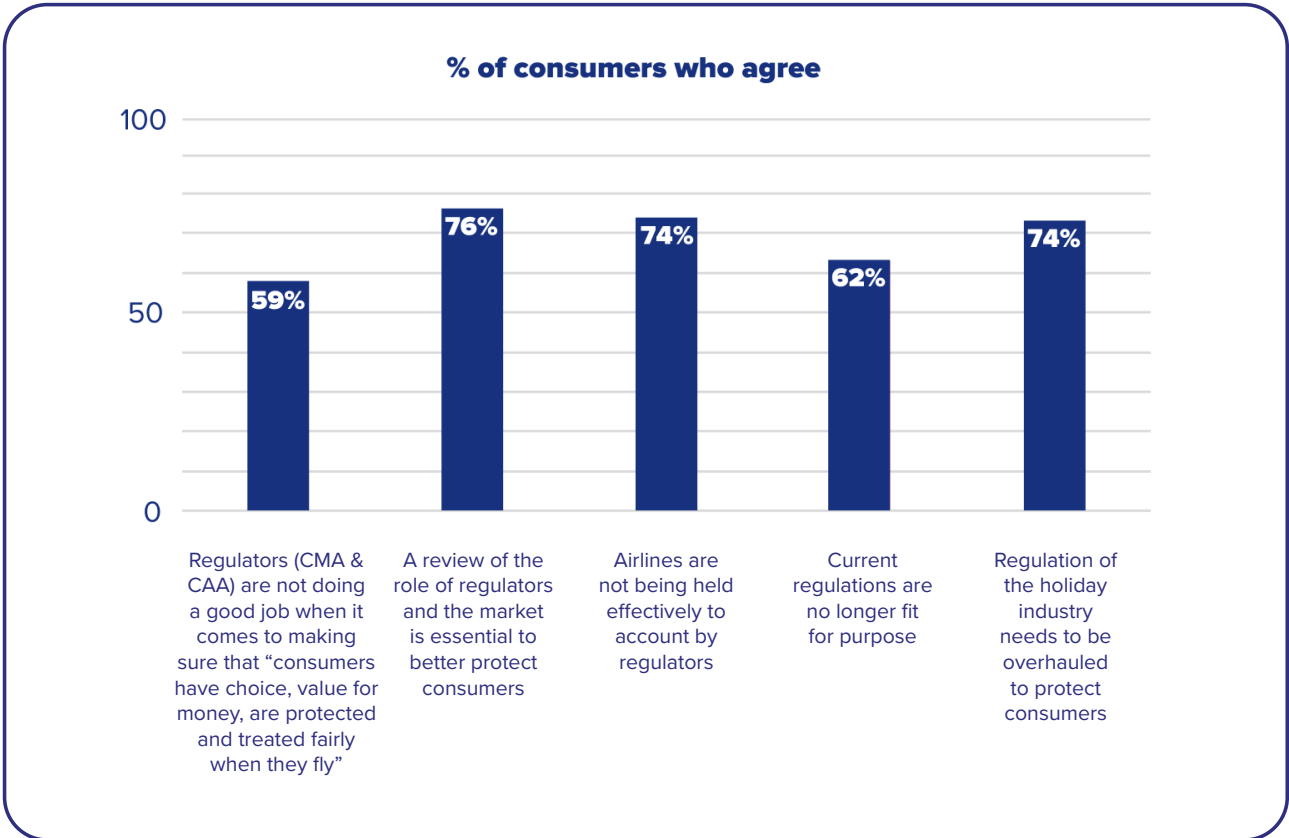
harm unless airlines meet their obligations" telling them that they "must treat passengers better when dealing with disruption."

While anti-competitive behaviour was not specifically acknowledged, they said that some airlines were not doing enough to avoid "engaging in one or more harmful practices."

