

Correspondence with Raileasy regarding the transparency of online rail ticket

fees ORR has redacted all personal data

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Jacqui Russell
Head of Consumer Policy



Goerge Sikking
CEO, Raileasy
[by email]

11 December 2023

Dear George,

Transparency of fees charged by online rail ticket retailers

We have today published a report on the transparency of fees charged by online rail ticket retailers. This report and the underlying review were conducted as part of our powers to monitor, investigate and enforce compliance with consumer law principles governed by the relevant legal framework.

The review has identified questions with respect to the transparency of the service that Raileasy provides for its customers. We write to request further information and clarifications about your current approach and to invite you to make changes in view of the points raised. We would be grateful for a response by Friday 19 January.

Background to the legal framework

The consumer law framework aims to ensure that businesses are fair and open in their dealings with consumers. The Office of Rail and Road (ORR) has consumer enforcement powers for the rail sector, concurrent with the Competition and Markets Authority (CMA). We are a Designated Enforcer under Part 8 of the Enterprise Act 2002 (EA02) and have the power, where there is evidence of harm to the collective interests of consumers, to take enforcement action.

The two key pieces of legislation are:

1. Consumer Protection from Unfair Trading Regulations 2008 – These prohibit unfair commercial practices, including misleading actions and omissions. They prohibit failing to provide material information in an invitation to purchase, that are likely to impact a consumer's transactional decision. A misleading action can include providing a consumer with false information about the price of a product, or the way the price is calculated, or presenting the pricing information in a way that is likely to mislead the consumer, even if the facts themselves are accurate.
2. Consumer Rights Act 2015 – The two key principles of this legislation are that contractual terms should be transparent and fair. For a contractual term to be transparent, it should be written in plain and intelligible language and be legible. In

terms of fairness, a contract term is understood to be unfair if it causes a significant imbalance in the parties' rights to the detriment of the consumer.

Consumer law principles: fees charged to customers

We are looking to improve compliance with this consumer protection legislative framework. Informed by this framework, we have identified a set of core principles relating to the application of fees (see Annex), which we are looking to uphold through this work. These principles seek to reduce various risks consumers face when they are presented with particular commercial practices. For example, paying more for their purchase than they had expected to pay because of drip pricing; or paying fees that they have not made an informed decision to accept, as they were not aware of the charges up front.

In order to improve industry practice we are looking at two specific areas, the presentation of fees during the booking process and information provision for customers about the terms and conditions of the service they are engaging.

Our review

We reviewed the information provided on 40 online rail ticket retailers' desktop websites and mobile apps in respect of booking fees (including finder's fees for split ticket options), fulfilment fees and refund/amendment fees.

We made test purchases for a low-value Anytime single fare, and simulated purchases for a long-distance journey, from each desktop website and mobile app. We gathered information utilising screen recordings and screenshots to capture our experience of the ticket sales process.

Our findings – Raileasy

Consumer principle A: Booking fees

Fixed booking fee

We found that Raileasy did not incorporate its mandatory fixed booking fee, which applies to purchases of through tickets, in the upfront price and therefore did not provide consumers a clear indication of the exact cost of their booking at the earliest opportunity. The mandatory booking fee was included in the price at the final stage of the booking process after a consumer had inputted other details.

We note that, when it is displayed, the breakdown of the total price in a clear format but this is not shown at the earliest opportunity in the booking process.

Split ticket fee

We note Raileasy did incorporate its mandatory split ticket fee in the upfront price and therefore provided consumers with a clear indication of the exact cost of the booking at the earliest opportunity.

We note the split ticket fee is displayed to consumers when clicking on the information button on the first page of the sales process, but this may not be obvious to consumers. We note this breakdown of the total price is available again at the end of the sales process, without consumers needing to click to find the information.

