businesscompanion
trading standards law explained

Introduction

In this section

Foreword
Background
Definitions
- 'Package'
- 'Travel service'
- 'Linked travel arrangements'

Consumer Rights Act 2015
Digital Markets, Competition and Consumers Act 2024
- 'Misleading availability'
- 'Misleading actions and omissions'
- Rights of redress

Climate change, flights and their carbon footprint
The six key areas of travel law
- Package holidays
- Linked travel arrangements
- Information requirements
- Advertising and pricing requirements
- Payment surcharges and credit cards
- Complaint resolution

Guidance for travel agents

In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

Foreword

Bruce Treloar, CTSI Lead Officer for Holiday and Travel Law

Under the Package Travel and Linked Travel Arrangements Regulations 2018 (PTRs), package holidays and linked travel arrangements (LTAs) are often complex combinations of travel services, which include transport and accommodation but may also include other services, such as car hire, and significant 'other tourist services', such as excursions. Different service providers (for example, airlines and hotels) are often involved and a problem with the delivery of one service may affect the delivery of the others.

There are four travel services in the PTRs; these are:

- **transport.** This would involve the carriage of travellers and includes flights, rail travel, boats and coaches
- **accommodation.** This could include hotels, apartments, cottages, castles, etc
- **motor vehicle hire.** This would include motorcycle hire
- **any 'other tourist service'.** These are services that make up "an essential element of the package" and could include tickets for concerts or the theatre

The following are exempt from the PTRs:

- packages and LTAs that last less than 24 hours, unless there was overnight accommodation included
- packages and LTAs that are **organised occasionally** and on a **not-for-profit** basis for a limited group of travellers, such as a one-off trip arranged by a church for its members
- business travel unless purchased from **consumer-based** providers - for example, high street or online travel agents

Businesses will have to accept that separate selection and purchase of travel services will come under the PTRs. For example, in the case of a traveller visiting a high street travel agent or online travel agent, paying for a flight and, without leaving the travel agent or moving to another website, deciding to book and pay for a hotel to 'link' with the flight.

Businesses that sell online packages and LTAs are also affected by the PTRs. These businesses may particularly be affected by what is known as a linked online booking process. A linked online booking process is where the traveller's name, payment details and email address are sent from the first trader they purchase from to a 'targeted' second trader, where a purchase is made no longer than 24 hours after the first service was purchased.

For example, a traveller visits an airline website and buys a flight. As the website reaches the payment page, there is a link to a hotel site. The traveller purchases the flight, then clicks on the link. Their name, payment details and email address appear on the hotel website. If they pay for a hotel booking within a 24-hour period it becomes a package and the airline becomes the 'organiser' of the package, which means it must provide insolvency protection for the whole package, including repatriation, and will be responsible for all elements of the package.

However, if the traveller's name, payment details and email address do not appear on the hotel website, but the sale goes ahead within 24 hours, this will make it an LTA (as opposed to a package). In these circumstances, the 'facilitator' of the LTA (the airline) only needs to provide insolvency protection for itself, not the hotel. As a transport provider, if the airline collapses while the traveller is still abroad, it will also have to provide repatriation so they can get home. The airline will not, however, be responsible for the hotel operations, nor will it be responsible if the hotel goes into administration before the traveller's departure.

The PTRs consider alternative sales of holidays; despite the enduring popularity of the package holiday, tastes in holidays continue to evolve. Mix-and-match options have been facilitated by technological changes and the PTRs attempted to regulate these trends, partly by introducing LTAs and making it clear that travellers should be aware of exactly what protection is available to them.

The Digital Markets, Competition and Consumers Act 2024 (DMCCA) specifically includes an offence relating to this. It is a breach of the DMCCA to fail to give consumers the information they need to make an informed choice.

Background

The UK's exit from the European Union on 31 January 2020* affected a number of requirements under the PTRs. Notably it involved UK businesses having to be aware of changes to insolvency protection rules. Originally the PTRs were keen to encourage EU Member States (which the UK was at the time) to recognise the differing insolvency protection in each of the Member States (this was called 'mutual recognition'). It meant that as long as a UK package organiser complied with the UK insolvency protection rules, they could sell their packages in any of the other EU Member States.

*The official leaving date of 31 January 2020 was followed by a transition period, which ended on 31 December 2020.]