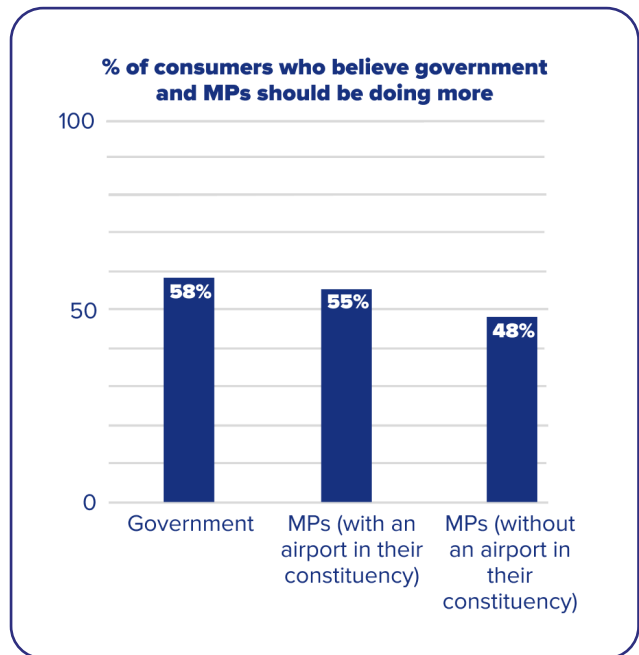
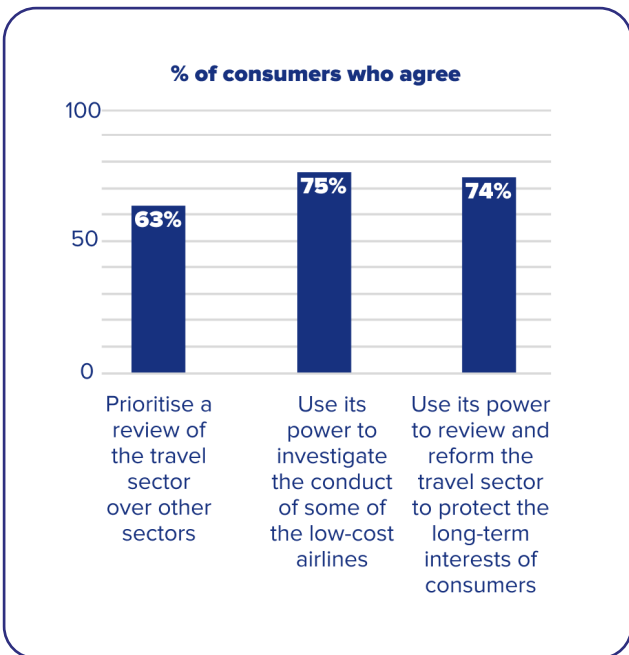
In June 2023, the government promised that airline customers would be better protected when journeys go wrong. This pledge included stronger enforcement powers for the CAA and access to faster, cheaper dispute resolution for consumers. It stated that improved standards for passengers on flights operating to and from the UK would increase passenger confidence. But concrete action is yet to be taken, and acknowledgement of anti-competitiveness and/or whether these practices were indicative of airline abuse of market power, was missing from this pledge.

In August 2023, Online Travel UK sent an open letter to regulators calling for Ryanair's invasive online verification for OTA customers to be stopped. The ICO publicly acknowledged the letter, stating it would investigate the issues outlined. The CMA thanked OTUK for bringing the issue to their attention and noted that they would consider it carefully. The CAA confirmed receipt of the letter.

Many consumers questioned for this paper say they feel they are not being protected from unfair practices and are being impacted by anti-competitive behaviour from LCAs. They state that current regulation is no longer fit for purpose (62%) and regulators are not doing a good job at ensuring consumers have choice, value for money and protection.



The CMA is responsible for ensuring that competition in the market works well for consumers and consumers are feeling let down by their absence, saying that they want the CMA to use its power to investigate the conduct of LCAs and review and reform the travel sector to protect their long-term interests. Two-thirds say that the travel industry should be prioritised (for review) over other sectors (63%) and they want the Government (58%) and MPs (55%) to do more to ensure that regulators are protecting them.



Recommendations

Vibrant competition and consumer choice is fundamental to the future health of the sector. Consumers are worried that the lack of effective regulation may mean LCAs will get away with charging more and providing a worse service in the future. 63% of consumers said that being able to build a package with flight seats and hotels from different providers means there is more competition which helps keep prices down.

The solutions to the issues identified must have consumer protection at their heart and ensure that consumers are not discriminated against booking their holiday with an OTA. Consumers must be free to choose to book with whoever they wish to, whether it be an airline, high street travel agent or OTA.



