



Press and Information

Court of Justice of the European Union

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Judgment in Case C-112/11
ebookers.com Deutschland GmbH

A person selling air travel may not include flight cancellation insurance as a default setting when selling air tickets over the internet

As an 'optional supplement', flight cancellation insurance may be offered only on an opt-in basis

Regulation No 1008/2008¹ seeks, *inter alia*, to provide greater transparency in air fares for flights departing from the EU. Persons selling air tickets are required at all times to indicate the 'final price', that is to say, the price of the flight in addition to all taxes, fees and surcharges which are essential for the purposes of that flight. On the other hand, 'optional price supplements' relating to additional services which are not compulsory must be communicated clearly at the start of any booking process and accepted by the customer on an 'opt-in' basis.

The company ebookers.com Deutschland operates an online portal by which it sells air travel. When a customer selects a specific flight during the booking process, the costs are listed in the top right-hand corner of the internet page, under the heading 'your current travel costs'. In addition to the price of the flight, that list also contains amounts in respect of 'taxes and fees' and 'cancellation insurance', calculated automatically. The total of those costs represents the 'total price of travel'. A notice at the bottom of the internet page indicates how the customer should proceed if he wishes to reject the cancellation insurance which has been included as a default setting. That procedure is by means of an opt-out. Once the customer pays after finalising his booking, ebookers.com then pays the flight costs to the air carrier, the taxes and fees to the appropriate authorities and the insurance premium to the insurance company, which is legally and economically separate from the air carrier.

A German consumer-protection association has taken proceedings against ebookers.com before the German courts with a view to requiring that company to refrain from automatically including cancellation insurance with the air fare. In that context, the Oberlandesgericht Köln (Higher Regional Court, Cologne) has asked the Court of Justice whether the prices of such services provided by third parties, which are charged to the customer by the company offering the flight, together with the air fare, as part of a total price, constitute 'optional price supplements', with the result that the services in question must be offered on an 'opt-in' basis.

The Court points out, first of all, that EU law seeks to ensure that there is information and transparency with regard to the prices for air services, and thus contributes to safeguarding customer protection. It finds that 'optional price supplements' relate to services which supplement the air service itself. Those services are neither compulsory nor necessary for the purposes of the flight and the customer may choose either to accept or refuse them. It is precisely because a customer is in a position to make that choice that EU law requires such price supplements to be communicated in a clear, transparent and unambiguous way at the start of each booking process, and that their acceptance must be on an opt-in basis.

¹ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ 2008 L 293, p. 3).

That requirement is designed to prevent a customer from being induced to purchase additional services which are not necessary for the purposes of the flight unless he chooses expressly to purchase them and to pay the corresponding price supplement.

The Court then goes on to hold that it would be at odds with the objective of protecting customers if that protection were to depend on whether the optional service is provided by an air carrier or by another party which is legally separate from that carrier. By contrast, what matters is that the optional additional service and the corresponding price are offered in relation to the flight itself during the flight booking process.

The Court answers that **the concept of ‘optional price supplements’ covers costs, connected with the air travel, arising from services – such as flight cancellation insurance – supplied by a party other than the air carrier and charged to the customer by the person selling that travel, together with the air fare, as part of a total price.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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