



WORKING PAPER

WORLDWIDE AIR TRANSPORT CONFERENCE

SIXTH MEETING

Montréal, 18 to 22 March 2013

Agenda Item 2: Examination of key issues and related regulatory framework

Agenda Item 2.3: Consumer protection

PRICE TRANSPARENCY IN INTERNATIONAL AIR TRANSPORT

(Presented by the Secretariat)

EXECUTIVE SUMMARY

This working paper focuses on the issue of price transparency in relation to the protection of the air transport end users and proposes action for States and ICAO to address the situation.

Action: The Conference is invited to:

- a) review the information and assessment presented in this paper;
- b) endorse the conclusions presented in paragraph 3; and
- c) adopt the recommendations presented in paragraph 4.

References: ATConf/6 reference material is available at www.icao.int/meetings/atconf6.

1. INTRODUCTION

1.1 The subject of consumer protection is covered in broad terms in ATConf/6-WP/5, which provides, inter alia, background information on previous ICAO activity in this regard. This working paper addresses specific issues relating to price transparency as it is one of the areas which has triggered significant regulatory activity in different regions and in which fostering convergence would be most beneficial.

1.2 Price transparency is a concern shared by all air transport end users and will be addressed in this paper from the perspective of both the passenger and the cargo services.

1.3 Studies demonstrate that fares are the basis by which passengers typically select a carrier. In some cases, marketing techniques yield “hidden charges” that are at odds with the need to provide the passenger with transparent fares. A survey published in December 2009 (*Special Eurobarometer*, European Commission) illustrated that only 43 per cent of passengers who had travelled by air over the last year found that prices were provided in a clear manner; the majority of passengers (52 per cent) found the information unclear.

1.4 The *Air Travel Consumer Report* published in August 2012 (United States Department of Transportation (DOT)) illustrates that passenger complaints related to price transparency accounted for approximately 12 per cent of all complaints. In the context of the DOT report, issues of price transparency include: (i) incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, fare increases and level of fares in general; and (ii) advertising that is unfair, misleading or offensive to consumers.

2. OVERVIEW OF RECENT REGIONAL DEVELOPMENTS

2.1 **Brazil** – Brazil has enacted a Regulation which obliges air carriers to include all indispensable air service items, such as fuel, in the airfare. Only items which are separable from the basic air service, such as the purchase of refreshments, may be charged separately. Taxes are used exclusively for items which will be passed onto other entities, for instance airport operators and the Government. Taxes applied to the same service do not vary between companies, which enables the consumer to access information more easily, enhancing price comparison, competition and, consequently, consumer welfare and economic efficiency.

2.2 **Saudi Arabia** – The Consumer Protection Regulation of the General Authority of Civil Aviation, issued in 2005, provides, inter alia, in Article 15 that: (i) the air carrier must commit to the principle of utmost transparency in its advertisements on flights and services provided thereby; (ii) the air carrier must not provide misleading information regarding the prices [...]; (iii) the prices advertised are considered as total prices, and the air carrier shall not be entitled to add additional fees to such prices, unless such is included explicitly in advertising materials; (iv) the air carrier must disclose the Consumers rights [...] in a visible place and in a clear readable manner to the Consumer, including [on] the air carrier's internet website.

2.3 **United States** – The DOT rule *Enhancing Airline Passenger Protections* (No DOT-OST-2010-0140) provides that the price stated should be the entire price to be paid by the customer to the carrier, or agent, for such air transportation, tour, or tour component. Although charges included within the single total price listed (e.g., government taxes) may be stated separately or through links or “pop ups” on websites that display the total price, such charges may not be false or misleading. These charges may not be displayed prominently, may not be presented in the same or larger size as the total price, and must provide cost information on a per passenger basis that accurately reflects the cost of the item covered by the charge. In a recent instance, a foreign air carrier was fined for violation of the price advertising rule. The issue at hand was insufficient disclosure to frequent fliers of the monetary amount that they were required to pay, which covered not only government taxes, but also substantial fees labelled as “fuel surcharges” that were included under a heading described as “taxes.” The notice issued by the DOT reminds carriers that if they choose to provide a description of taxes and carrier-imposed fees, that description must be accurate and must distinguish between taxes and government-imposed fees on the one hand and carrier-imposed fees on the other. Another important provision in this DOT rule states that the carrier “may not offer additional optional services in connection with air transportation [...] whereby the optional service is automatically added to the consumer's purchase if the consumer takes no other action, i.e., if the consumer does not “opt out”. The consumer must affirmatively “opt in” (i.e., agree) to such a service and the use of “opt out” provisions is considered an unfair and deceptive practice.