However, since the UK's exit from the EU, this no longer applies. UK package organisers have to ensure that, if they sell package holidays in EU Member States, they will comply with the Member State's insolvency protection rules. In many cases, UK package organisers have to obtain a licence to operate in that Member State.

The PTRs have no specific offence for providing misleading or inaccurate statements (which the Package Travel, Package Holidays and Package Tours Regulations 1992 did have). Therefore, businesses should be aware that enforcing the PTRs will involve the DMCCA, which highlights the giving of any misleading information regarding all holidays, but specifically packages in the PTRs. Another piece of law, the Consumer Rights Act 2015, would also be used to ensure that the booking conditions of businesses that provide holidays were not unfair.

To help genuine businesses combat fraudulent behaviour, the Fraud Act 2006 is used to investigate false or misleading representations with the intention of making a gain (the Fraud Act does not apply in Scotland; instead, it is the common law offence of fraud). Details will be given later in this section of a fake online air ticket scam by a travel agent who the courts jailed. 'Cease and desist' letters are also explained to help businesses prevent scammers infringing intellectual property rights.

Climate change and the carbon footprint of some transport providers are also of concern. A carbon footprint is a simple way to express the problems for airlines. The 'size' of their carbon footprint depends on multiple factors, the primary one being the amount of greenhouse gas emissions released into the atmosphere.

The purpose of this guide is to provide key points and guidance for business in understanding the requirements of the PTRs, including case studies of actual situations showing how the rules are applicable.

The guide will also highlight the help and assistance for business in the PTRs and cover the issue of the Foreign, Commonwealth and Development Office advice and whether it affects sales of package holidays.

All businesses selling packages and LTAs to travellers in the UK, even if they are established in an EU Member State, will have to comply with the UK insolvency protection schemes. This will mean that all organisers of flight-inclusive packages sold in the UK will need to hold an ATOL. Similarly, organisers of non-flight packages and facilitators of LTAs sold in the UK will need to arrange bonding, insurance or a trust account in accordance with UK rules.

Where UK-established businesses target citizens in EU Member States to sell package holidays or facilitate LTAs, the rules have changed since the UK's exit from the EU. There is a requirement for UK businesses to take out insolvency protection in accordance with the rules of each Member State into which they sell package holidays or facilitate LTAs.

Many of the requirements of the PTRs will be familiar to those used to organising package holidays. However, the definitions and scope of the requirements mean it is likely that many more travel companies will have to ensure that their business systems and practices take account of the rules. There are three main areas of which businesses will need to be aware.

1. Businesses will need to put in place processes and procedures when making package holiday sales in travel agencies, on the telephone or on their website, to ensure the relevant information provisions for pre- and post-contract information requirements are met. The PTRs include criminal offences if these information provisions are not followed.

2. Businesses will need to provide insolvency protection for the money they take from travellers by holding an ATOL for flight-inclusive packages or non-flight packages, by providing a bond or insurance policy, or by holding the money in a trust account. The PTRs also require an organiser using a trust account to obtain insurance to ensure that if they collapse when the traveller is on holiday, repatriation (returning them home) will be covered. It is also an offence if the organiser of the package informs their independent trustee that the travellers have returned from their holiday when they haven't, in order to release money early into the organiser's trading account. The money in the trust account may only be released into the organiser's trading account when the travellers have returned from their package holiday.

3. UK-based travel agents that deal with non-UK organisers will be liable for the proper performance of the package and for insolvency protection, or must provide evidence that the non-UK organiser complies with these requirements.

Key points to help businesses understand the requirements of all holiday laws applicable to holiday and travel arrangements sold after 1 July 2018, and how Brexit may have affected some of the law:

- businesses will need to put in place processes and procedures when making sales in travel agencies, on the telephone or on their website, to ensure the traveller is given specific information before booking the package and also specific information when the confirmation invoice is presented
- businesses will need to provide security for the money they take from travellers by holding an Air Travel Organiser's Licence (ATOL) for flight-inclusive packages or, for non-flight packages or LTAs, by providing a bond or insurance policy, or by holding the money in a trust account
- trust accounts are becoming more popular for businesses to provide insolvency protection. With all trust accounts there must be an independent trustee who oversees it. The money taken from a traveller must be kept in the trust account until their return. It is an offence if the business requests the release of money into their trading account if the customer has not returned from their holiday

Definitions

The PTRs include definitions of package holidays and LTAs, as well as requirements to provide travellers with information before and after a booking. Comment will also be made on the way the law relates to telephone bookings.

