Travel Insurance: Misleading Practices on Airline Websites

Iacopo Berti and Daria Stramacci

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Every day, millions of people buy airline tickets online. Airline companies offer a wide choice of destinations, schedules and additional services for their customers.

One of the most frequently offered services is travel insurance. All airline companies offer various kinds of insurance coverage during the flight booking process.

On 17 February 2014, the Italian Antitrust Authority fined two of the world’s largest low-cost airline companies, Ryanair and EasyJet, for lack of transparency in their online optional travel insurance offers. Specifically, they did not clearly explain what kind of risks were covered.

The proceedings, which commenced in January 2013 following several complaints from consumers and consumer associations, concluded with administrative sanctions.

According to the Authority, Ryanair and EasyJet were in violation of the Italian Consumer Code as they did not provide essential information – or did not do so adequately – about the travel insurance which they offered to passengers during the booking process. Specifically, the two airlines breached Articles 20 and 22 of the Consumer Code by failing to disclose the nature of the insured risk and the specific restrictions on the insurance offered. Customers had little information about the risks covered by the insurance contract when purchasing online, without a clear evidence of the amount of the exemption provided in case of compensation that was greater than the cost of the insurance itself. In addition, there was no indication that the compensation did not cover taxes and airport charges. Such conduct was deemed misleading, as consumers did not have access to all of the informations they needed to make an informed choice.

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1 Italian Competition Authority.

1 Proceeding PS7488 (Ryanair Ltd) and PS7245 (EasyJet Ltd).

2 Codice del Consumo (Decreto legislativo 06.09.2005 No 206), articles 20, 22, 24 and 25.
With specific regard to the Ryanair website, the option to deselect travel insurance was difficult to find and therefore misleading. To do so, consumers had to select the “I do not insure”, located in a list of 21 countries, between the options “Netherlands” and “Norway”. Consumers therefore had to select the “I do not insure” option in order not to purchase the product, thus making it an “opt-out” choice, or in other words unfair commercial practice.

The principle according to which purchases must be made on the basis of an informed choice is provided for by article 23 of Regulation EC No 1008/2008 which states that “Optional price supplements shall be communicated in a clear, transparent and unambiguous way at the start of any booking process and their acceptance by the customer shall be on an ‘opt-in’ basis”. Many recent Italian decisions (for instance: Consiglio di Stato No 1259/2013; No 6204/2011 and No 5785/2011) have confirmed that the “opt-out” option constitutes unfair commercial practice when it is accompanied by “additional features” which impact on the consumer’s ability to make an independent choice.

The second significant aspect of the airline companies’ unfair commercial practices concerned restrictions of the right to refunds. Specifically, the airlines companies charged consumers for the certification that they had not used the transport service which they required to obtain a refund of the expenses incurred. This information was certainly already in the airline companies’ possession, and could easily have been provided to the insurance company without involving the consumer. The charge required to obtain this certification was in some cases higher than the cost of the insurance service (20 euros in the case of Ryanair, and 12 euros in the case of EasyJet).

In addition to this cost, consumers were charged for telephoning the call centre to initiate the reimbursement procedure.

This administrative charge and the cost of telephoning the call centre amounted to a disproportionate non-contractual barrier compared with the cost of the service and, accordingly, appeared to discourage consumers from making claims for reimbursement or, in any case, to hinder the exercise of this right.

Indeed, the information collected by the Authority during its investigations showed that the proportion of travellers who initiated the refund claim procedure was extremely low as a result of the complexity of the process.

The lack of transparency of the airline companies’ websites and the difficulty of finding information harms consumers economically by inflating the final cost of the flight ticket.

The Italian Competition Authority imposed a total of 1.05 million euros in fines on Ryanair (850,000 euros) and EasyJet (200,000 euros). The Authority took into account the positive changes implemented by EasyJet during the administrative proceeding regarding both the information provided to consumers in the online booking process and the refund procedure.

After these enforcement actions, these unfair practices have ceased.