

WRITTEN QUESTION P-2582/08
by Marian-Jean Marinescu (PPE-DE)
to the Commission

Subject: Unfair conditions and pricing for the carriage of air passengers

Airlines' terms and conditions for the carriage of passengers include terms for partly or completely non-refundable tickets (viz. cheapest fare classes), as well as terms allowing the airline to refuse to carry a passenger if certain conditions have not been met or if the airline reasonably believes that those conditions will not be met. At the same time, a standard practice of airlines is to sell more tickets than the number of seats on a given flight with the aim of making up for an estimated percentage of no-shows.

For instance, if a passenger (mainly but not only with a partly or completely non-refundable ticket) misses his/her flight or is late for boarding, the standard practice allows the airline to re-sell the ticket, thus selling the same service twice. Moreover, when the airline (the seller) re-sells the same ticket at the same or at a different price (in the same or a different fare class), the first buyer cannot arbitrage, consequently there is no compensation for the first buyer.

In addition, airlines have developed yield management of prices to the extent that passengers on the same flight receiving the same service from the airline may have paid extremely variable prices. Those conditions and practices are leading to a number of situations where there is blatant imbalance between the price paid by the passenger and the service received from the airline.

Furthermore, price discrimination in fare classes' allocation seems more effective at extracting surplus from rich customers than expanding sales to average customers. The fare classes remaining constant, the airlines seem to misallocate output among consumers.

Is the European Commission considering an inquiry into the transparency and fairness of airlines' conditions of carriage and practices, to ensure that they do not circumvent Regulation 261/2004¹ on denied boarding, and that they comply with EU consumer protection legislation on unfair terms?

¹ OJ L 46, 17.2.2004, p. 1.