It is important to establish whether you are acting as an 'organiser' or 'retailer' of package holidays. The Regulations define an organiser as either:

- a trader that combines and sells (or offers for sale) package holidays, whether directly or through another trader
  or
- the trader that, through an online booking process where a travel service is purchased from one trader, transmits the traveller's name, payment details and email address to another trader, and a contract with the second trader is concluded within 24 hours of the confirmation of the first travel service

The definition of a retailer is a trader that sells (or offers for sale) packages combined by an organiser - for example, a 'high-street' travel agent, an online travel agent, or someone who arranges travel contracts over the telephone.

'Package'

The major elements of holiday and travel purchases (for example, online, on the telephone or in travel agencies) are covered by the PTRs.

There are six definitions of what constitutes a package holiday. In addition, some travellers want to select and purchase travel services separately, which is the purpose of the LTA.

Let's start with the six definitions of what constitutes a package holiday.

1. A package is created when travel services are combined by one trader and sold under a single contract. These types of packages are traditional packages, but unlike the previous Regulations, there is no mention that the packages must be 'pre-arranged' and they will include 'tailor-made holidays'.

2. Sold in a single booking process. A package is created when a traveller has selected from the same point of sale two or more travel services and then agrees to pay for them within the same booking process (this is a 'shopping basket' model where the point of sale could be high street travel agents, websites or telephone sales).

3. Sold at an inclusive / total price. For example, a travel agent or organiser puts together a selection of travel services for the same trip and sells it to the traveller for a total price.

4. Sold as a package (or under a similar term). For instance, 'combined-deal', 'all-inclusive' or 'all-in arrangement'.

5. Combined after the sale of the package, allowing subsequent choice (gift-box style packages). This type of package is a difficult concept. It relates to arrangements where a trader sells a package that allows a traveller to pick and choose different travel services after they have concluded the contract. For example, a 'Tastes of the Region' package that allows you to choose from a selection of accommodation and a meal at a restaurant, to be selected from options, after the package has been purchased.

6. Sold through a linked online booking process, irrespective of whether the traveller concludes separate contracts. This includes situations where a traveller purchases different travel services for the same trip through a linked online booking process where the traveller's name, payment details and email address are sent from the first trader they purchase from to a targeted second trader, and a contract is concluded with the second trader no longer than 24 hours after the first service was purchased. This type of package is created when a traveller goes to, for example, an airline website to buy a flight and on this website is a link to an accommodation provider where the traveller's name, payment details and email address appear. As long as the traveller purchases accommodation within a 24-hour period it will become a package and the airline will become the organiser.

'Travel service'

As highlighted in the foreword, in order to create a package holiday, you need to combine and sell two or more different travel services from the four listed below.

1. Carriage of passengers. This includes flights, rail travel, boats and coaches.

2. Accommodation. It is important to note that accommodation that is intrinsically part of the carriage of passengers is not in scope. This includes hotels, apartments, cottages and castles.

3. Motor vehicle hire. This includes car and motorcycle hire.

4. Any other tourist services. These are services that are not intrinsically part of the carriage of passengers, accommodation or motor vehicle hire, but make up an essential element of the package. For example, a traveller books a golf break with a hotel or travel organiser that includes a pre-booking for rounds of golf, as well as the accommodation. This could be a package. However, a hotel booking for accommodation at a hotel that happens to have a golf course as a facility is not in itself a package. The golf course is simply a facility.

'**Linked travel arrangements**'

There are two different types of LTAs envisaged by the PTRs.

1. The first type is where a traveller selects and pays separately for at least two travel services during a single visit to a shop (for example, at a travel agent's where the traveller selects and pays for a hotel and then, without leaving the agent, pays separately for a flight) or website (for example, the traveller goes on to a website, selects and pays for a flight, and then while still on the website, selects and pays for a hotel).

