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Ryanair seeks to kick out claims intermediaries via T&Cs

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Recent developments in European Consumer Law

TUESDAY, 24 JULY 2018

Ryanair seeks to kick out claims intermediaries via T&Cs

Dear readers,
you may have not noticed - who reads standard terms anyway? - or may not be directly affected if you do not fly Ryanair, but there are interesting developments to be observed.

Since some time, Ryanair has included the following clauses in its [terms and conditions](#) (visited on 24 July 2018):

15.2.2 Passengers must submit claims directly to Ryanair and allow Ryanair 28 days or such time as prescribed by applicable law (whichever is the lesser) to respond directly to them before engaging third parties to claim on their behalf. Claims may be submitted [here](#)

15.2.3 Ryanair will not process claims submitted by a third party if the passenger concerned has not submitted the claim directly to Ryanair and allowed Ryanair time to respond, in accordance with Article 15.2.2 above.

This is meant to preempt the intervention of intermediaries, such as EUclaim.nl, offering disappointed passengers assistance in pursuing their claims for compensation, in particular under the provisions of the passenger rights regulation.

In order to give effect to the terms (which passengers unsurprisingly may ignore), [it has emerged this week](#), the company has sent a number of claim agents a cease-and-desist request. They essentially claim that the intermediaries are inducing contractual breach on the side of the consumers, who are invited to skip direct contact with the airline. Also, the airline maintains that consumers are in this way deprived of a substantive part of the compensation they would be entitled to (EUclaim, for instance, withholds 29% of the compensation paid, plus administrative fees).

The Dutch consumer association Consumentenbond is not persuaded by

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Ryanair's good faith in the dispute, recalling the company's bad reputation qua claims management.

For us, the interesting legal question would be whether courts would uphold the clause allowing Ryanair to ignore claims submitted by third parties without prior consumer request. This may or may not depend on the concerned country's implementation of Directive 93/13. A look at the directive's annex suggests that, while the term may not be a proper impairment in the sense of point q) in the list, it may be an inappropriate limitation of the consumer's rights to the effects of point b). It will be interesting to see whether any consumer associations will be willing and able to challenge the terms in court, or anyway whether pressure will be made on the company to get rid of them. We shall keep an eye open for future developments!

Posted by [Candida Leone](#) at 11:53



Labels: [passenger rights](#), [Regulation 261/2004](#), [Ryanair](#), [unfair terms](#)

4 comments:



Charlotte Pavillon 5 August 2018 at 10:20

[Reply](#)



Candida Leone 6 August 2018 at 16:44

Thanks Charlotte!

To be honest I don't yet have a strong opinion on this - on the one hand, it seems to me that the decision mixes a bunch of arguments (limiting access to recourse and limiting the consumer's substantive rights are not the same, and consumers do not only enjoy the rights guaranteed by the regulation do they?) and, as Marco was observing, ignores the spirit of the law.

On the other hand, I can see ways in which the provision could be justified (eg, preventing a continuous inflow of bogus claims from companies with a parasitic business model).

What do you think? In any case, it would be good to see a deeper-going decision on this- any idea whether the first instance will be appealed?

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