

Juliusz Komorek  
Chief Legal & Regulatory Officer and Company Secretary  
Ryanair Ltd  
Dublin Office  
Airside Business Park  
Swords, Co Dublin  
Ireland

Sent by e-mail to: |

27 September 2017

Dear Juliusz

## **Consultation under Section 214 of the Enterprise Act 2002**

### **Introduction**

1. I am writing to you in relation to our powers under Part 8 of the Enterprise Act 2002 (EA02) which allow the CAA to investigate and, if necessary, take court action in relation to breaches of consumer protection legislation.
2. The CAA e-mailed Ryanair on 18 September 2017 setting out its concerns regarding the failure to correctly inform passengers of their rights under Regulation 261/2004<sup>1</sup>. In particular we noted that in Ryanair's press conference on 18 September 2017, Michael O'Leary stated that Ryanair was not obliged to re-route passengers on airlines other than Ryanair. We wrote to you further on 19 September 2017 asking that you make a public statement to correct this and to confirm that Ryanair would re-route passengers on other airlines. To date you have failed to make this correction.
3. Further, Ryanair announced today that it was cancelling 18,000 further flights. The information provided on Ryanair's website today again fails to inform passengers that it will provide re-routes on other airlines where there is no suitable Ryanair service available within a reasonable time frame. This appears to confirm the misleading statement made by Michael O'Leary at Ryanair's press conference on 18 September. The information published by Ryanair today also fails to include any information about its obligation to refund additional expenses incurred by passengers as a result of the

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<sup>1</sup> EC261/2004 of the European Parliament and of the council of 11 February 2004 establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights

cancellation, for example meals, hotels and transfer costs to facilitate the re-route flight.

4. Consumers affected by the cancellations have been sent an e-mail offering them the choice of a refund or an alternative flight. The e-mail refers only to a re-route on a Ryanair flight and contains no information about the possibility of re-routing on another airline. It also refers to the possibility of re-routing from different departure or destination airports, but fails to inform passengers that Ryanair is obliged to bear the cost of transferring passengers to those other airports.
5. In light of the information published by Ryanair, the CAA is concerned that Ryanair is not complying with the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) by omitting material information, as referred to in paragraphs 3 and 4 above, and, as a result, is likely to cause the average consumer to take a transactional decision he or she would not have taken otherwise.
6. In light of these urgent and continuing concerns, we are now commencing consultation under Section 214 EA02 to achieve the cessation by Ryanair of the breaches of consumer protection legislation identified in this letter. As set out in our Consumer Enforcement Guidance, in certain cases the CAA will follow an expedited enforcement process. These cases are likely to be of an unusual nature and related to a specific incident and business. With these types of events, there is a risk that statements made by the business in the media or on its website can mislead consumers and exacerbate consumer harm by deterring consumers from seeking access to their rights. The CAA considers that this is such a case.
7. As part of that consultation process we would like to invite you to a meeting. Please let me know some suitable dates for a meeting or conference call. Following that discussion we will consider the next steps which are required in this process.

### **Relevant law**

8. The CAA is responsible to ensure compliance with the CPRs in the aviation sector and is able to enforce compliance using our powers under Part 8 EA02. Part 8 EA02 provides the CAA with the power to seek information and undertakings from people (including companies) that are suspected of breaching consumer law in a way that harms the collective interests of consumers. It also provides the ability to seek an Enforcement Order from the Court pursuant to Section 217 EA02. The CMA has published guidance on how the legal process under Part 8 EA02 works, which can be found on the CMA's website through the following link:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/284456/off512.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284456/off512.pdf)
9. The CAA has also published its own Consumer Enforcement Guidance which can be found here:  
[www.caa.co.uk/cap1018](http://www.caa.co.uk/cap1018)

### **Ryanair practices**

10. We have set out below where we consider that Ryanair is failing to comply with the relevant legislation:

- a. Ryanair's failure to provide information about its obligation to re-route on other airlines and to bear the cost of transfers to/from alternative airports are misleading omissions within the meaning of regulation 6 of the Regulations.

### **Required action**

11. Where the CAA requires a business to amend its practices to comply with consumer protection regulations it is normal practice for the CAA to require the business to provide a signed undertaking as to its future conduct. The CAA's powers to accept undertakings in relation to the EC261/2004 are contained in Part 8 EA02.
12. Part 8 EA02 (as amended by the Consumer Rights Act 2015) provides the powers for the CAA to seek an undertaking to take enhanced consumer measures. The CAA will consider, along with any other appropriate measures, the seeking of an undertaking from Ryanair that it will provide redress to any consumers who have had to bear costs due to Ryanair's misleading information. Please be aware that should any other information come to the CAA's attention that requires investigation, we will consider at that point the necessity of doing so.
13. We invite you to attend a meeting or conference call to discuss how Ryanair will achieve cessation of the above identified breaches of the CPRs. Please let me know some suitable dates.
14. Please do not hesitate to contact either of the persons below if you have any questions:  
  
Matthew Buffey on  
Jackie Knight on 0
15. Finally, please note that we reserve the right to publish this and any future correspondence on this issue.

Yours sincerely



**Andrew Haines**  
**Chief Executive**