2. The second type relates to online purchases with different traders. The traveller visits a website and purchases one travel service. They are then 'targeted' with a 'cross-sell' to another website trader and the traveller buys a travel service from that other trader within 24 hours (for example, an airline sells a traveller a flight; in the booking confirmation email, the airline invites them to book a hotel room with an accommodation website to go with their flight; the traveller clicks on the link and books a hotel within 24 hours of booking the flight). You will see from the comparison with an online package holiday sale, that with an LTA the traveller's name, payment details and email address are not on the second website and have to be added by the traveller and purchased separately.

Consumer Rights Act 2015

The Consumer Rights Act 2015 (CRA) requires that services provided by traders to consumers be performed in accordance with the contract, with reasonable care and skill, and at a reasonable price.

As a general rule, if something goes wrong with the supply of holidays and travel, consumers can claim their direct losses, but they cannot claim compensation for distress and inconvenience.

However, the law makes an exception for some types of contract, including contracts for package travel.

Therefore, as the purpose of a holiday is usually to provide enjoyment and relaxation, a consumer may be able to claim compensation for inconvenience and distress, on top of a refund and any other losses, if things go wrong.

> A group of adults stayed at a hotel in Blackpool and were appalled by its run-down state. They wrote an online review criticising the hotel's inadequate parking, unsafe electrical wiring, worn-out beds, poor breakfasts and general uncleanliness. The hotel's policy document stated: "For every

> bad review left on the website, the group organiser will be charged a maximum £100 per review". The CRA addresses unfair terms in contracts. There was a clear CRA offence in this scenario. The Trading Standards officer investigating pointed out that it was illegal for the hotel to be able to say something bad about the customer for free, but to charge the customer to say something bad about the hotel.

Digital Markets, Competition and Consumers Act 2024

It is important for businesses to be aware of the Digital Markets, Competition and Consumers Act 2024 (DMCCA) as it is used by regulators to pursue investigations where there have been misleading or deliberately false holiday and travel descriptions in brochures, online, in travel agencies or where sales are made over the telephone.

Schedule 20 to the DMCCA prohibits 32 specific practices that are always considered to be unfair.

Part 4, Chapter 1 of the DMCCA prohibits 'misleading actions', 'misleading omissions', 'aggressive practices' and 'contraventions of the requirements of professional diligence' that are likely to cause an average consumer to take a 'transactional decision' that they would not have taken otherwise. For more information on the meaning of 'transactional decision', and on the DMCCA generally, see 'Protection from unfair trading (criminal law)'.

The DMCCA applies to commercial practices relating to package holidays and travel services (including websites) before, during and after a contract is made.

Effectively the DMCCA prohibits trading practices that are unfair to consumers. There are four different types of practices to consider:

- practices prohibited in all circumstances
- misleading actions and omissions
- aggressive practices
- contraventions of the requirements of professional diligence

For the last three practice types above it is necessary to show that the action of the trader is likely to have an effect on the actions of the consumer in making a booking for a holiday. The test looks at the likely effect on the average consumer, which means there is no need for evidence about how any particular individual was affected. As stated above, there are 32 of these 'banned' practices.

'Misleading availability'

It is important for businesses to be aware that they could commit an offence by showing prices that are misleading, especially due to the number of packages they have available when making their offers. There are two main problems, which are highlighted here as an example of problems that enforcers have faced:

- bait advertising. This is where a trader misleads a consumer into believing that they can buy a package holiday or travel service at a low price when the trader is aware that they do not have reasonable stock available or are not able to supply at that price ('bait and switch' is where the trader attempts to 'up-sell' to a higher priced product)
- falsely stating that a product is only available for a very limited time in order to encourage the

consumer to make an immediate decision

An example of a breach of the law would be where an advertised sale of package holidays stated a finishing date for the offer, but the sale was continued after the advertised finishing date as few sales had been made.

An example of other specific banned practices can be found after 'Misleading actions and omissions' below.

'Misleading actions and omissions'

The DMCCA prohibits 'misleading actions' and 'misleading omissions' that are likely to cause the average consumer to take a transactional decision they would not have taken otherwise. This does not only relate to pre-shopping, but also includes
after-sales.

> It is a breach of the DMCCA to:
>
> - omit material information
> - hide material information
> - provide material information in a manner that is unclear, unintelligible, ambiguous or untimely
>
> 'Material information' means information that the consumer needs to make an informed transactional decision and generally any information required to be given by law.