Please explain (alongside any supporting evidence) as to:

1. Why Raileasy does not include the mandatory booking fee within the upfront price, *and* your proposals for change in this respect;
2. Why Raileasy does not provide a breakdown of booking and split ticket fees earlier and more prominently in the booking process, *and* your proposals for change in this respect;

Consumer principle B: Fulfilment fees

We note that Raileasy do not offer any fulfilment options with fees.

Consumer principle C: Information provision

We note that your website states that you do charge booking and split ticket fees, the scenarios they will apply and the level of the fees. We found this information by clicking on the through to FAQs, where the where information about fees was readily available, second in the list of topics.

We did find issues in the accuracy of information the levels of fees in the information provided on the website and actual fees charged during the ticket buying process. The booking fee on the website is advertised as £1.50, during the sales process it is £1.00. The split ticket fee on the website is advertised as 10%, during the booking process it is 15%.

We note that Raileasy provided accessible information on refunds and their associated fees during the sales process, as well as on its website.

Please explain (alongside any supporting evidence) as to:

3. Why Raileasy does not provide consistent information to consumers on cost and percentage of fees charged, *and* your proposals for change in this respect.

Next steps

We seek your responses to this correspondence and the queries raised by Friday 19 January via email to Consumer@orr.gov.uk. In the meantime, if you have any questions, please contact me directly by email.

The information you provide will contribute to our decisions on next steps. We plan to publish this letter and your response on our website. Should you wish to provide us with information that you consider to be commercially confidential, please provide this in a separate document, and we will take your representations into account accordingly.

Yours sincerely

Jacqui Russell

Annex: Consumer law principles

Presentation of fees during the booking process

A. Where there is a mandatory fee for purchasing a rail ticket online:

A1. it should be included in the price at the earliest opportunity, which for rail ticket purchases is commonly the upfront price that is first displayed to the consumer.

A2. It should be clear to the consumer that a fee is being charged and how much it is throughout the booking process.

B. Where there is a ticket fulfilment option available for a fee:

B1. it should not be pre-selected.

B2. where an option with a fee is selected by the consumer, it should be immediately included in the total price displayed to the consumer.

Information provision for consumers

C. There should be readily available, transparent and accurate information online for consumers to read in advance of engaging with the booking process about:

C1. mandatory booking fees associated with ticket purchases. This should explain when fees apply, state the level of any fixed fees, and explain how variable fees are determined (for example whether fees vary with ticket price, timing of purchase or any difference in fees between website and app purchases).

C2. ticket delivery options and any fees associated with each option.

C3. eligibility for refunds and ticket amendments, and any associated costs.

From: [Mike Richardson](#)
To: [ORR Consumer](#)
Cc: [george sikking](#);
Subject: Re: ORR - transparency of
Date: fees 31 January 2024 10:10:30
Attachments: [image001.png](#)

Hello,

It's going through the early stages of stress testing now but, if I have to put a date on it, I'd say the beginning of March.

On another note, it's extraordinary that where it is very time consuming/tricky for consumers to compare prices, i.e after including all the add ons in flight booking processes, has been specifically taken out of scope by the DBT.

rgds

Mike Richardson
Director

On Mon, Jan 29, 2024 at 11:09 AM ORR Consumer <Consumer@orr.gov.uk> wrote:

Mike,

Many thanks for your email of 22 January responding to ORR's letter about the transparency of the fees charged by Raileasy.

We welcome your update that the Raileasy website will be changing to a webTIS which will address the concerns set out in our letter. Please would you clarify the timescales for this change.

Many thanks,

Anna

From: Mike Richardson
Sent: Monday, January 22, 2024 3:36 PM
To: ORR Consumer [_____](#)
Cc: george sikking ; Joe Sikking
Subject: [EXTERNAL] response to your letter

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear ORR,

Raileasy agrees with the comments made in the IRR response to the ORR's report which was published on LinkedIn on the 13th December, the link to it is provided below.