2.4 **European Union** – According to Regulation (EC) No 1008/2008 of 24 September 2008, the final price to be paid shall at all times be indicated and shall include the applicable air fare or air rate as well as all applicable taxes, and charges, surcharges and fees which are unavoidable and foreseeable at the time of publication. In addition to the indication of the final price, at least the following shall be specified: (a) air fare or air rate; (b) taxes; (c) airport charges; and (d) other charges, surcharges or fees, such as those related to security or fuel; where the items listed under (b), (c) and (d) have been added to

the air fare or air rate. Besides, 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. Directive 2011/83/EU of 25 October 2011 states that the consumer should be informed, “in a clear and prominent manner”, of major terms of his purchase, including the total price to be paid. Such total price shall be inclusive of taxes, as well as, where applicable, all additional freight, delivery or postal charges and any other costs.

2.5 As illustrated in a 2012 survey conducted by the Secretariat, using information available directly from the web site of three airlines (direct sales), there is a need for additional clarity in ticket price information. On the same international route, for each of the three airlines, the following information was identified: (i) base fare, (ii) additional price components, and (iii) total price. The details of the survey are presented in the Appendix. The following conclusions can be made:

- a) For passenger services:
 - 1) the base air fare can represent a fraction as low as 10 per cent of the final price paid by the passenger, meaning that other price components can represent more than 90 per cent of the total price;
 - 2) the level of detail in the description of the different price components and the total fare is not the same for all airlines flying the same route;
 - 3) the languages in which the descriptions are provided differ and do not always refer to the same component of the total fare;
 - 4) Certain elements, which can be considered as costs directly related to the operation of the airlines, such as “fuel surcharge”, “carrier imposed surcharge” or “issuing fees” (when the ticket is paid on direct sales), can represent more than 6 times the base fare;
- b) For freight services, the price structure is quite different. In the two examples, the base charge represented 86 and 88 per cent of the final price paid by the user.

2.6 The above examples demonstrate the distinct characteristics and passenger and cargo market practices from the standpoint of price information. First, for passenger services there is a significant difference between the base fare and the total price (up to 1/6), due to the high relative importance of other price components. Second, marketing practices and different levies on the industry appear to lead to the emergence of a greater variety of different price components in passenger tickets, while for cargo services, the examples show a single additional price component counting for approximately 12-14 per cent of the base price. In light of those differences, it would appear that the need for regulatory harmonization and/or convergence is more acute for passenger services than for cargo services. However, in order to confirm the differences, there could be merit in ICAO conducting additional research on the respective price structure of the two markets with a view to deciding whether freight would also benefit from ICAO guidance on price transparency and thus determining the need for specific guidance material.

2.7 Providing air transport services users with complete and precise information is a principle likely to be endorsed by a large number of air carriers, States and other air transport stakeholders. In this respect, air carriers should be more transparent in advertising air fares and refrain from subjecting consumers to unfair practices, such as the use of “fine prints” in advertising fares.

2.8 The charging practices developed by airlines in recent years create a “grey area” and generate uncertainty for both the consumer when purchasing airline tickets, and for operators. The terms “taxes” and “charges” are defined by ICAO policy guidance contained Doc 8632, *Policies on Taxation in the Field of International Air Transport*, and Doc 9082, *Policies on Charges for Airports and Air Navigation Services*.

2.9 There is currently no definition for other price components, such as “fuel surcharge”, which relate to carriers’ operating costs. Commonly used as a generic word, it is generally understood as the imposition or collection of an assessment by a legal authority. There is also no official ICAO definition for the term “levy”. The latter term is commonly used as a generic word, and is generally understood as the imposition or collection of an assessment by a legal authority.

2.10 In an ICAO context, a levy refers to both “charges” and “taxes”, where a) a tax is a levy that is designed to raise national or local government revenues, and is generally not applied to civil aviation in its entirety or on a cost-specific basis, and b) a charge is a levy that is designed and applied specifically to recover the costs of providing facilities and services for civil aviation. There could be merit in the development by ICAO of guidance facilitating the identification of different price components, possibly through the creation of consistent definitions of all levies, charges, taxes, and fees that are imposed on the consumer. Such definitions should be compatible with existing ICAO definitions.

3. CONCLUSIONS

3.1 Considering the demand for additional clarity and the benefits of fostering the emergence of common approaches to price transparency, it may be beneficial for ICAO to develop common guidance on the content and format of the information to be provided to the consumer regarding the air ticket price. In the interest of consistency, such guidance could propose common definitions of different price components and be developed in the context of the core principles discussed in ATConf/6-WP/5. Additional research and analysis could be undertaken by ICAO on the distinctive characteristics and needs of the passenger and cargo services in terms of price transparency.