With that in mind, the following recommendations are being made;

- A. A full market review should be conducted by the Competition and Markets Authority (CMA), to examine the issues identified and mandate solutions that will preserve competition and drive higher standards in the travel sector.**
- B. Airlines should be mandated to provide OTAs with access to flight information and seat-only prices on a fair, reasonable and non-discriminatory basis, allowing agents acting on behalf of consumers to book flights and meet their responsibilities as a package holiday provider; akin to how Open Banking, implemented in 2018 helped consumers with fair access to a wide range of financial services and enabled healthy competition and service standards among providers. Measures implemented by LCAs that limit the choice and availability of flights that can be booked by consumers through OTAs should also be prohibited.**
- C. A Code of Conduct should be developed for airlines and OTAs to operate and work together, including two-way sharing of customer contact details and flight information (including changes or special assistance requirements), disruption protocols and refund responsibilities, processes, timelines and dispute resolution.**
- D. Consumers should write to, and garner support from, their local MP in preserving their right to choice and high standards of service from airlines and travel businesses, plus updated regulations that protect them from harm.**

Conclusion

Choice is a consumer right and fair competition for OTAs must be facilitated.

Regulators in the UK are failing in their duty to enable a competitive travel market that protects consumers and travel businesses.

The insight gathered and issues of anti-competitiveness identified throughout this paper should be of deep concern for regulators, as should the consumer feeling of abandonment at their hands.

Regulatory reform that meets the needs of the modern consumer and travel industry today, will mean that consumers can look forward to a world with choice available to them when planning and booking their holidays, and one where they can be confident their money is safe and reassured that they will receive high quality service and be treated fairly.

Market choice will keep prices competitive and drive standards higher, including accurate communications, timely refunds and swift resolution to issues.

The alternative for consumers is a world where OTAs could gradually leave the market and the market power of the low-cost airlines will be driven even further. The very lack of competition will only embolden the airlines' behaviour and crucially, consumers will be left with only a few airlines to book their holiday and much higher prices will follow.

Both OTAs and LCAs have called for regulatory intervention and the CMA has the power to act and review the market to preserve competition and protect consumers. The travel market today is not working for airlines, OTAs or consumers who are being caught in the crossfire.

It is essential for OTAs to be able to offer a breadth of airlines and destinations to consumers. Without urgent intervention, the UK travel sector will become dominated by a very small number of airline players which is bad for consumers, bad for the industry, bad for the economy and bad for government.



The problem with the market power of some airlines at airports or to specific destinations is it can - and it is - resulting not only in higher fares, but more blatant and gratuitous 'drip pricing' as the airlines know they have a captive marketplace. This lack of competition has emboldened some airlines, as they know we have no choice but to fly with them. Anti-competitive behaviour that is harming consumers needs addressing - particularly where full or partial market dominance is in play."

Broadcaster, columnist and consumer rights expert Martyn James

Appendix

Online Travel UK Open Letter

9th August 2023

Ryanair threatens consumers' rights by imposing invasive and needless facial recognition process on passengers

Dear <NAME>,

Online Travel UK

We are an association of the UK's leading online travel companies. Our members provide a range of services to customers including flight search engines and the selling of package holidays. Around half of UK travellers use our sites to plan and book their holidays. Further information about us, including which members have signed this letter, can be found below and in Appendix 1.

Overview

The purpose of this letter is to make the UK Government and regulators aware of what our members consider to be potential infringements of customers' data privacy rights by Ryanair when passengers book their flight via Online Travel Agents. In addition, consumers are being caused undue stress and uncertainty over their travel plans during the peak summer period, and in many cases, they are facing substantial additional financial costs as a result of Ryanair's conduct.

- **We ask that the UK Government and relevant regulators look into these breaches as a matter of urgency**, considering the impact on UK holidaymakers this summer.

This issue affects UK travellers as well as those from other countries. The same concern has been raised in the European Union ("EU") by EU Travel Tech ("EUTT"), while noyb has filed a complaint with the Spanish Data Protection Authority (AEPD).

Outline of issue

Many customers booking Ryanair flights via third party sites, including members of Online Travel UK, are receiving emails from Ryanair stating that they must go through an online verification process before they can manage their booking or check-in online.

The process is as follows:

- Customers receive an email, often claiming that they have made a booking through an "unauthorised" third party and that their booking might be "blocked".
- In order to access their booking online, they are informed that they must either go through an online facial verification process (the "express" option), which costs £0.59, or a free standard identification process which takes up to seven days.
- If a customer does not complete these verification steps ahead of their flight, they are required to pay £55 per person at the airport in order to check-in.
- This process has been primarily aimed at customers that have booked via third-party sites.