Firstly, it is (to use the IRR's term) "absurd" to equate the 1.7% (£1) fee on some bookings on Raileasy with the 100-200%, or 2 orders of magnitude larger, so called drip pricing surcharges on some flight sites which is presumably what prompted the Department for Business & Trade's paper referenced in the ORR report. When the £1 is charged and that applies to under 50% of bookings, it is made clear to customers long before the payment details screen. When a share of saving is charged in a split ticketing transaction, that is included at the outset, i.e when the customer first sees the price so it is compliant with the ORR's requirement.

Raileasy would also question the pseudo psychological rationale in this statement from that DBT paper as applies to the transport sector in general and what we know from retailing UK train tickets:

Consumers might select products with a lower base price and, due to **behavioural biases**, often choose to complete the purchase despite dripped fees sometimes rendering the final price of the item greater than some alternatives.

According to Google:

"behavioural biases may be categorized as either cognitive errors or emotional biases. A single bias may, however, have aspects of both with one type of bias

dominating. Cognitive errors stem from basic statistical, information-processing, or memory errors; cognitive errors typically result from faulty reasoning".

When it comes to explaining how people book travel products, to suggest it is down to "faulty reasoning" seems patronising or "nanny stateism". In the online world consumers can and do compare prices in minutes even if charges are "dripped" through a booking process. Alternatively, if a consumer has an emotional bias to book with a particular site that charges a booking fee, that is their right, there are plenty of people who book on train operator sites/apps presumably because they like the UIs or travel with them even though the prices can be higher than on some split ticketing sites for example.

Raileasy, like the IRR, also found the tone of the report sensationalist. Its publication resulted in mentions of "hidden charges" in mainstream media articles, eg the BBC web site which was then reposted on X by TOCs. Once journalists' attention is drawn to phrases like that, they can be repeated to add the required balance to articles when mentioning private companies. For instance in The Times on Thurs 18th Jan there was an article on the Which findings about how expensive fares on TVMs could be. Trainline was used for the online price comparison but, presumably so the article didn't come across as an advertorial for Trainline, for balance the journalist included a mention of the ORR's report and so called "hidden charges" on retailers' sites.

The ORR must be aware of how most TOCs in all their marketing comms routinely refer to having "no booking fees" and the ORR's report specifically mentions TOCs not being allowed to charge booking fees. Raileasy would question this what it considers an "urban myth" as the Ticketing & Settlement Agreement clearly states agents can charge booking fees. When a TOC sells another TOC's tickets on their web site/apps, they are in fact acting as an agent. In the franchise era, i.e before all ticket revenue went directly to the Treasury, they were given as income the same commission as retailers receive for selling each other's tickets. Being paid commission is the definition of an agent. Also, in the past Raileasy has checked this with the DfT and the response it got was that "no one had ever asked (to add a booking fee)". So is this statement actually the case?

Raileasy fears this new ORR "hidden charges" term will now become a similar urban myth used in the media/TOC marketing comms and the mention of it in The Times article last Thursday would bear that out.

Like the IRR Raileasy also questions whether there isn't significantly more consumer disbenefit in TOC sites not displaying split ticketing savings or advising customers there could potentially be cheaper fares from split

ticketing retailers and directing them there to check prices.

This leads Raileasy to question what instigated this report and the priority given to it, particularly when the ORR has often said it doesn't have the resource to undertake market studies in its role as competition watchdog for the rail industry and there are a number of long standing "anomalies" to be looked at/addressed which would improve the retailing landscape, ultimately benefit consumers which will then generate additional revenue.

For instance, Raileasy believes perhaps the ORR should "put its other hat on", namely ensuring the consumer as a taxpayer is getting the best possible value for its subsidy of train operator retailing costs.

The IRR response also referenced TOC online retailing being Government subsidised and that is why TOCs do not have to charge booking fees. At a time when Government is looking to cut industry costs, it would be beneficial for the ORR (in its taxpayer watchdog role) to be looking at whether TOC online retailing costs are on a par with the commission paid to independent retailers.

