

# Airline Pricing Strategies vs. Consumer Rights – Is there a need to maintain the „Full and Sequential Use of Flight Coupons“-Rule?

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## Structure of the presentation:

- I. Introduction
- II. Price discrimination in the aviation sector
- III. Circumvention of strict fare rules
- IV. Legal opinions
- V. Impact of legal intervention and conclusions



# I. Introduction

- Identical services for everyone sitting in the same service class
- BUT: enormous differences of individual fares paid by the passengers
- WHY? - Airlines employ price discriminations to absorb different degrees of willingness to pay
- DEFINITION: Price discrimination means to sale identical services by the same provider to customers of different market segments at different prices according to the respective degrees of willingness to pay



## II. Price discrimination in the aviation sector

Distinction between business and leisure travellers

- Advanced booking restrictions
- Discounts for return flights & minimum stay rules
- Re-booking restrictions & mileage accrual
- Geographical price discrimination / pricing for transfer flights
  - Business travellers prefer short flight times & nonstop journeys
  - Due to economical or social conditions, different willingnesses to pay in different markets
  - Major airlines are strong in their home countries & have to attract passengers from foreign markets with discounts for transfer services via domestic hub



### III. Circumvention of strict fare rules

- Discounted fares should not be purchased by travellers with a high willingness to pay
- IATA Recommended Practice 1724, Article 3.3.1

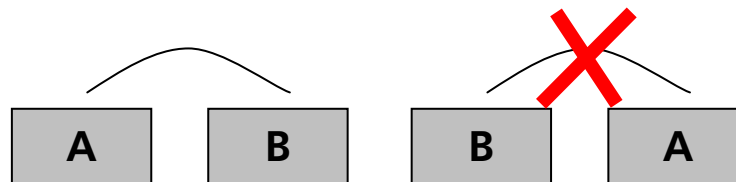
Coupon sequence and use:

„The ticket you have purchased is valid only for the transportation as shown on the ticket (...). The Ticket will not be honored and will lose its validity if all the Coupons are not used in the sequence provided in the Ticket.“



### III. Circumvention of strict fare rules

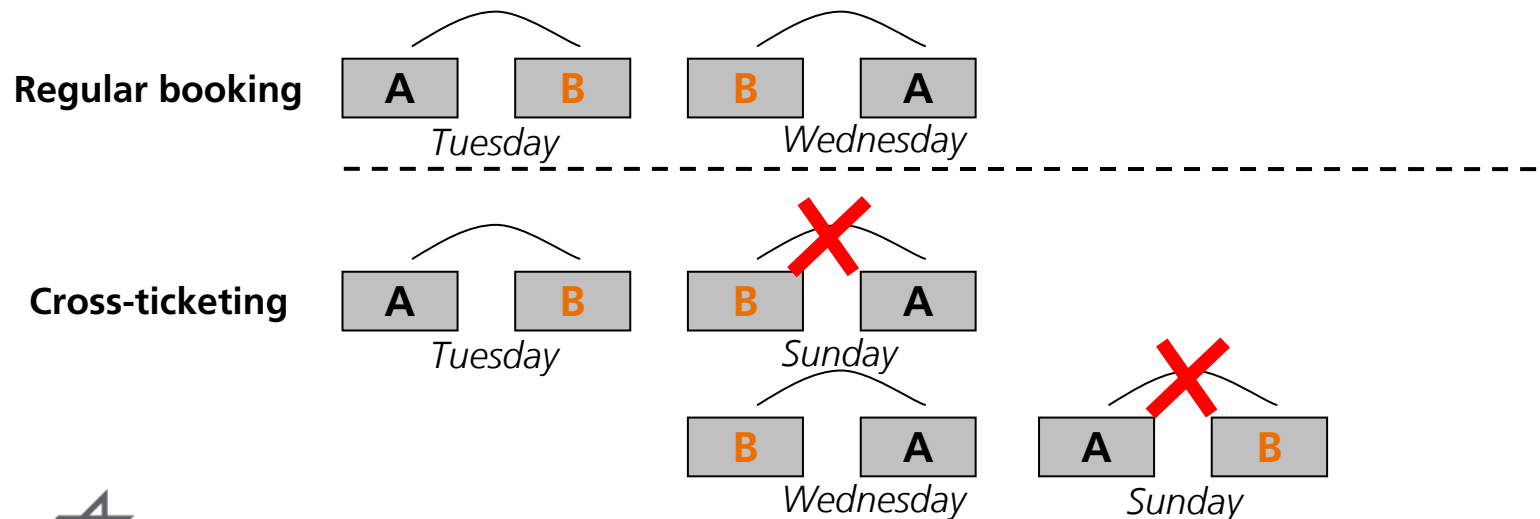
- Non-use of the in- or outbound leg
  - oneway fares more expensive than return fares
  - oneway passengers purchase return tickets but only use either the out- or inbound leg