'Misleading actions' happen when a trader provides false information about important matters, such as the main characteristics of the product (even if the information is factually correct), or presents the product in such a way as to be likely to deceive the consumer regarding these matters.

An example of a breach of the law would be where flight prices are advertised but they do not include Government taxes.

'Misleading omissions' happen when a trader gives insufficient information about a holiday or travel service. It is a breach of the DMCCA to fail to give consumers the information they need to make an informed choice in relation to a holiday or travel service if this would cause the average consumer to take a transactional decision they would not have taken otherwise.

In one case, a family booked a stay in a Spanish apartment that was described as being "ideal for families, with a lovely south facing infinity swimming pool". When they arrived at the apartment they discovered that in front of the pool was a 12-foot drop on to the concrete car park below. The family contacted the trader, which offered them compensation and the use of another apartment nearby.

Some other banned practices are:

- claiming to be a signatory to a code of conduct when the trader is not - for example, claiming compliance with the ABTA Code of Conduct without being a member

- displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation - using the ABTA logo, for example
- claiming a code of conduct as an endorsement from a public or other body that it does not have
- claiming that a trader (including their commercial practices) or a product has been approved, endorsed or authorised by a public or private body when the trader, the commercial practices or the product have not; or making such a claim without complying with the terms of the approval, endorsement or authorisation - for example, reference to ABTA
- making an invitation to purchase products at a specified price without disclosing the existence of any reasonable grounds the trader may have for believing that they will not be able to offer for supply, or to procure another trader to supply, those products or equivalent products at that price for a period that is, and in quantities that are, reasonable having regard to the product, the scale of advertising of the product and the price offered (bait advertising)

Rights of redress

For the time being, consumers' rights of redress are still covered by the Consumer Protection from Unfair Trading Regulations 2008 (CPRs); information on these rights can be found in 'Protection from unfair trading (consumers' rights of redress)'.

Climate change, flights and their carbon footprint

In August 2021, during the COVID-19 pandemic, there were seven flights that are of particular interest. They were on planes with a seat capacity of 189, but there were only approximately 38 passengers per flight. This was clearly a problem. The flights went ahead because otherwise the airline would have had to pay compensation under Regulation (EC) No 261/2004 *establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights* (European legislation transposed into UK law following Brexit). This law requires the airline to pay compensation for all their delayed, cancelled or overbooked flights.

There was also the problem with aircraft 'slot' allocations at airports. A slot gives the airline the ability to fly at all times during this period. The pressure to use these slots, specifically between May and October, is enormous, especially considering the financial penalty of almost £500,000 per slot, should a flight fail to happen.
There is a concern that assimilated Regulation (EC) No 261/2004 and the slot allocation at airports affect climate change and the Government may well act to improve the situation.

The six key areas of travel law

This guide will look at the main areas of travel law one by one. They are briefly outlined below.

Package holidays

It is important for businesses to understand whether the combination of travel services they arrange for travellers are packages or LTAs. The legal obligations will differ, including the requirement for insolvency protection.

Linked travel arrangements

Travel arrangements are 'linked' if the separate travel service purchases were made during a single visit to a shop or website, or when a website 'cross-sells' a separate service within 24 hours of selling the first. It is important for businesses to know the obligations for LTAs.

Information requirements

There is statutory information that must be provided to the traveller before booking a package holiday or LTA and also after the booking is confirmed.

Advertising and pricing requirements

There are clear regulatory requirements for advertising and pricing. These are the sources of most enforcement referrals, and it is important to understand that the information you provide must not be misleading.

Payment surcharges and credit cards

Holiday and travel businesses must not impose surcharges for taking payment by a consumer debit or credit card, or an electronic payment service that is backed by a bank or an intermediary. Make sure you aren't charging for these payments.

Complaint resolution

Dealing appropriately and quickly with complaints is not a statutory requirement, but is good business practice. Complaints need not escalate into bad reviews or reputational damage if dealt with swiftly and honestly. Businesses that sell directly to travellers should be aware of alternative dispute resolution (ADR) schemes when they can't resolve a dispute in-house.

Guidance for travel agents

If you are a UK-based travel agent, you may also wish to read our 'Holiday law for travel agents' guide.

> Part 1. Package holidays

© 2026 Chartered Trading Standards Institute

Source URL: *https://businesscompanion.owastaging.co.uk/focus/practical-holiday-law/introduction*