If they are not and are higher, then the consumer as a general taxpayer is not getting the best value. TOC costs are now obviously paid for by the taxpayer plus a 1.5% management fee. Raileasy would suggest the sums involved will be significantly greater than the booking fees charged on some sites if on multiple, duplicated TOC web sites (as referenced in the Williams Review) TOCs are not (online) retailing at the equivalent of 3.5% (5% commission minus the management fee) or even 5% if the management fee somehow doesn't apply to online retailing costs.

Raileasy also believes, apart from cost, a reason the DfT cancelled the CORS programme was because that centralised retailing platform was specified from the outset (in the Williams Review) as having to operate on a level playing field basis with independent retailers, on the same commission only basis in other words.

The long-standing absence of a level playing field in the rail retailing market is the main reason in Raileasy's opinion for the lack of new entrants which is what the Govt is now specifically trying to address as per its statement in December about the cancellation of CORS.

So Raileasy believes the ORR could address the industry's competition issues by helping to establish a level playing field which has been endorsed by GBRTT and which will open up the market, encourage new entrants/innovation to ultimately benefit consumers and drive revenue growth.

Finally, with regard to specific action, the Raileasy web site in the near future will be changing over to a new webTIS which is fully compliant with the ORR's requirement.

We trust this response will be published on your web site as you said you would do so please confirm receipt and that.

As usual we are happy to engage with the ORR to present our ideas about establishing a level playing field to benefit consumers and increase overall revenue.

Here is the link to the IRR statement:

<https://www.linkedin.com/pulse/review-transparency-fees-charged-when-purchasing-rail-tickets-vkavc%3FtrackingId=wTXexlUGldipr6Eq8wQZg%253D%253D/?trackingId=wTXexlUGldipr6Eq8wQZg%3D%3D>

yours sincerely,

Mike Richardson

Director

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Jacqui Russell
Head of Consumer Policy



Mike Richardson
Director, Raileasy
[By email]

11 March 2024

Dear Mike,

Transparency of fees charged by online rail ticket retailers

Thank you for your response to our letter of 11 December 2023. In our letter, we identified questions with respect to the transparency of the service that Raileasy provides for its customers and invited you to make changes in view of the concerns raised. I am now writing to acknowledge the positive steps that you have committed to take. These actions, when taken together, address our concerns.

Background

The consumer law framework aims to ensure that businesses are fair and open in their dealings with consumers. We published a report on the transparency of fees charged by online rail ticket retailers in December 2023. Our report and the underlying review were conducted under our powers to monitor, investigate and enforce compliance with this legal framework. In order to improve industry practice we looked at two specific areas, the presentation of fees during the booking process and information provision for customers about the terms and conditions of the service they are engaging.

Informed by the consumer law framework, we identified a set of core principles relating to the application of fees. These principles seek to reduce various risks consumers face when they are presented with particular commercial practices. For example, paying more for their purchase than they had expected to pay because of drip pricing; or paying fees that they have not made an informed decision to accept, as they were not aware of the charges up front.

When we published our report we, at the same time, wrote directly to those retailers where we had concerns in relation to their practices and the risk of harm being caused to consumers.



Consumer principle A: Booking fees

We asked why Raileasy does not include the mandatory booking fee within the upfront price, and why a breakdown of booking and split ticket fees is not provided earlier more prominently in the booking process.

We acknowledge that you are in the process of moving to a new system that you expect to provide a service to consumers that fully addresses our concerns, and that you expect this new system to go live in March 2024.

Consumer principle C: information provision

We asked why Raileasy does not provide consistent information on fees charged.

We understand that you corrected the information on your website about fees charged immediately on receipt of our letter in December 2023.

Next Steps

Raileasy has committed to implementing the actions necessary to address our concerns. We will monitor your progress in delivering your commitments. Please confirm to us by the end of March 2024 whether your new booking system has gone live as planned.

Yours sincerely

Jacqui Russell