### III. Circumvention of strict fare rules

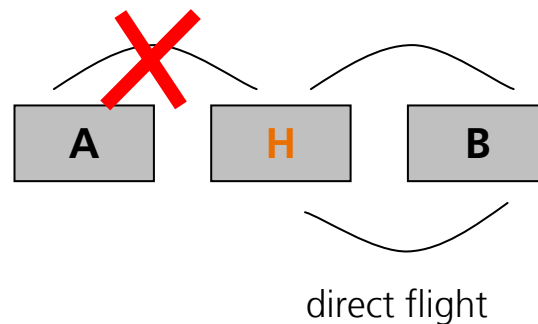
- Cross ticketing (or back to back ticketing)
  - Combination of discounted round-trip bookings in opposite directions, of which only outbound legs are used
  - Used by business travellers to circumvent minimum stay rules





### III. Circumvention of strict fare rules

- Hidden city ticketing (or cross border / point beyond ticketing)
  - Traveller does not intend to start at the ticketed origin or end at the ticketed destination but at an intermediate hub
  - Ticket from A via hub H to B is purchased, but only the portion A to hub H (or hub H to B) is actually used







## IV. Legal opinions

### IATA's Recommended Practice 1724

- Non-binding character, only suggested framework
- Widely approved by governments & status of accepted legal practice
- Adoption by airlines: plenty of different „Conditions of Carriage“
- By concluding a legally binding contract, these standard terms become applicable between airlines and passengers
- BUT: Some standard terms have been deemed to be a breach of European Law (UK, Scandinavia)
- In the recent past, the Federation of German Consumer Organisations filed exemplary legal complaints against sequence-use-rule
- Standard terms have to comply with national laws. Non-binding IATA rules as international standards are not prioritised in favour of national law, but, in contrary, have to comply with the national law



## IV. Legal opinions

- Compliance with national law:
  - Standard terms must ensure the protection of the weaker contractual party
  - In Europe, consumers not bound by standard terms if these are unfair (for example missing transparency, disproportionate disadvantage, surprising term)
  - BUT: Application of different consumer protection law



## IV. Legal opinions

- Tensions between internationally recognised recommendations and application of different national laws:

a variety of standard terms ↔ non-uniform consumer protection law

- National authorities have to apply national law and this national supervision can lead to the result that a standard clause may be considered illegal in one country while being considered legal in another



## IV. Legal opinions

- If the rule of full and sequential use of flight coupons is declared invalid in a European Member State, any customer in the EU might buy tickets there and insist that the consumer rights of the country of purchase should be applied for this contract
- Further complication: a court in the European Union outside this Member State approve IATA's rule, creating a direct contradiction
- National court decisions seem to have not only a domestic dimension, but, due to the Common Market in the EU also a European dimension
- To ensure a level playing field in air transport, a regulation on this matter on European level could be appropriate



## V. Impact of legal intervention and conclusions

➤ What will happen if the previously mentioned ways to circumvent ticket and tariff rules became legal ?

➤ Scenario:

Legalisation to use any segment of a booking, also making “hidden city ticketing” possible



## V. Impact of legal intervention and conclusions

- Passengers would have the right to start and end their flight at any intermediate point
- Passengers buy tickets starting in low-fare markets, but only board at the hub (e.g. Frankfurt, London)
- Reduction of hub-premium weakens the hub
- No cross-subsidisation of transfer passengers by local hub passengers
- Increased prices for connecting flights
- Decline in demand for transfer services & discontinuation of services to smaller communities
- Endangers hub-and-spoke concept by network airlines



## V. Impact of legal intervention and conclusions

- Airline pricing is a complex issue
- Many price discrimination measures and possibilities to circumvent fare rules exist in the market
- Different application of law interrupts common markets
- Allowance of „hidden city ticketing“ endangers hub-and-spoke-system
- Regulations on this matter has to keep this fact in mind



Many thanks for your attention!