3.2 This proposed guidance should be consistent with ICAO policies on taxes and charges contained in Doc 8632 and Doc 9082, which make a clear distinction between user charges and taxes. Such policies are not intended to place judgment on whether a given tax or charge is at an acceptable level. While ICAO policy guidance is applicable to how States deal with operators, it is not intended to interfere with carriers’ business practices, bearing in mind that such policy is aimed specifically fostering transparency.

4. RECOMMENDATIONS

4.1 The following recommendations are proposed for consideration by the Conference:

- a) ICAO should cooperate with all air transport stakeholders with a view to collecting relevant information and designing analytical tools aimed at better understanding the structure of air ticket prices;
- b) with a view to fostering consistency in the presentation of air transport price information and compatibility of related rules between States, ICAO should develop specific guidance on price transparency as part of the core principles on consumer protection discussed in ATConf/6-WP/5;

- c) ICAO should undertake research and analyses on the distinctive characteristics and needs of the passenger and cargo services in terms of price transparency;
- d) ICAO should continue to play a primary role in developing policy guidance to address emerging issues concerning price transparency, taking into account the interests of States, the industry, air transport users and other aviation stakeholders.

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APPENDIX

CASE STUDIES

1. **Passenger services** – A survey was undertaken in 2012 by the ICAO Secretariat, using price information available directly from the web site of three airlines (direct sales). On the same international route, for each of the three airlines, the following information was identified, namely, base fare, additional price elements, and total price. On a specific international route, three airlines are advertising air tickets: Airline A; Airline B (in code-share on Airline A); and Airline C.

- a) Base air fare – the same base fare of 9 EUR has been observed for the three airlines.
- b) Additional price components
 - 1) *Airline A*: 97.36 EUR without any description other than “taxes”
 - 2) *For Airline B*: 98.42 EUR, with the following description, among others:
 - i. **Carrier imposed surcharge**: 50 EUR – to be noted that Airline B provides another wording in Spanish: “Recargo por carburante”, meaning “Fuel surcharge”
 - ii. **Airport services charges**: 15.06 EUR
 - iii. **Airport fee**: 12.75 EUR which was translated in French as: “Taxes et redevances d’aéroport” (meaning “Airport taxes and charges”)
 - iv. **Passenger service charge - international**: 10.53 EUR
 - v. **Security tax**: 3.84 EUR, which was incorrectly translated in French as: “Taxe de sécurité” (instead of “Taxe de sûreté”)
 - vi. **Issuing fees**: 1 EUR
 - 3) *For Airline C*: 117.36 EUR, with the following description:
 - i. **Fuel surcharge**: 60 EUR
 - ii. **Security**: 3.84 EUR, translated in French as “sécurité” (i.e safety)
 - iii. **Rest**: 43.52 EUR
- c) Total price – (in brackets, percentage of the base fare compared with the total price)
 - 1) *Airline A*: 106.36 EUR (8 per cent)
 - 2) *Airline B*: 107.42 EUR (8 per cent)

3) Airline C: 126.36 EUR (7 per cent)

2. **Freight services** – price information was also extracted from the web sites of express freight shipping services providers.

a) Freight carrier A - 50 pounds of freight shipped by air from Canada to France, the price of which was broken down as follows:

1) Base charge: 803 CAD

2) Fuel surcharge: 108 CAD

3) Total charge (in brackets, percentage of the base fare compared with the total charge): 912 CAD (88 per cent)

b) Freight carrier B - 20 pounds of freight shipped via air from Canada to France, the price of which was broken down as follows:

1) Base charge: 370 CAD

2) Fuel surcharge: 57 CAD

3) Total charge (in brackets, percentage of the base fare compared with the total charge): 427 CAD (86 per cent)

Findings

a) For passenger services

1) the base air fare can represent a fraction as low as 10 per cent of the final price paid by the passenger, meaning that other price components can represent more than 90 per cent of the total price;

2) the level of detail in the description of the different price components and the total fare is not the same for all airlines;

3) the languages in which the descriptions are provided do not always refer to the same component of the total fare;

4) certain elements, which can be considered as costs directly related to the operation of the airlines, such as “fuel surcharge”, “carrier imposed surcharge” or “issuing fees” (when the ticket is paid on direct sales), can represent more than 6 times the base fare;

b) For freight services, the price structure is quite different. In the 2 examples, the base charge represent 86 and 88 per cent of the final price paid by the user.