We have provided examples of these emails and this process in Appendix 2. In addition, Ryanair's current Terms and Conditions are found in Appendix 3.

Legal Challenge

When some of our members have reached out to Ryanair for an explanation, they have claimed these additional checks are necessary by saying that they are for safety and security reasons. However, they are only applying these checks to bookings made via third party sites. No other airline requires these additional checks of our customers to the best of our members' knowledge. As well as adding extra uncertainty to customers' travel plans, we also believe that the following legislation may be being breached.

UK's Data Protection Act 2018 ("GDPR")

- Current UK data protection laws require that the collection of personal data shall be necessary, proportionate, transparent, and processed in line with data minimisation requirements. Ryanair's new facial verification process clearly meets none of these requirements, however. It is unnecessary and disproportionate, because as the courts have previously ruled, there are much less intrusive methods for Ryanair to be able to meet any safety and security requirements. A passenger's name, date of birth, or email address are all suitable ways for Ryanair to complete any required safety and security checks, in line with the practices of all other airlines.
- What's more, Ryanair's facial verification process involves the collection of sensitive supplementary personal information, such as a person's race or gender. In addition to breaching data minimisation requirements, it also exposes the individual to significant risks to their privacy, rights and freedoms in the event of a data breach. This process is clearly excessive considering it is being required simply to access an online booking and customers' passports are routinely checked at the airport.
- Finally, the processing of sensitive personal information, such as biometric data, is only permitted if certain strict criteria are met, such as where the passenger has freely given their consent. Ryanair may argue that in this case the passenger has done just that, yet we believe that passengers are not in a position to freely give their consent. That is because they face negative consequences if they do not do so, including an inability to access their booking online and the consequent requirement to pay £55 per traveller to check-in at the airport.

In short, we judge that Ryanair is potentially committing multiple breaches of the UK Data Protection Act 2018.

Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2018

- Passengers have a legal right to request a refund from airlines in certain circumstances. These checks, which require a fee and/or sharing of excessive personal data, would limit customers' ability to access their booking therefore may be in breach of Air Passenger Rights, which guarantees a right to a refund.

Consumer Impact

- These emails and steps mean that customers are confused as to the status of their booking, and many are led to falsely believe that their flight booking might be in jeopardy.
- Some customers have also noted that the verification process does not work and so, despite being informed that they can "verify" their booking for no (or minimal) cost, they are in fact required to pay a substantial £55 fee per person before flying, with the added stress of not

knowing whether they'll be able to board their flight ahead of arriving at the airport. For a family of four, this would amount to an additional fee of £220 each way on top of their pre-existing booking.

- In addition to the facial verification requirement, some customers have been asked to complete an extra step and verify the card details used to make the booking. Often the card used is that of the agent/intermediary making the booking, which results in customers being unable to “verify” these details which once again results in the customer having to pay the £55 fee per person.
- Due to the uncertainty felt by our customers when booking Ryanair flights, and our inability to resolve the issues they face, many consumers will feel they have no choice but to book directly with Ryanair in future to avoid unnecessary stress, charges and administration. Given there is no other reasonable basis for Ryanair’s behaviour, we can only assume this is their real motivation.
- Consumers are subject to additional legal rights when booking flights as part of a package (including ATOL protection and package holiday rights under the Package Travel Regulations). Many come to members of Online Travel UK since many of our members offer the ability to organise their holiday in one place, search for the most cost-effective option for their flights and/or accommodation, spread the payment of the holiday, and benefit from these additional rights.

Business Impact

- Many of our members are reporting significantly increased communication from customers affected by this issue after booking Ryanair flights with them.
- Due to the nature of these checks, which are controlled exclusively by Ryanair, we are unable to support our customers in resolving issues. This, in turn, will result in a sub-standard customer service experience and might result in consumers not returning to us for future holidays due to the disruption of an external party.

Action

The signatories of this letter would ask that UK regulators look into this issue as a matter of urgency and put a stop to Ryanair’s invasive, unnecessary and unfair facial recognition requirements as soon as possible.

This letter has been signed by the following members of Online Travel UK: Booking.com, eDreams ODIGEO, Expedia Group, Kiwi.com, lastminute.com, Skyscanner and On the Beach.



For further information, please contact consumerchoice@onthebeach.co.uk