

Correspondence with Rail Europe regarding the transparency of online rail ticket fees

ORR has redacted all personal data

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Jaqui Russel
Head of Consumer Policy



Klaus Kreher
Head of Carriers Management, Rail Europe
[by email]

11 December 2023

Dear Klaus,

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 Rail Europe 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 – Rail Europe

Consumer principle A: Booking fees

We found that Rail Europe does not incorporate its mandatory booking fee in the total upfront price where the price is above your £15 per transaction threshold for charging a fee, and therefore did not appear to 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 on third page of the booking process on both the website and app.

We note the breakdown of the total price into its component parts. This is shown on the first page of the booking process on the website and second page on the app. We also note that the ticket price and fee are given equal prominence.

Please explain (alongside any supporting evidence) as to:

1. Why Rail Europe does not include the mandatory booking fee within the total upfront price, within the upfront price *and* your proposals for change in this respect.

Consumer principle B: Fulfilment fees

We note that Rail Europe does not charge fulfilment fees.

Consumer principle C: Information provision

We note that your website states you charge booking fees and the exact costs. This information is not always easy to locate on your website. There is no information on your homepages that makes clear that you charge booking fees. On both your website and app, we found information by clicking through to Help, then How to use Rail Europe where the information on fees was third in the list of topics. A search using the term 'fees' gave a direct link to the same information at the top of the search results.

We noted that Rail Europe provides transparent and accurate information about eligibility for refunds and ticket amendments, and associated costs during the sales process. However, we did not find the same level of information in the general information provided on the main Rail Europe website. We found information on advanced tickets but not on other ticket types.

Please explain (alongside any supporting evidence) as to:

2. Why Rail Europe information about fees is not easily accessible to consumers, *and* your proposals for change to ensure improved access to this information with emphasis on transparency for consumers.
3. Why Rail Europe does not provide clear and transparent information on refunds for all ticket types online on the main website *and* your proposals for change in this respect.

Next steps

We seek your responses to this correspondence and the queries raised by Friday 12 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.

Office of Rail and Road (ORR)
To Jacqui Russell
25 Cabot Square
London E14 4QZ
ENGLAND

January 10, 2024

By email

Subject : Transparency of fees charged by online rail ticket retailers

Dear Jacqui,

Thank you for sending us your report of 11 Dec. 2023 on the transparency of fees charged by online rail ticket retailers. We appreciate the points which are referenced in the report and see these as a constructive opportunity to improve our consumer offering. At the same time, we are keen to comply with consumer law and to be as clear as possible for consumers.

We have therefore already taken the following measures in response to the points you raised:

1. Booking Fees

As recommended, we will modify our website and app for the mandatory booking fees to appear in the total upfront price, from the first page. Our design and tech teams have been working on it and a first outcome is already visible on our UK booking site and app at the initial step of the timetable search, e.g. for London-Portsmouth:

London to Portsmouth
 Wed 10 Jan, 12:30

<input type="radio"/>	12:30 → 13:57	1hr 27m direct	from £17.40
<input type="radio"/>	13:00 → 14:43	1hr 43m direct	from £17.40
<input checked="" type="radio"/>	13:05 → 15:02	1hr 57m direct	from £13.50 cheapest

Standard, Non-Flexible, Advance Single
 ★ Upgrade from: £41.10 £13.50

Portsmouth to London
 Wed 10 Jan, 20:00

London to Portsmouth 10 Jan 13:05		Standard Class - Non-Flexible	£13.50
Portsmouth to London 10 Jan 19:59		Standard Class - Non-Flexible	£17.40

Price for 1 adult Total **£30.90**
 A £0.00 booking fee will be added at checkout

[Redacted - commercially sensitive]

2. Provision of Information

Please note that the information about booking fees is accessible by clicking on “**booking fees**”, which goes to this page : <https://help.raileurope.co.uk/article/41690-raileurope-booking-fee>. Moreover, there is a pop-up window explaining that the Booking fees will be charged once per order:

London to Manchester
 Mon 8 Jan, 10:00

<input type="radio"/>	10:13 → 12:19	2hr 6m direct	from £72.70
<input type="radio"/>	10:33 → 12:44	2hr 11m direct	from £72.70
<input type="radio"/>	10:53 → 13:05	2hr 12m direct	from £72.70

No tickets selected

Please make a selection.

We only charge this fee once per order, no matter how many journeys you add

£0.00 booking fee will be added at checkout

Total **£0.00**

Continue →



Information on refunds:

Following your recommendations, we have already modified the information about refunds by adding a specific section on “ How to get a refund for a UK train or bus ticket” in our Help pages: <https://help.raileurope.co.uk/article/43591-how-to-get-a-refund-for-a-uk-train-or-bus-ticket>

We also now mention that Rail Europe does not charge any fee to process a refund.

We believe that these changes will meet your expectations and enable us to comply fully with British regulations.

Please do not hesitate to contact us should you require any further information or have any queries.

Yours sincerely,

Klaus Kreher

Head of Carriers Management

Jacqui Russell
Head of Consumer Policy



Klaus Kreher
Head of Carriers Management, Rail Europe
[by email]

11 March 2024

Dear Klaus,

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 Rail Europe 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 taken. 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 Rail Europe does not include the mandatory booking fee within the total upfront price.

We acknowledge that you have amended your website and app so that any mandatory booking fee appears in the total upfront price, from the first page. This change was available on your UK booking sites from January 2024.

Consumer principle C: Information provision

We asked why Rail Europe's information about fees and refunds was not easily accessible to consumers.

We note that a direct link to information about your booking fees is provided during the booking process. We acknowledge that you have added a specific section to your website Help section on how to get a refund for a UK train or bus ticket.

Next Steps

Rail Europe has implemented the actions necessary to address our concerns. As your systems and process evolve over time, we expect you to continue to provide appropriate transparency about fees to your customers.

Yours sincerely

Jacqui Russell